

Cerro Gordo County, Iowa 2019 Dock Assignment Policy

I. PURPOSE

Cerro Gordo County manages docks that extend from shoreline property owned by the County pursuant to a Class II permit granted by the Iowa Department of Natural Resources. The Cerro Gordo County Board of Supervisors has adopted this policy for the purpose of effectively and efficiently managing public docks accessed from right-of-way belonging to Cerro Gordo County and adjacent to shoreline in the unincorporated area of the county, not including that owned and maintained by the Iowa Department of Natural Resources or right-of-way that is privately owned. The Board of Supervisors recognizes Clear Lake as a valuable recreational resource and has therefore adopted this policy to provide and ensure public access to the lake. Where possible, this policy incorporates administrative rules adopted by the Natural Resource Commission under Chapter 571—16, Iowa Administrative Code (IAC).

II. ADMINISTRATION

The Cerro Gordo County Board of Supervisors authorizes its Planning and Zoning Department to administer the provisions of this policy in conjunction with and subject to the rules of the Iowa Department of Natural Resources. The Department is authorized to hire one or more contractors to administer all or part of this policy.

III. DEFINITIONS

Administrative Officer: Planning and Zoning Administrator for the Cerro Gordo County Planning and Zoning Department.

Board of Supervisors: Board of Supervisors of Cerro Gordo County, Iowa

Boat hoist (also referred to as a “lift”): A structure placed in the water or below the ordinary high water mark for boat storage, including platforms for storage of personal watercrafts. For the purposes of this policy, a boat hoist that is designed to store multiple small vessels such as personal watercraft or one-person sailboats shall be treated as a single boat hoist. (IAC 571—16.1)

Catwalk: A platform no more than four (4) feet wide installed to provide access from a dock to a moored boat or boat hoist. (IAC 571—16.1)

County: Cerro Gordo County, Iowa.

Department: Cerro Gordo County Planning and Zoning Department.

Dock: A platform-type structure extending from shoreline property over a public water body. (IAC 571—16.1)

IDNR: Iowa Department of Natural Resources.

Public dock: A dock constructed and maintained to provide public access from public land to a water body. A public dock includes docks constructed and maintained by a group of private persons accessed from public land. (IAC 571—16.1)

Public land (also referred to as a “public approach”): Land that is owned by the State of Iowa or Cerro Gordo County that has been dedicated for public access to a public water body and includes land dedicated or used as a public street or right-of-way. (IAC 571—16.1)

Public water body (also referred to as “Clear Lake”): A water body to which the public has a right of access. (IAC 571—16.1)

Shoreline property: A parcel of property adjoining (littoral to) a public water body. (IAC 571—16.1)

Slip: A mooring space, usually adjacent to a dock, sometimes accessed by a catwalk. (IAC 571—16.1)

IV. PROTECTION OF RECREATIONAL RESOURCE

- A. Adverse impacts on aquatic ecosystem.** All docks, hoists and related structures shall be located, sized, configured, constructed and installed to limit their adverse impacts on the aquatic ecosystem. In areas of sensitive aquatic habitat, docks and hoists shall be located, configured, constructed and installed to minimize harm to aquatic habitat. Other restrictions may be placed on docks that are in a state protected waters area as necessary to protect the natural features of the designated area. (IAC 571—16.3(1))
- B. Adverse impacts on access for public recreational use.** A dock shall not be configured to enclose an area of a public water body and create a private water area or otherwise adversely affect public recreational use of the water body. Where walking or wading parallel to the shore below the ordinary high-water mark would be physically practical except for the obstruction created by a dock, the dock owner shall not prevent a person from stepping on or over the dock to bypass the obstruction. (IAC 571—16.3(2))
- C. Flow of water.** All docks shall be constructed and placed in a manner that allows the free flow of water beneath them. (IAC 571—16.3(9))
- D. Excavation, fill and aquatic vegetation removal prohibited.** No bed material may be excavated, fill placed, or aquatic vegetation may be removed below the ordinary high-water mark of Clear Lake in association with construction of a dock unless excavation, placement of fill, or aquatic vegetation removal is specifically authorized by a construction permit issued under 571—Chapter 16. (IAC 571—16.3(10))

