

**ORDINANCE NO. \_\_  
CALHOUN COUNTY**

**DOCKS AND OTHER IMPROVEMENTS LOCATED ON COUNTY-OWNED LAND,  
RIGHT-OF-WAY, LITTORAL LAND OR LAKE SHORE ADJACENT TO THE HIGH-  
WATER LINE OF NORTH TWIN LAKE**

Purpose

In 2019, the Iowa Department of Natural Resources (IDNR) informed the County that there were perceived issues with regard to the issuance of State Dock Permits at certain locations on North Twin Lake. As a result, the IDNR informed the County that it would issue State Dock Permits for the 2019 and 2020 years only if the County were to adopt a blanket Resolution authorizing such issuance. Accordingly, the County adopted Resolution No. 2019-15 for 2019 and Resolution No. 2020-14 for 2020, copies of these resolutions can be obtained from the Calhoun County Auditor.

The IDNR further informed the County that it would need to take action to allow for the continuing regular issuance of State Dock Permits in coming years. Without the County proceeding to do something to affirmatively address the issue, the continued issuance of mandatory State Dock Permits would likely cease. Therefore, after the adoption of the above blanket Resolutions, the County began a process by which it could permanently address the issues raised by the IDNR. In reaching this conclusion, the County employed an independent attorney to research ownership of the land in question. This attorney concluded, in his opinion, there was no doubt the County holds title from the lot lines on the west side of the road to the high-water line. On 17 December 2019, a public hearing was held to present a proposed CDMA. After subsequent discussion, the Board of Supervisors concluded another independent legal opinion was in order. The result of this legal opinion supported the first opinion. The Board of Supervisors concludes it would be inappropriate to relinquish the County's ownership claim on the land. The Board of Supervisors would like to continue to allow those residents, who have invested in considerable modifications, continued use where possible, but at the same time, there is an obligation to the public to have use of their land, additionally there is a liability issue that must be rectified. This Ordinance will allow for continued use by the residents, provide public access to public land and will provide needed liability protection to the County.

Definitions, Interpretation and Intent

The words used herein shall have the definitions assigned to them in Iowa Code Chapter 318, 461A, 462A and 571 Iowa Administrative Code, Chapter 16. It is the intent of this Ordinance to further the provisions of the referenced provisions at a county level.

Designation of Dock Management Area

The County hereby creates and designates a County Dock Management Area. The primary purpose of the designated CDMA is to accommodate requests for boating access from owners of properties that are close to the water body but do not include the littoral property rights. Dock

permittees shall have priority use of the docks for mooring of vessels. However, in the CDMA any other previously physically built or placed improvement, paving, patio, deck, landscape feature located therein may be used by members of the public at their own risk. The docks may be used by members of the public at their own risk for fishing, and emergency mooring when public use does not interfere with the permittee's use. Other uses allowed by the permittee shall be the responsibility of the permittee. There shall be one CDMA established on North Twin Lake. The CDMA is designated on the map attached hereto and by this reference are made a part hereof.

#### Existing Non-Conformities to be Removed

Any existing physically built or placed improvement, paving, patio, deck, landscape feature, log, boulder, wall, fence, or man-made impediment to travel, located in the CDMA AND also located within 10 feet of the lake-side edge of any paved or improved portion of the County right-of-way AND having an elevation above that of the paved or improved portion of the County right-of-way, thereby constituting an "obstruction," shall be removed or shall be modified so as to comply with this paragraph. Any existing improvement in the CDMA, beyond the 10-foot exclusion zone, with an elevation in excess of 42 inches shall be removed or modified to a maximum height of 42 inches. Any removal or modifications for compliance shall take place within one-year of the adoption of this Ordinance. The County may address any failure to remove or modify any such non-conformity by such date in accordance with the provisions of Iowa Code Chapter 318: "Obstructions in Highway Right-of-Way." Additionally subsequent permit renewals would not be granted if the area is not in compliance.

Nothing in this paragraph shall be construed to require removal or modification to a railing, handrail, stair rail or other "break away" improvement that does not constitute an "obstruction" and does not exceed 42 inches in height.

#### Existing Non-Conformities Continuing to be Permitted

Docks, hoists, and any other existing physically built or placed improvement, paving, patio, deck, landscape feature, log, boulder, wall, fence, not required to be removed by the preceding paragraph, and being located within the CDMA, and existing for at least three of the five years immediately prior to the adoption of this Ordinance, may continue to exist, subject to the terms and conditions hereof. The provision of this paragraph intended to permit existing structures or improvements with elevation above grade level being more than 10 feet from the paved or improved portion of the right-of-way.

