

## CHAPTER 139 - REGULATIONS GOVERNING PUBLIC LAKE ACCESS AREAS

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### **139.01 PURPOSE.**

The purpose of this chapter is to establish policies and regulations governing the use of public lake access areas so that fairness, uniformity, and consistency may be applied to the issuance of dock and hoist permits extending from these access areas and to designate maintenance responsibilities and to define rights of the general public and those persons to whom permits have been issued.

### **139.02 AREAS DEFINED.**

For purposes of this chapter, areas considered City controlled access areas within the City of Wahpeton, Iowa, are named and listed as follows:

West Street, Miller Street, Bay West Street, Oak Street, Newport Street, Cove Street, Spencer Beach, Spencer Beach Canal, Edgewood Drive, Crescent Beach Park (West Lake adjacent to Crescent Beach) and the Meneyata Park beaches, including Papoose Beach, Hiawatha Beach, and Arrowhead Beach.

On some access areas, a single dock with a single permittee is permitted. These docks are addressed in Section 139.05 (6) below. On other access areas several permittees are jointly allowed to construct, maintain and utilize a dock and place a hoist. On joint use docks, one of the users shall be designated to the city as the manager who shall be responsible for compliance with the provisions of this chapter. The enjoyment of dock and hoist privileges on a joint use dock requires a permittee to comply with the provisions of this chapter and to pay a pro-rata share of the dock expenses.

The city administrator shall prepare and maintain a map which shall indicate the specific location of each access area, each permitted dock, and each permittee for each dock.

*(Ord. 182 – March 20 Supp.)*

This list can be modified by amendment to this chapter at any time to either include new areas defined as accesses, or exclude existing areas if conditions require, and judgment is made by the City Council that it is in the best interest of the public to reduce the number of accesses. The existing number of hoists per dock location shall remain as such until such time as other determination is made by the Council.

### **139.03 PROCEDURES FOR ISSUANCE OF A DOCK PERMIT.**

The City shall provide applicants with the proper application form. This form is used to determine eligibility by the City and site assignment.

1. Submitting the Application. The applicants for a dock site extending from a public access area must

complete the application form by filling in the information requested, submitting the required fee, and submitting evidence of liability insurance in the amount of not less than \$1,000,000.00 from each proposed dock user or dock association. All items shall be submitted to the City of Wahpeton on or before May 1<sup>st</sup> in each year. These fees shall be reviewed annually by the City Council and set by resolution.

**(Ord. 182 – March 20 Supp.)**

2. Site Assignment by the City. The City shall review each application and determine whether all requested information is given on the application. If all requested information is provided, the City may assign a site location.
3. When the City has approved a dock site application and the site has been assigned, the permittee shall make application to and obtain from the Iowa Department of Natural Resources (IDNR) the dock permit required under Iowa law and regulations. Failure to obtain the required IDNR permit shall void any City dock permit.

**(Ord. 130 - Aug. 09 Supp.)**

4. A "first-time" or new permittee on a dock shall pay an initial fee of up to five hundred dollars (\$500.00), as determined by the owners' association, to the treasurer of the owners' association or other entity for the dock. This payment is non-refundable. Each dock access entity (group) or association shall maintain a bank account for initial fee deposits, maintenance and repair expenses of the access dock.

**(Ord. 130 - Aug. 09 Supp.)**

#### **139.04 CRITERIA FOR PERMITTED DOCKS AND RELATED STRUCTURES.**

1. Materials and Dimensions. All docks shall be constructed with materials and dimensions that conform to Iowa Department of Natural Resources standards, including that docks must be at least four feet (4') in width.

**(Ord. 182 – March 20 Supp.)**

2. Auxiliary Equipment and Facilities. Hoists shall be permitted only if specifically authorized in the "dock assignment and permit." A permitted hoist must be placed beside the permitted dock and no hoist shall be allowed adjacent to a portion of a dock that is more than six feet (6') wide. The number of hoists located on a public dock is at the discretion of the City and is limited so as not to cause interference with the ingress or egress of private docks on either side or interference with boat access on the public dock itself. Rafts, diving boards, and other appurtenances shall not be permitted. Dock boxes no larger than 20 cubic feet shall be permitted.
3. Permittees Responsible for Construction and Maintenance. Permittees are jointly responsible for construction, installation, removal, repair and maintenance related to access docks. All permittees shall share pro-rata in these costs. If the City determines that a dock is unsafe and requires repair, the City shall notify the permittee's representative for that access dock. The required repair shall be accomplished within thirty (30) days of notice. If the necessary repairs are not made, permits for the unrepaired dock shall be revoked and the dock removed. If a permittee does not pay their pro-rata share of costs associated with the dock, their permit will be rescinded by the City and their space made available to the next available person on the dock lake access waiting list. The assigned permitted names on the application shall be solely responsible for the safe condition of the dock at all times. Maintenance and upkeep of each City access property shall be maintained by dock permittees and kept free of leaves,