V. STANDARD REQUIREMENTS FOR ALL DOCKS

- A. Minimum Requirements for Construction of a Public Dock**
- 1. Width** of the dock shall be a minimum of four (4) feet.
 - 2. Supports** shall be 4x4 dimension lumber, or 5 inch posts, or at least 1½-inch outside dimension pipe.
 - 3. Decking** shall be a minimum of 2x12 planks or commercially manufactured dock approved by the county.
 - 4. Supporting members** shall be placed every eight (8) feet with planking staggered.
 - 5. Cross Support Members** shall be constructed of 2.6 dimension lumber.
 - 6. Fastening** shall be by bolts or heavy spikes.
- B. Location and Offsets**
- 1.** To the extent practical, a dock and boat hoists shall be placed near the center of the public approach frontage and installed perpendicular to the shoreline to maximize offsets from neighboring properties.
 - 2.** Each dock, hoist, moored vessel and other permitted structure shall be offset a minimum of 5 feet from an adjoining private property line and 5 feet from the projection of a line perpendicular from the shoreline at the common boundary with adjoining shoreline property.
 - 3.** A minimum gap of 10 feet must be maintained between adjoining docks (including “L” or “T” or catwalk segments), hoists or moored boats. Where projection of a line perpendicular from the shoreline is impractical it is the intent of this rule that a 10-foot gap be maintained in a manner that is equitable to the public dock permittees and each private adjoining shoreline owner. (IAC 571—16.3(3))
- C. T’s or L’s**
- 1.** A dock shall have no more than one “L” or “T” segment.
 - 2.** The total length of the "L" or "T" segment facing opposite from shore shall not be greater than 20 feet including the width of the dock. The total area of the "L" or "T" shall not exceed

200 square feet.

3. That part of the main dock forming the center of a “T” segment or an extension of an “L” segment shall be included in measuring the area of the “T” or “L” segment. “T” or “L” segments shall comply with the requirements of Section V(B).
4. A smaller platform size limit may be required at locations specified by the IDNR because of limited available space. (IAC 571—16.27(4)(a))
5. Catwalks shall be at least 2 feet wide and considered as part of the dock. Each catwalk shall be limited in length pursuant to the limitation stated above and shall not extend beyond the width of the hoist. (IAC 571—16.27(4)(b))
6. A hoist or other boat storage structure shall not be placed adjacent to any “L” or “T” segment of a dock adjacent to any other part of a dock that is more than six feet wide. The hoist shall not exceed 10 feet in width at locations specified by the IDNR as having limited available space. (IAC 571—16.27(4)(c))

D. Length of Dock

1. A dock shall not extend farther from the water’s edge than the distance necessary for reasonable access to Clear Lake in relation to characteristics of the lake in the vicinity of the dock site and the impacts on Clear Lake and other users. Access to maintain one or more boats in water with a minimum depth of 3 feet shall be considered sufficient access. (IAC 571—16.3(4))
2. A public dock may extend the greater of 100 feet from the water’s edge or far enough so that the outer 80 feet of the dock is in three feet of water up to a maximum of 300 feet. These lengths shall be measured from the water’s edge when the dock is installed.
3. The Department shall be responsible for enforcing the standard requirements and length limit.
4. The IDNR reserves authority to determine whether the requirements and the length limit are met upon complaint of a person who claims that a public or private right is adversely affected by a permitted dock. If the IDNR determines that a dock or hoist must be moved or removed from the lake because of an adverse effect, the IDNR shall issue an administrative order to the county and to the person who is maintaining or using the dock. Issuance of the administrative order shall trigger a right of the county and the affected person to a contested case.
5. If shoreline property is public land but there is uncertainty concerning the relative authority of the county and the IDNR, permits for docks extending from the public land shall include a recital concerning the relative authorities of the IDNR and the county. (IAC 571—16.6)

E. Limit on Number of Hoists

The maximum number of hoists or slips authorized by a permit is one (1) for every ten (10) feet of shoreline, except on docks where the number of hoists or slips has exceeded this maximum prior to the adoption date of this policy.