#### Future Compliance

Any newly located docks in the CDMA shall comply with the permits, requirements, conditions and restrictions herein contained. Other than access stairs, stair rails or hand rails, no other newly physically built or placed improvement, paving, patio, deck, landscape feature, log, boulder, wall, or fence, shall be located within a CDMA.

#### Procedures and Policies for the Permitting of Dock Sites.

Obtaining a dock or structural permit is a privilege and not a property right. A Dock Permit authorizes a person to install and maintain a dock in the CDMA. Each permit shall identify the number of hoists to be included for storage of boats or other recreational craft at the dock. For purposes of the dock management area rules, "permittee" means the person(s) to whom a Dock Permit is issued. Application forms for dock and hoist permits in the CDMA shall be the same as those used by the IDNR. Applications shall be made, and the dock and hoists shall conform to the provisions of IDNR Class III Dock Permits. Dock and Hoist Permits shall be available only to owners of residences immediately across the County owned land, right-of-way, littoral land or lakeshore adjacent to the high-water line of North Twin Lake. For purposes of these CDMA rules, "residence" means a single residential living unit, which may be a rental unit.

#### Standard Requirements for Dock Management Area Docks.

Docks in the CDMA shall conform to the IDNR Class III dock requirements.

*Future Improvements Limited to Docks and Stairs.* Other than docks, stairs and stair rails that may be necessary to access such docks, there shall be no other permitted construction or installation of any other physical improvements located in the CDMA.

*Residence Lot Frontage.* A dock permit will be issued and correspond to a single residence. To qualify for a dock permit, the residence must have a minimum of 40 feet of frontage. Such frontage shall be measured by projecting the residence side lot lines across the road to the lakeshore. Each residence shall be limited to one dock.

*Spacing and Alignment.* Docks, where feasible shall be at least 40 feet apart. A dock in the CDMA shall be a minimum of 100 feet from any County owned dock and/or boat ramp.

*Newly Located Docks.* New docks, not being subject to the existing non-conformity provision above, may only be constructed where there is at least 15' between the lakeside edge of the traveled or improved portion of the County right-of-way and the high-water line of the lake. Further, new docks shall only be constructed so as not to require the removal of any of the existing shore vegetation, shrubbery or trees.

*Display of Dock Management Area Sign, CDMA and Dock Number.* The end of the dock facing the water shall be marked with CDMA and dock number as assigned by the County and/or IDNR. The Dock Permittee shall be responsible for installing and maintaining a sign at the landward entrance to the dock. The sign shall state that the dock or other physically built or placed improvement, paving, patio, deck, landscape feature located thereon is: "privately constructed;" "available for public use at such user's own risk;" and include the statement "no diving" with a drawing of a diver over which is superimposed the universal no symbol (a circle with a diagonal slash through it).

#### Dock Management Area Permit Restrictions and Conditions

The following conditions and restrictions shall apply to docks in the CDMA:

No bulk fuel, explosives, hazardous material, or fuel distribution lines will be permitted.

No electrical facilities to dock or structures unless installed by licensed electrician. All installations must include a ground fault interrupter system.

*County Docks.* The County shall have priority in its location of County-owned docks.

*Use of Dock for Mooring.* Only the persons named as permittees shall have use of the dock for mooring.

*Winter Storage of Docks, Catwalks and Hoists on Public Property.* Spring/winter storage of docks, catwalks, or any other private property shall not be allowed. All items that are not attached to the ground must be removed from County property within fourteen days from the time the dock is removed from the water. This area is County property and is needed for snow removal, the County is absolutely not responsible for damage of any private property.

#### Annual Applications and Fees for Docks and Structures in Dock Management Areas

There shall be an annual County permit required for each dock and structure site. A residence without a dock, but still having any permitted improvement in the CDMA shall be required to obtain a Structure Permit. The Application form shall be available at the Office of the County Recorder and shall contain the information as may be required thereon. Payment of an Annual Dock or Structure Permit shall be made upon application. The annual fee shall be \$25.00 per dock or structure, payable to the Calhoun County Recorder. It is noted that a County Dock Permit will need to be submitted to the IDNR as part of the State Dock Permitting process. The County reserves the right to set fees at its discretion.

