

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER g: GRANTS

PART 3035
BOAT ACCESS AREA DEVELOPMENT PROGRAM

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AUTHORITY: Implementing and authorized by Section 805-325 of the Civil Administrative Code [20 ILCS 805/805-325] and Section 10-1 of the Boat Registration and Safety Act [625 ILCS 45/10-1].

SOURCE: Adopted and codified at 7 Ill. Reg. 5858, effective April 27, 1983; amended at 9 Ill. Reg. 2910, effective February 26, 1985; amended at 11 Ill. Reg. 15896, effective September 21, 1987; amended at 15 Ill. Reg. 4117, effective March 4, 1991; amended at 16 Ill. Reg. 1797, effective January 17, 1992; amended at 19 Ill. Reg. 15400, effective October 26, 1995; amended at 28 Ill. Reg. 10644, effective July 13, 2004; amended at 31 Ill. Reg. 9237, effective June 18, 2007.

Section 3035.10 Program Objectives

The purpose of the Boat Access Area Development Program is to provide financial assistance to Local Agencies to encourage the development, improvement and expansion of public boat access areas in Illinois.

(Source: Amended at 15 Ill. Reg. 4117, effective March 4, 1991)

Section 3035.20 Eligibility Requirements

Local Agencies eligible for assistance under this grant program include municipalities, townships, counties, park districts, conservancy districts and port districts, or any other local government agencies capable of providing lands for public recreational purposes.

(Source: Amended at 19 Ill. Reg. 15400, effective October 26, 1995)

Section 3035.30 Assistance Formula

Financial Assistance up to 100% of eligible project construction costs and 90% of eligible project land acquisition costs can be provided through this program. Maximum grant award to any one project in a given year is \$200,000 for motorized boat launch facilities and \$80,000 for non-motorized/canoe launch facilities.

(Source: Amended at 31 Ill. Reg. 9237, effective June 18, 2007)

Section 3035.40 General Procedures for Grant Awards

- a) Grant applications for funding assistance under the program must be submitted to and received by the Department no later than September 1 of each calendar year. Awarding of grants will be made under the authority and directive of the Director of the Department. The number of grants awarded is limited to the total amount of funds available for the program in the given fiscal year.
- b) The project application consists of the following components:
 - 1) Completed application forms
 - 2) Location map
 - 3) Site plan
 - 4) Site Premise/Plat Map
 - 5) Resolution of the governing body of the Local Agency authorizing submittal of an application for assistance from the Boat Access Area Construction Program
 - 6) Proof of land ownership or lease
 - 7) Acknowledgement of State review and sign-off regarding cultural resources [20 ILCS 3420/1], endangered species [520 ILCS 10/11], wetlands [20 ILCS 830/1-1], and prime farmland preservation [505 ILCS 75/1].

(Source: Amended at 19 Ill. Reg. 15400, effective October 26, 1995)

Section 3035.50 Applicable Facilities

The following facilities are eligible for consideration in the construction of boat access areas:

- a) Boat and canoe launching ramp/area
- b) Maneuvering area for car and trailer adjacent to ramps
- c) Parking area to service ramp users
- d) Access road to the ramp (up to 1/4 mile in length) and parking area
- e) Sanitary facilities including potable water supply and sewage facilities
- f) Initial channel improvements in launching ramp area
- g) Security lighting and burial of existing overhead utility lines

- h) Walkways adjacent to and serving ramp
- i) Courtesy docks
- j) Marine sanitary disposal stations
- k) Docks to support gas pumps
- l) Land acquisition necessary to provide boating access to Illinois' surface waters
- m) Other facilities deemed by the Department to add to the ease of operations or maintenance, or add to the use of the facility, so long as it applies to, and is of use to the boating public.

(Source: Amended at 19 Ill. Reg. 15400, effective October 26, 1995)

Section 3035.60 Selection Criteria

- a) The following criteria will be taken into consideration by the Department in evaluating and selecting projects for funding. Numerical values will be established for each of the criteria as follows:
 - 1) Financial Cooperation - financial participation by the Local Agency. (0-10)
 - 2) Projected Usage - demand for and anticipated usage of the proposed facility. (0-25)
 - 3) Impact on Business - impact on privately owned boating related business in the area. (0 or -5)
 - 4) Site Suitability - site related conditions and design features relating to the proposed development grant. (0-20)
 - 5) Program Suitability - is the proposed project in line with the overall purpose of the grant program? (0 or -10)
 - 6) Ability to Maintain - capability of the applicant to operate and maintain the facility. (0-10)
 - 7) User Fees - are user fees being charged; are they fair and equal; are charges the same for residents and non-residents of sponsor's jurisdiction? (0-5)
 - 8) Cost/Benefit Assessment and User Input Justification - is project justified by local plan or user study reflecting public input and anticipated use level? (0-8)
 - 9) Water Body Served - priority given to providing boater access to major bodies of water in Illinois. (0-15)
 - 10) Current Access Availability - initial access to body of water given priority. (0-7)

- b) The Department will review, evaluate and prioritize the applications utilizing the criteria listed above. Awarding of grants is on a competitive basis and made under authority and directive of the Director of the Department of Natural Resources. In arriving at a final determination, the Director will consider the recommendations of Department staff, Department of Natural Resources Advisory Board Members and the criteria listed above.