F. Display of Dock Number

The DNR permit number shall be displayed on the first line. “00” followed by the name of the public street extension used to access the public dock shall be displayed on the second line. The third line shall give the City (Ventura for those in Ventura Heights; Clear Lake for all others). The information shall be displayed in block letters and numbers at least 1 inch high in a color contrasting to the background, on the water end of the dock, facing away from shore and shall be plainly visible. (IAC 571—16.3(5))

G. Display of Public Dock Sign

Users shall maintain posted on the shore end of the dock a sign which reads, “PUBLIC DOCK, PRIVATELY CONSTRUCTED AND MAINTAINED. USE AS A GUEST.” Replacement signs may be obtained from the Department at the current charge.

H. Materials and Flotation Specifications

New floating structures authorized by this policy shall use flotation methods and devices of a type

constructed of low density, closed cell, rigid plastic foam; high impact polyethylene fiberglass material; wood products treated with a product approved by the United States Environmental Protection Agency for aquatic use; or other inert materials to provide flotation. Synthetic (such as plastic or fiberglass) or metal containers not originally manufactured as flotation devices may be used as dock flotation devices if they have been cleaned of any product residue; sealed and watertight; and filled with a closed cell rigid plastic foam. (IAC 571—16.3(8))

I. No Enclosure of Public Docks

Public docks shall not be enclosed by roofs or sides. Hoists may be enclosed by roofs and sides constructed of soft-sided natural fiber or synthetic fiber materials for the purpose of protecting watercraft. (IAC 571—16.3(7))

J. Service Appurtenances on Docks

1. **Storage, use, and dispensing of fuel.** The storage, use, or dispensing of any fuel on a public dock is prohibited. (IAC 571—16.3(11))
2. **Electrical service.** Any electrical service on or leading to any dock must comply with the National Electric Code, latest revision. All electrical service leading to docks shall include ground fault circuit interrupter protection. (IAC 571—16.3(12))

K. Access for Inspection

A dock or boat hoist, raft, platform, mooring buoy or any other structure accessed by a public approach may be physically inspected at any time by a representative of the Department and/or IDNR as needed to determine whether it was placed and maintained in a manner consistent with the requirements of this policy or a permit issued under this policy. (IAC 571—16.3(14))

VI. INSTALLATION, MAINTENANCE AND REMOVAL OF DOCKS

- A. Construction and Installation of Public Docks.** Approved users to whom a permit is assigned shall be responsible for the construction and maintenance of the public dock and all costs thereof.
- B. Maintenance.** Approved users to whom a permit is assigned shall be responsible for the safe condition of the dock at all times and shall hold harmless and indemnify the county and their officers and employees for any damages arising out of bodily injury or property damage caused by an occurrence on or about a public dock.
- C. Winter removal.** Each dock must be removed from public waters before December 15 of each year and not reinstalled until after a permit is issued the following spring. (IAC 571—16.3(6))
- D. Winter storage of docks, catwalks and hoists on public property.** Winter storage of docks, catwalks and hoists shall not be allowed on a public approach. (IAC 571—16.28(7))
- E. Equitable sharing of dock costs.** Approved users to whom a permit is assigned shall agree on the equitable sharing of the cost of construction, installation, maintenance and removal of the dock and any other components to the dock. (IAC 571—16.28(2))