At the time of Application, the Dock or Structure Permittee shall submit written proof of a current liability insurance policy in the minimum amount of one-million dollars (\$1,000,000.00).

Dock or Structure Permits shall not be transferred, assigned, or conveyed by the permittee to any other person.

A Dock or Structure Permit shall be valid for a period of one year. Renewals shall be requested on the then current Application form. Proof of one-million dollars insurance will be required as stated above.

If a Dock or Structure Permit renewal is not made for any given site by the April 1st date, the County shall immediately provide a written notice of such non-application to the 911 Address corresponding to the dock site. Thereafter the fees for the dock or structure renewal shall be increased to \$50.

If a County Dock Application is not in place for any given dock in the CDMA, the County shall notify the IDNR that the site is no longer validly permitted.

If a permit has not been issued by June 1 of each year on any structure or modification that has been made to County right-of-way the County will take action as outlined in Iowa Code 318.

#### Suspension, Modification or Revocation of Dock Management Area Permits

The CDMA Dock or Structure Permit may be modified, suspended, or revoked, in whole or in part, by written notice, if the County determines that the dock or structure is not safe, that a violation of any terms or conditions of the permit or these rules has occurred, or that continuation of the permit is not in 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. Within 30 days following receipt of the notice of a revocation or modification, or during the course of a suspension, the permittee may file a notice of appeal with the Board of Supervisors. The notice of appeal shall specify the basis for requesting that the permit be reinstated. Upon any modification, suspension or revocation made hereunder, the County shall notify the IDNR.

#### Liability

The County, its subsidiaries, or affiliates shall not be held liable for any damage to structures or private property placed in the CDMA.