weeds, brush, shrubs, overgrown grass, litter and debris at all times and compatible with adjacent, private property. The permittees shall designate to the City a contact person with contact information. The contact person shall be the City's direct contact for questions relating to that dock. Furthermore, the assigned permittees on the application shall agree to save harmless and indemnify the City, its officers, employees and agents, from any damage done to personal property or any personal injury arising from the use and maintenance of the access area.

*(Ord. 182 – March 20 Supp.)*

4. Winter Storage of Dock Materials. Docks shall be removed from the lake by November 1, each year, with the exception of dock locations on Turtle Lake, which do not have to be removed. All dock materials stored on the lakeshore public area, including the access road or area itself, shall be stored in a neat, safe, and orderly manner so as not to obstruct public pedestrian traffic along the access or from the access to the shoreline. An open access of no less than fifteen feet (15') through the area to the lakeshore shall be maintained at all times. Docks must be placed in the lake by Memorial Day each year. Boat hoists stored during the winter on public land shall meet the same requirements stated above or shall be stored on private property in another location if these requirements cannot be met.
5. Electrical Facilities. Electric facilities must include ground fault interrupter systems and installation must comply with applicable local building codes. Service shall be buried or if above ground placed in conduit and shall consist of a conductor of no less than 12-2 WG UF.
6. Bulk Fuel. No bulk fuel, explosive, hazardous material, or fuel distribution line shall be permitted on public property.
7. Retaining Walls and Steps. Existing retaining walls and steps may be used if maintained in good repair and are safe for public use. Said retaining walls and steps shall comply with Section 165.10 of this Code of Ordinances that deals with lakeshore landscaping.

*(Ord. 182 – March 20 Supp.)*

8. Storage Buildings. No storage buildings of any kind are permitted on public access areas.

**139.05 ELIGIBILITY FOR DOCK PRIVILEGES, PERMIT DURATION, NONTRANSFERABILITY AND CANCELLATION, WAITING LISTS, AND RIGHTS OF THE GENERAL PUBLIC.**

1. Eligibility. Dock and hoist privileges on public access areas are reserved to property owners of the City; however, this reservation does not preclude the right of the general public from the use of the access or the dock except Meneyata docks; Papoose, Hiawatha and Arrowhead and Edgewood Drive docks. Request for dock access only is not permitted on joint use docks. Any property owner must apply for dock and hoist privileges for their own currently registered watercraft for any public access. Persons who own lakeshore property, canal property, or multiple properties with one having lakeshore or canal access, who have dock privileges available in connection with owned or leased property; or through Meneyata Park Association Limited Canal dock access, shall not be eligible for dock privileges on property controlled by the City of Wahpeton.

*(Ord. 182 – March 20 Supp.)*

2. No person shall be permitted more than one (1) hoist space (to be used for either (1) boat or two (2) personal watercraft) on city access areas, except as provided in Section 139.05(6). If found to have more than (1) hoist space for any one qualifying property, they will be required to correct the issue immediately or give up their city issued dock space.

Only owners of property within the Plat of Meneyata Park are eligible for privileges on the Meneyata Park Beaches: Papoose, Hiawatha and Arrowhead. The Meneyata Park Association, Ltd. shall annually provide to the City Administrator a list with the names and addresses or persons who have hoists on docks controlled by the Association.

*(Ord. 182 – March 20 Supp.)*

3. Permit Duration. Dock assignment permits shall be valid for a period of one (1) year; but, may be renewed annually unless otherwise provided by amendment to this chapter. Certificates of Insurance, completed dock applications and the required fees must be filed with the City annually by May 1st, prior to the dock being placed in the water. Failure to get all paperwork and fees in by May 1st will result in the forfeiture of your dock/hoist permit. For larger docks having more than one hoist, complete payment should be made with one (1) check from the dock association. A contact person, as designated on the application, shall be the main communication between the City and all members on the dock, and notice to such contact on any matter shall constitute notice to all designated permittees. The contact person shall at all times keep the City informed as to all persons who are sharing in dock expenses and using the area for boat hoist, any boat changes, or storage.