VII. LIMITATIONS ON DOCK PRIVILEGES

- A. Non-transferability of dock permits and privileges.** Dock permits and hoist or slip assignments shall not be transferred, assigned or conveyed by the permittee to any other person. (IAC 571—16.28(5))
- B. No Real Estate Interest Created.** The permit creates no interests, personal or real, in the real estate below the ordinary high water line nor does it relieve the requirement to obtain federal or local authorization when required by law for such activity. The permit does not authorize the

permittee to prevent the public from using areas of the lake adjacent to the permitted structure. (IAC 571—16.19(1))

- C. Permit Validity.** A permit is valid only while the permittee has the necessary permissions to use the adjoining shoreline parcel from which the dock projects. (IAC 571—16.19(2))
- D. Number of assignments allowed.** Only one dock assignment may be allocated to a residence. (IAC 571—16.28(3))
- E. Fee for use Prohibited.** The permittee shall not charge a fee for use of the dock or associated structure unless: the permit is for a commercial dock; the fee is expressly authorized by the permit; or the permittee is a homeowners' association and the fee is for recovery of expenses incurred in providing the access to the association's members. (IAC 571—16.19(3))
- F. Number of hoists allowed.** Each permittee may be limited to one hoist and/or slip on the dock to which they have been assigned. The number of hoists and vessels for each permittee should be limited, especially where there is a waiting list including people in the first or second priority categories established under Section XI of this policy. (IAC 571—16.28(4))
- G. Land use restrictions.** Nothing shall be constructed or placed on a public approach adjacent to any dock except as provided for in Section XII of this policy. (IAC 571—16.28(8))
- H. Cancellation for nonuse.** A dock site permit or hoist/slip assignment may be cancelled for non-use in order to provide space for people on a waiting list (IAC 571—16.28(10)). If no hoist or slip is in use by a permittee on the assigned dock by May 30, then they will be removed from the permit.
- I. Property Line Location.** An applicant for a permit, a permittee, and an owner of shoreline property adjoining property of an applicant or permittee are responsible for determining the accurate location of common boundaries of their respective properties. (IAC 571—16.17(4))
- J. Suspension, Modification, or Revocation of Permits.** A dock permit may be modified, suspended, or revoked, in whole or in part, by written notice if the Department or the IDNR determines that the dock is a hazard to other users of the lake, that a violation of any terms or conditions of the permit has occurred, or that continuation of the permit is contrary to the public interest. Such modification, suspension, or revocation shall become effective upon a date specified in the notice. The notice shall state the extent of the modification, suspension, or revocation, the reasons for the action, and any corrective or preventative measures to be taken by the permittee to bring the dock, structure, or activity into compliance. An order suspending modifying, or revoking a permit may be appealed pursuant to the provisions contained in Section VIII of this policy. (IAC 571—16.17(2))

VIII. APPEALS FROM DECISIONS

- A.** Notices of revocation, suspension, or modification issued by the IDNR may be appealed under the rules and procedures of the IDNR and will not be considered by Cerro Gordo County.
- B.** For a notice of decision or of a revocation or modification, or during the course of a suspension issued by the county the permittee may request a hearing, within 30 days of the date of issuance, in order to present information demonstrating that the alleged violation did not occur, or that required corrective and preventative measures have been taken, or any other information relevant to a decision as to whether the permit should be reinstated, modified, or revoked. The hearing shall be conducted before the Board of Supervisors. After completion of the hearing, a final decision will be made concerning the status of the permit. In the event that no hearing is requested, notices of decisions or modification and revocation shall remain in effect and suspended permits shall be reinstated, modified, or revoked.

IX. COMPLAINT INVESTIGATION

Any person adversely affected by a permitted dock or associated boat hoist may request, in writing, an investigation and a hearing to reconsider the permit. Requests for hearings shall specify adverse affects on the complainant and shall be made in accordance with procedures described in Section VIII of this policy.