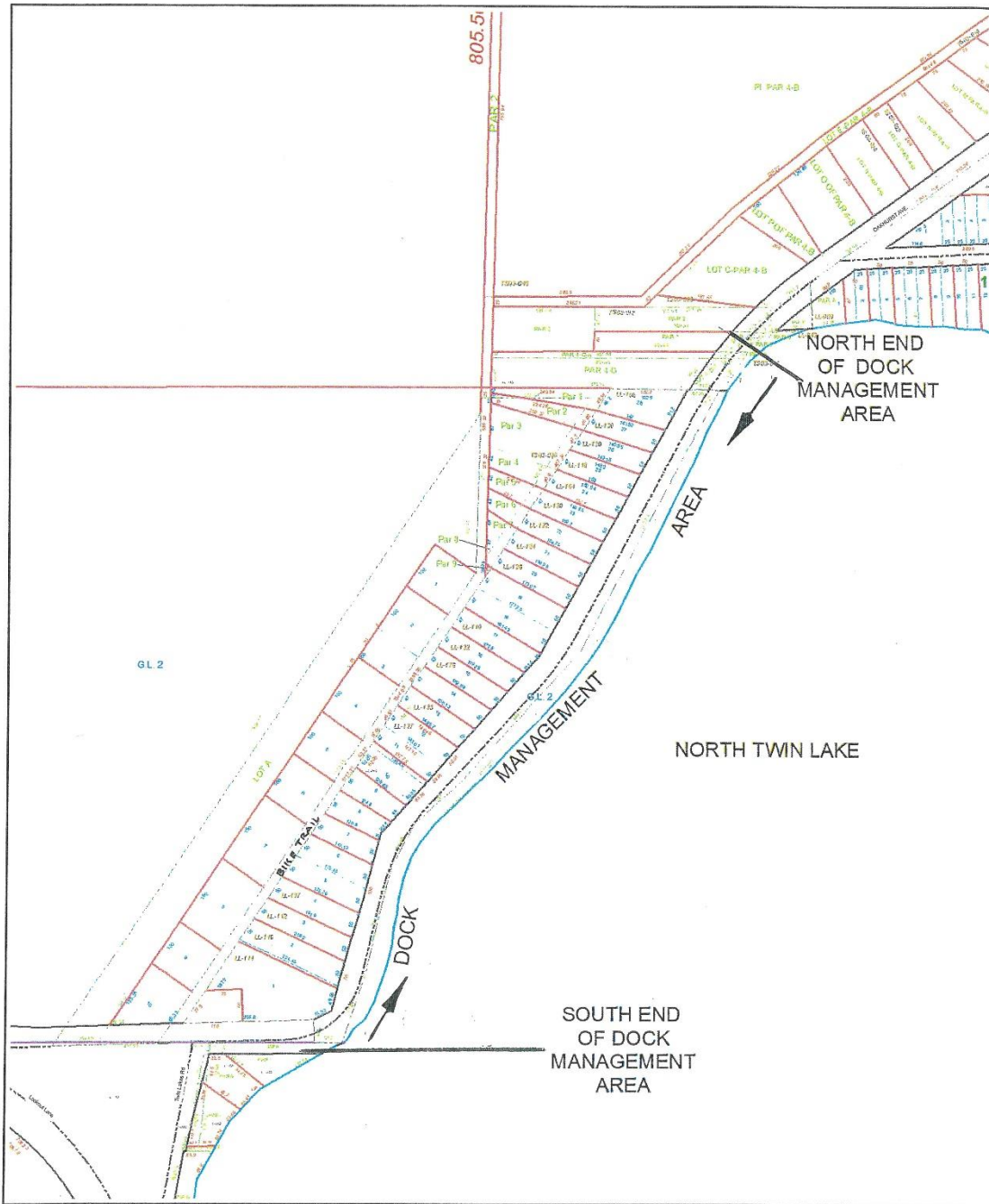
#### Recording

This Ordinance shall be recorded with the Calhoun County Recorder upon adoption.

NOTE: The material supporting the implementation and adoption of this Ordinance is on file with the original hereof in the Office of the County Auditor.

#### Termination

Upon termination of this agreement, all docks and structures shall be removed from the lake and public property. Docks, or dock material, and structures remaining on public property 30 days after the termination of this agreement shall become property of the County and may be removed by same.



Map Source: Calhoun County GIS 2020  
 Aerial: 2019  
 Disclaimer: The data on this map is taken from public records. The Calhoun County GIS Department makes no warranties, expressed or implied, concerning the accuracy, completeness, or reliability of this information.

# County Dock/Structure Permit Application

This County Dock/Structure Permit must be signed by the designated County official below and kept on file in the Calhoun County Recorder's office. The Recorder's office will compile a list on or about April 1 of each year and notify the IDNR of those who are approved by the County to have a dock in the CDMA.

In addition to the dock diagram on the reverse side of this page, you must submit a drawing or photograph showing any improvements located in the CDMA adjacent to the dock. If the permit is for a structure please include a drawing or photograph of the structure.

Submit payment of the \$25 annual fee on or before March 1 of each year. Failure to pay by April 1 will result in the fee being increased to \$50. Proof of a current liability insurance policy in the minimum amount of one-million dollars (\$1,000,000) shall be submitted with this Application. This proof of insurance will be kept on file in the Recorder's office along with the signed County Dock Permit.

If a dock is in the water at the address and there is not a County permit on file, the County will notify the IDNR and the IDNR Dock permit will be revoked.

911 address of the requested dock: \_\_\_\_\_

Applicant's name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_

State/Zip code: \_\_\_\_\_

Applicant's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

County Official Signature: \_\_\_\_\_ Date: \_\_\_\_\_

911 Address for the Dock Location:		
Name of Water Body:		County:
Parcel No*:		*Parcel number is requested, but not required.
<b>PROPERTY OWNER'S INFORMATION</b>		
<i>Skip this section if the applicant owns the property where the dock is located.</i>		
Name of Property Owner:		
Address:		City:
State:	ZIP Code:	Phone:
<b>DOCK MEASUREMENTS</b>		
Total length of dock:    ___ ft ___ in (A)	<i>Fill in information below as it applies to your dock(s):</i>	
Distance from shore to 3' of water:    ___ ft (B)	If you have a section that is wider than 6 feet, you must	
Width of main dock:    ___ ft ___ in (C)	report the platform dimensions:	
Width of shoreline property:    ___ ft (E)	L or T Platform 1 dimensions:	(D1)    (D2)
Total Number of Hoists/Lifts/Slips:    _____	L or T Platform 2 dimensions:	(D1)    (D2)
Total Number of Racks:    _____		
Total Number of Mooring Buoys:    _____		
<i>Remember to include any swim raft, swim platform, trampoline or other structure you may have in your permit request.</i>		
<b>DOCK PLACEMENT ALONG SHORELINE</b>		
Distance from the left edge of my dock/hoist/catwalk/moored vessel, etc. to the projection of the left property line:		___ ft ___ in (G1)
Distance from the right edge of my dock/hoist/catwalk/moored vessel, etc. to the projection of the right property line:		___ ft ___ in (G2)