*(Ord. 182 – March 20 Supp.)*

4. Waiting Lists. Legal residents of the City of Wahpeton and property owners within the City limits applying for dock or hoist privileges on public access areas may be placed on a waiting list if these accesses have already reached capacity as determined by previous provisions herein. Names shall be placed on a list in numerical order as they are filed and received by the City and the resident or property owner shall then be notified by the City when a vacancy occurs or when space becomes available.
5. Non-transferability; Cancellation. A dock assignment permit may be canceled at any time for failure to comply with the aforementioned regulations or when it is in the best interest of the public as determined by the City. Dock privileges are not transferable, except to a spouse or child of a permittee who remains or becomes the owner of the real property in the City of Wahpeton, which had been owned by the permittee. Dock permits or privileges may not be sublet to a third party. Dock privileges granted by the City of Wahpeton are not property rights, do not have any connection to the real property owned by the applicant and may not be sold or transferred with the applicant's real property, except as provided in Section 139.05(7).

*(Ord. 182 – March 20 Supp.)*

When a permittee relinquishes access dock privileges, such permittee is not entitled to reimbursement for dock investment or expenses. Expenses associated with an access dock are incurred as an exercise of a privilege and not an entitled right of ownership.

*(Repealed by Ord. 130 - Aug. 09 Supp.)*

6. Non-Joint Use Docks. The following docks are existing Non Joint Use docks at the time of the adoption of this ordinance amendment: Spencer Beach No. 1 (swim dock); Spencer Beach No. 5; Hiawatha Beach No. 1; Hiawatha Beach No. 3 (swim dock); Hiawatha Beach No. 4 (1 hoist); and Arrowhead St. (swim dock) and Papoose Beach (boat launch).

The current use and occupancy of these docks shall continue, subject to the requirements of this ordinance and payment of the annual dock and hoist fees as set by resolution of the council.”

Only owners of property in the Lakewood Park subdivision may occupy Spencer Beach or Turtle Lake docks.

*(Ord. 182 – March 20 Supp.)*

7. Edgewood Drive Docks. In consideration of long established past practice, the following docks on Edgewood Drive, serving properties located in Blocks B and D of the Plat of Lakewood Park, are permitted as non-joint use docks: Edgewood Drive 1A (Lot 4, Block D); Edgewood Drive 1 (Lots 6, 7 & 8, Block D);

Edgewood Drive 2 (Lot 9, Block D); Edgewood Drive 3 (Lot 10, Block D); Edgewood Drive 4 (Lots, 12,13 & 14, Block D and Lot 1, Block B); Edgewood Drive 5 (Lot 2, Block B); Edgewood Drive 6 (Lots 3,4,5 & 6, Block B); and Edgewood Drive 7 (Lots 7 & 8 Block B). No more than 2 hoists shall be permitted on these docks. These docks shall be subject to annual registration and fees, as provided in this chapter. Owners of the Lots associated with these docks shall have the option to place the dock and hoists. If the owner elects not to place a dock and/or hoists, no dock shall be placed. The opportunity to place these docks and hoists shall not be assignable and shall not be leased.

*(Ord. 182 – March 20 Supp.)*

#### **139.06 COMMERCIAL DOCKS.**

The City Council may issue permits for a commercial dock extending from public access property owned by the City, except Meneyata Park beaches. Such a commercial dock shall be subject to all the provisions and requirements of this Chapter 139, except Section 139.05(4). In considering whether to grant a commercial dock permit, the Council shall consider the following factors: whether a commercial dock has previously been established at the location; the importance and benefit of the commercial use to the City and its citizens; the potential adverse impact on adjacent or area property owners; the recommendations of City staff; the needs of the applicant; and the availability and suitability of alternative dock locations. As a further general guideline, docks that have been previously established shall normally be allowed to continue, and new commercial docks will normally not be permitted.

*(Ord. 182 – March 20 Supp.)*

#### **139.07 EXCEPTIONS.**

The provisions of this chapter shall not apply to public access areas under dock management agreements with the Department of Natural Resources.