

CHAPTER 105

MUNICIPAL MANAGEMENT OF STATE LANDS

S. F. 238

AN ACT to amend section one hundred eleven point twenty-seven (111.27), Code 1962, relating to management of state-owned areas by municipalities.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section one hundred eleven point twenty-seven (111.27),
2 Code 1962, is hereby amended by striking from line eight (8) the words
3 "state park" and inserting in lieu thereof the words "lands under the
4 jurisdiction of the commission".

1 SEC. 2. Section one hundred eleven point twenty-seven (111.27),
2 Code 1962, is further amended by striking from line nine (9) the word
3 "parks" and inserting in lieu thereof the word "lands".

Approved April 26, 1963.

CHAPTER 106

WATER RECREATIONAL AREAS

S. F. 19

AN ACT to provide for establishment of water recreational areas and facilities normally associated therewith.

Be It Enacted by the General Assembly of the State of Iowa:

1 Chapter one hundred eleven (111), Code 1962, is amended by add-
2 ing the following sections:

WATER RECREATIONAL AREAS

1 SECTION 1. Powers in municipalities. Municipalities or corpora-
2 tions organized for that purpose only, acting separately or in conjunc-
3 tion with each other in counties not having a county conservation
4 board, may establish water recreational areas and when established
5 without the support of public funds of the state of Iowa, the munici-
6 palities or corporations establishing the same, as the case may be,
7 shall have control thereof independently of the executive council.

1 SEC. 2. Application for permit. Any municipality or corporation
2 seeking to establish a water recreational area without public funds of
3 the state of Iowa shall file with the state conservation commission a
4 verified petition asking for a permit to establish a water recreational
5 area.

1 SEC. 3. Petition. Said petition shall state:
2 1. The name of the municipality or corporation.
3 2. The applicants principal office and place of business.

4 3. A legal description of the lands to be included within said water
5 recreational area, a showing that seventy-five (75) percent of the area
6 is either owned or under option for purchase by the applicant, to-
7 gether with a map thereof.

8 4. A general description of the public and private highways,
9 grounds and real estate, streams and private lands of any kind within
10 said area.

11 5. The tentative locations, types of dams to be constructed for any
12 artificial lakes to be established, the proposed area to be inundated by
13 the waters to be impounded by said dams, and a map showing the
14 location of said dams and areas to be inundated.

15 6. A map showing the location of proposed roads, fixtures, utilities
16 and other facilities necessary in the operation of said water recre-
17 ational area.

18 7. The proposed plan of operation and regulations for the use of
19 said facilities by the public.

1 SEC. 4. A copy of the petition and such applications, plans, and
2 specifications as are required under the provisions of chapter four
3 hundred fifty-five A (455A) of the Code shall be filed with the Iowa
4 natural resources council and any approval or permit required there-
5 under shall be obtained prior to the establishment of said water recre-
6 ational area or the granting of a permit therefor by the state conser-
7 vation commission.

1 SEC. 5. **Hearing—notice.** On the filing of said petition the state
2 conservation commission shall fix a date for hearing thereon and shall
3 cause notice thereof to be published in some newspaper of general
4 circulation in each county in which said proposed water recreational
5 area will be established, said notice to be published for two consecu-
6 tive weeks.

1 SEC. 6. **Time and place.** Said hearing shall not be less than ten
2 (10) days nor more than thirty (30) days from the date of the last
3 publication and shall be held in the office of the state conservation
4 commission or such place as the commission shall decide.

1 SEC. 7. **Objections.** Any person, corporation, company, levee or
2 drainage district, city or town whose rights or interests may be
3 affected by said proposed water recreational area may file written
4 objections to said proposed water recreational area or to the granting
5 of said permit.

1 SEC. 8. **Filing.** All such objections shall be on file in the office of
2 said state conservation commission not less than five (5) days before
3 the date of hearing on said application but said state conservation
4 commission may permit the filing of said objections later than five (5)
5 days before said hearing in which event the applicant must be granted
6 a reasonable time to meet said objections.

1 SEC. 9. **Examination—testimony.** The state conservation commis-
2 sion may examine the proposed water recreational area or may cause

3 such examination to be made by an engineer or such other persons as
4 it desires to be selected by it, who shall report the results of said
5 examination to the commission. At said hearing the state conserva-
6 tion commission shall consider the petition and any objections filed
7 thereto and may at its discretion hear such testimony as may aid it
8 in determining the propriety of granting such permit.

1 **SEC. 10. Final order—condition.** It may grant such permit in
2 whole or in part upon such terms, conditions and restrictions as may
3 be determined by it to be just and proper and in the public interest,
4 provided that before any permit shall be granted to any such municipi-
5 pality or corporation the commission shall, after public hearing as
6 provided hereby, determine whether the water recreational area will
7 be in the interests of the public health and welfare and an affirmative
8 finding to such effect shall be a condition precedent to the granting
9 of such permit.

1 **SEC. 11. Costs and fees.** Applicant shall pay all costs and expenses
2 of the hearing and necessary preliminary investigation in connection
3 therewith, including the cost of publishing notice of hearing.

1 **SEC. 12. Permit.** The state conservation commission shall cause
2 to be prepared a uniform blank form of permit which shall provide a
3 space for a general description of the area authorized to be included
4 in any water recreational area to be established hereunder, the name
5 and address of the municipality or corporation to whom said permit is
6 granted and the terms and conditions upon which it is granted. Said
7 permit shall be signed by the chairman and all other members of the
8 state conservation commission and the official seal of said commission
9 shall be attached thereto.