X. EXCEPTION TO LOCATION AND OFFSET REQUIREMENTS

An exception to the offset requirements in Section V(B) of this policy shall be granted upon satisfying all of the following:

- A.** The lack of offset on one side of the property is compensated for by a larger offset on the other side of the property;
- B.** The applicant provides the county with a copy of the written consent of each affected adjoining property owner or an affidavit attesting that the affected property owner named in the affidavit has verbally given the applicant consent for the requested exception, provides adequate documentation that the adjoining shoreline parcel is burdened by restrictive covenants, easements, or other valid use restrictions which impose on the owner of the parcel an obligation to tolerate docks and hoists that would otherwise violate offset or gap requirements in IV(B) of this policy;
- C.** The applicant demonstrates that no other dock or hoist configuration is physically practical. (IAC 571—16.9)

XI. PRIORITY OF ASSIGNMENT

- A.** A dock site permit authorizes a person or group of persons to install and maintain a public dock from a public approach. Each permit shall identify the number of hoists or slips to be included for storage of boats at the dock. For purposes of this policy, “permittee” means the person(s) to whom a dock permit is issued and the person(s) to whom each hoist or slip assignment is issued. Dock site permits and hoist or slip assignments shall be available to all members of the public through a selection process.
- B.** Selection shall be based on the following order of priority and a waiting list shall be established that follows the same order of priority.
 - 1. First priority:**
Owners of residences not adjoining the public land/approach but are within the subdivision said public land/approach is associated with and owners of residences in adjoining subdivisions that do not have a public land/approach;
 - 2. Second priority:**
Owners of residences within Cerro Gordo County;
 - 3. Third priority:**
Other Iowa residents;
 - 4. Fourth priority:**
Non-Iowa residents.
- C.** For purposes of this policy, “residence” means a single residential living unit.
- D.** Notwithstanding these priorities, if property in the first priority category is redeveloped with higher density residential living units, there is no assurance that dock, hoist or slip space will be available to accommodate such increased density before other property included in the first or second priority categories. (IAC 571—16.26)

- E. Persons already owning private property abutting Clear Lake will not be assigned to a dock until those owning property off the lake have been assigned a dock.
- F. In the event a person on a waitlist is offered an open assignment to a public dock and declines to accept the assignment, that person will be placed at the bottom of the specific waitlist in the applicable priority level, or otherwise will be removed from the waitlist until such time as a new request for a public dock assignment is received by the Department.

XII. MAINTENANCE OF PUBLIC APPROACHES

- A. **Safety and Responsibility.** The assigned users to a public dock shall at all times be solely responsible for the safe condition of the public approach, including but not limited to steps, walkways, any structures or landings of any type of construction material attached or adjacent to said dock. The assigned users shall specifically agree to hold harmless and indemnify the county and its officers and employees for any damages arising out of bodily injury or property damage caused by an occurrence on or about a public approach.
- B. **Structures on Public Approaches.** Should users find it necessary or desirable to construct any type of approach to the dock over public land such as steps or walkways, said approach shall be sturdily constructed of materials equal in strength to materials approved for the dock, and the approach so constructed shall be subject to these conditions including particularly the provisions of Section V(A). Any construction over public land shall comply with the following:
 - 1. **Zoning Permit Required.** Any person proposing to construct a deck or walkway over public land shall first apply for a permit for construction on forms provided by the Department. Steps to docks shall not require a permit.
 - 2. **Zoning Ordinance Compliance Required.** All construction of walkways or decks shall comply with the requirements of this policy and the requirements of the Cerro Gordo County Zoning Ordinance for the district in which said construction is proposed.
 - 3. **Enclosures Prohibited.** All walkways and decks shall be open and unobstructed to the sky. No enclosures of any kind shall be permitted (including but not limited to sheds, storage boxes, portable toilets, changing or dressing rooms, or the like).
 - 4. **Placement of Structure.** No walkway or deck shall be constructed closer to the shoreline than any structure on adjacent public property.
 - 5. **Attachment to Dock.** All walkways and decks shall be connected to or abut the dock for which the deck or walkway provides access.
 - 6. **Zoning Permit Fees.** Zoning Permit fees for such structures shall be based on construction costs and on the fee schedule as provided for in the Cerro Gordo County Zoning Ordinance.
 - 7. **Appeals and Variances.** The Board of Supervisors shall hear appeals of interpretation and applications for variance from the requirements of this section. The Board of Supervisors shall hold a public hearing on the appeal/application request and issue a decision.
 - (a) **Forms.** Applications for variances shall be made on forms used by the Cerro Gordo County Board of Adjustment.
 - (b) **Application Fee.** An application fee of \$100.00 shall accompany the application for variance or appeal of interpretation.
 - (c) **Hearing Notification.** All property owners abutting the public approach shall be notified of the date, time and place of the public hearing.
 - (d) **Evaluation Criteria.** The Board of Supervisors shall use the criteria in Section 24.4(A)(3) of the Cerro Gordo County Zoning Ordinance to evaluate whether a variance is warranted.
 - 8. **Condition of Structure.** If at any time a structure built in the approach to the dock is declared to be unsafe by the County Engineer and/or Zoning Administrator, the users of the dock shall be required to repair or remove the structure at their expense. Failure to