1 **SEC. 13. Public access and use.** Any lake in the water recreational
2 area, together with at least twenty-five (25) percent of the water
3 frontage of the water recreational area and all land which adjoins and
4 lies within one hundred (100) yards from any point of such twenty-
5 five (25) percent of the water frontage, shall be permanently subject
6 to and available for free public access and use. The municipality or
7 corporation shall grant to the state of Iowa a perpetual easement for
8 such public access and use, and such easement shall not be impaired
9 or destroyed in whole or in part by nonuse. Before a permit is granted
10 as provided in section 12 of this Act, the state conservation commis-
11 sion and the municipality or corporation shall agree on the location
12 and description of such water frontage and land to be permanently
13 subject to and available for free public access and use, and such loca-
14 tion and description shall be stated in the permit. However, in lieu
15 of the foregoing procedure, the state conservation commission and
16 the municipality or corporation may agree that the state conservation
17 commission may select such water frontage and land after the permit
18 is granted, and the permit shall so state. At any time the state con-
19 servation commission, with the written consent of the municipality
20 or corporation, may designate any additional land within the water
21 recreational area to be permanently subject to and available for free

22 public access and use; and the municipality or corporation shall grant
23 to the state of Iowa a perpetual easement for such public access and
24 use, which easement shall not be impaired or destroyed in whole or
25 in part by nonuse. However, the state conservation commission may
26 enter into agreements from time to time with one or more municipal-
27 ities or corporations for the management, development, improvement,
28 care and maintenance of such lake, water frontage and land.

1 **SEC. 14. Sale of permit.** No permit shall be sold until the sale is
2 approved by the commission.

1 **SEC. 15. Records.** The state conservation commission shall keep a
2 record of all permits granted and issued by it showing when and to
3 whom issued and the location of the area of the proposed water recre-
4 ational area covered thereby.

1 **SEC. 16. Extension of permit.** Any municipality or corporation
2 owning a permit granted hereby desiring to acquire an extension of
3 said permit may petition the commission in the same manner provided
4 for the granting of such permit and the same proceeding shall be had
5 as on an original application.

1 **SEC. 17.** Whenever a permit has been granted as provided in sec-
2 tion 12 of this Act and the state conservation commission finds that
3 the municipality or corporation owning such permit cannot acquire at
4 a reasonable cost any necessary land or interest therein, the state
5 conservation commission, with the approval of the executive council,
6 may condemn such land or interest therein as provided in chapter
7 four hundred seventy-two (472) of the Code. However, such condem-
8 nation shall be limited to land and interests therein which will be
9 permanently subject to and available for free public access and use, as
10 provided in section 14 of this Act, or which will be required for a dam
11 or other facilities necessary for the water recreational area. All costs
12 of such condemnation, including all costs occasioned by appeal as set
13 out in section four hundred seventy-two point thirty-three (472.33)
14 of the Code, and including the award and compensation for such land
15 or interest therein, shall be paid by such municipality or corporation.
16 The state conservation commission may permit such municipality or
17 corporation to use such land or interest therein for the purposes of
18 this Act, upon such terms, conditions and restrictions as the state
19 conservation commission shall determine to be just and proper and
20 for free public access and use. Title to such land or interest therein
21 shall remain in the state of Iowa.

1 **SEC. 18.** Anything in chapter four hundred fifty-five (455) of the
2 Code to the contrary, county boards of supervisors and trustees hav-
3 ing control of any levee or drainage district established thereunder,
4 including joint levee or drainage districts, may enter into contracts
5 and agreements with municipalities or corporations authorized to
6 establish water recreational areas under the provisions of this Act.
7 Such contracts or agreements shall be in writing and may be made
8 prior to or after the establishment of a water recreational area. If

9 made prior to the establishment of a water recreational area they
10 may be made conditional upon the final establishment of such area
11 and if conditional upon such final establishment may be entered into
12 prior to the hearing provided for in section five (5) of this Act.

13 Such contracts or agreements may embrace any of the following
14 subjects:

15 1. For the impoundment of drainage waters to create artificial lakes
16 or ponds.

17 2. For compensation to drainage districts for drainage improve-
18 ments destroyed or rendered useless by the establishment of water
19 recreational areas and the structures, waters or works thereof.

20 3. For the diversion of waters from established drainage ditches or
21 tile drains to other channels.

22 4. For sanitary measures and precautions.

23 5. For the control of water levels in lakes, ponds or impoundments
24 of water to avoid damage to or malfunction of drainage facilities.

25 6. For the construction of additional drainage facilities promoting
26 the interests of either or both of the contracting parties.

27 7. For the granting of easements or licenses by one party to the
28 other.

29 8. For the payment of money by one contracting party to the other
30 in consideration of acts or performance of the other party required by
31 such contract or agreement.

32 When any expenditure of levee or drainage district funds is pro-
33 posed by the authority contained in this section and where the esti-
34 mated expenditure will exceed fifty (50) percent of the original total
35 cost of the district and subsequent improvements therein as defined
36 by section four hundred fifty-five point one hundred thirty-five
37 (455.135) of the Code, the same procedure respecting notice and
38 hearing shall be followed as is provided in said section four hundred
39 fifty-five point one hundred thirty-five (455.135) of the Code, for
40 repair proposals where the estimated cost of the repair exceeds fifty
41 (50) percent of the original total cost of the district and subsequent
42 improvements therein.

1 SEC. 19. In order to reduce the possibility of affecting conserva-
2 tion measures to flood control projects which may be in progress in
3 other states, water recreational areas shall not be established here-
4 under within seventy (70) miles of the border of any other state.

1 SEC. 20. This Act shall not be the exclusive method for establish-
2 ing a water recreational area.

1 SEC. 21. The sections and provisions of this law are hereby de-
2 clared to be severable and if any section or provision hereof is declared
3 by a court of competent jurisdiction to be invalid the other provisions
4 and sections of this law shall not be affected thereby and shall con-
5 tinue in force.

Approved May 20, 1963.