remove or repair as directed by the County Engineer and/or Zoning Administrator may result in removal by the county.

XIII. DOCK PERMITS

- A. Application.** An application shall be completed prior to assignment to a public dock and prior to the installation of said dock. The application shall be made on the form(s) provided by the Department and include the names of all persons who will participate in the using of the dock at the location requested. The application form shall be accompanied by certificate(s) of insurance, copy(ies) of vessel registration(s), signed policy acknowledgement forms from all assignees, and the required fee (check made payable to Cerro Gordo County). Said application shall be filed no later than May 1 of each year. The application and required attachments may be mailed or filed in person at:

Cerro Gordo County Planning & Zoning
220 N. Washington Avenue
Mason City, IA 50401

Applications will be reviewed for compliance with the requirements of this policy and rules promulgated by the IDNR prior to being submitted to the Board of Supervisors for consideration. If the applicant is a group of persons, an agent or contact person for the users shall be designated with whom the Department shall communicate. Any written communication to such agent or contact person shall constitute a communication to all participating users.

Assignment to a dock will be based on the priorities listed in Section XI on a first-come, first served basis.

- B. Insurance.** Prior to constructing or installing a public dock or placing hoists, each dock site permittee shall provide a Certificate of Liability Insurance for the dock location in the amount of \$1,000,000. Said Certificate shall state the dock location, dock number, list Cerro Gordo County Planning & Zoning Department (220 North Washington Avenue, Mason City, IA 50401) as Certificate Holder. (IAC 571—16.28(6))
- C. Fees.** Payment of the annual dock site permit fee shall be made upon application. Payment of the annual hoist or slip fee shall be made upon application for the hoist or slip assignment. Failure to pay the annual fee may result in revocation or cancellation of the permit or assignment. The annual dock fee is \$250.00. The annual hoist fee is \$50 per hoist to be placed adjacent to the dock.
- D. Consideration by Board of Supervisors.** Dock permit applications will be reviewed at a regular meeting of the Board of Supervisors following review by the Department. The applicant (or if a group of applicants, the contact person) will be notified by mail when the permit is approved. The dock and hoists may be placed following approval. Failure to comply may result in denial of the application or revocation of the permit.
- E. Effective Dates.** A dock permit shall be effective upon approval by the Board of Supervisors. Permits shall expire annually on December 15.
- F. Transferability of Permits.** This issuance of a dock assignment and permit is a privilege and is not a property right. A dock assignment is not transferable from one party to another. If it is found that a user has transferred or conveyed their assignment to another party, the assignment shall be considered null and void.
- G. Use of dock for mooring.** Only the persons named as permittees shall have use of the dock for mooring. All vessels must be registered to the permittees and listed on the dock permit.