(Source: Amended at 19 Ill. Reg. 15400, effective October 26, 1995)

Section 3035.70 Program Compliance Requirements

- a) The land to be used in development of boat access areas must be owned in fee simple or leased by the Local Agency. The Local Agency must provide proof of ownership or lease before plans for the facility can proceed. The term of the lease is determined by the amount of the contract.
- b) For projects receiving assistance to acquire land for a boat access area, an independent appraisal must be completed by the sponsoring agency and certified by the Department to establish a fair market value for the project property. The appraisal must be completed to Department specifications using the Uniform Standards of Professional Appraisal Practice (USPAP) (2006), available from The Appraisal Foundation, 1155 15th Street NW, Suite 1111, Washington D.C. 20005, (202) 347-7722, www.appraisalfoundation.org or the Uniform Appraisal Standards for Federal Land Acquisitions (2000), available from the Appraisal Institute, 550 Van Buren Street, Suite 1000, Chicago IL 60607, (312) 335-4100, www.appraisalinstitute.org. Applicants should contact DNR for more specific information or applicable appraisal materials. Title to any property for which grant reimbursement is sought shall not be taken nor payment made for such property by the sponsoring agency before Department approval is received. Grant payment shall be limited to no more than 90% reimbursement of the certified fair market value and in no case shall exceed actual cash payment for the property.
- c) Land acquired with grant assistance must be subsequently developed as a public boat access area in general accordance with the approved project application proposal within 3 years following the date title is secured for the property. Failure to improve the property for such use within the 3 year time period shall result in the property being considered "converted" from its intended use necessitating remedial action, as specified in subsection (p) by the Local Agency.
- d) The Local Agency is required to enter into a Standard Agreement with the Department in an amount agreed upon by the Local Agency and the Department as that necessary to complete the Department's share of project costs. Any costs incurred in the development and construction of the facilities in excess of the specified amount shall be paid by the Local Agency.
- e) The Local Agency shall employ a competent engineering or architectural firm to develop necessary plans and specifications and to provide all other necessary design and construction supervision services for an approved project. The Department may waive this requirement if the Local Agency possesses duly licensed and qualified in-house engineering and/or architectural staff capable of performing such services.

- f) If the Local Agency, by its unilateral action, terminates the project at any point short of its completion, the Local Agency shall be liable for all costs incurred and all monies forwarded to the Local Agency related to the project. The Local Agency shall agree to indemnify the Department and hold it harmless from any and all liability.
- g) The Local Agency shall present to the Department, upon request, all plans, specifications, contracts or documents and cost estimates for all work to be done by a specified date. If this date cannot be met, it will be the responsibility of the Local Agency to show cause in writing to the Department. The plans and specifications shall contain the seal and signature of a registered Professional Engineer or Architect as the case may be. The Local Agency shall provide documentation to the Department, upon request, that advertised bids were published for all work to be completed through public letting for competitive bids and all bidding tabulations shall be submitted to the Department, upon request, for approval of the lowest qualified bid. The Local Agency shall be responsible for the completion of the project within the time period specified in the contract.
- h) The Local Agency shall insert as an integral part of any contract with the approved bidder the following provisions:
 - 1) That the contractor shall abide by and comply with all applicable local, State and federal laws in connection with contracts involving public funds, the construction or development of public buildings, works or facilities.
 - 2) That the contractor shall furnish to the Local Agency and the Department, upon request, performance bonds with surety or sureties, with penalty or loss clauses, relating to the construction of the proposed facilities and any losses or damages arising out of, or by virtue of the construction by the contractor of the specified boat launching facilities, insuring, benefitting and protecting the Local Agency and the Department.
 - 3) That the contractor shall personally and individually agree to furnish evidence of insurance, indemnify, protect, defend at its own cost, and hold harmless the Local Agency and the Department from and against all losses, damages, injuries, costs, expenses or claims to or by persons or property arising out of, through, under or by virtue of the construction and development of the specified boat launching or access facilities.
- i) Upon the Department's receipt from the Local Agency of each progress report or pay estimate that is within the scope of the contract, the Department shall issue payment.
- j) The Local Agency shall agree to display a Boat Access Area Development grant program sign provided by the Department at the project site for the period of time indicated in subsection (q). The Local Agency may substitute a comparable sign of its own design if approved by the Department.
- k) A Department representative will be available for assistance upon request. A final inspection of the completed project must be made by the Department prior to final grant payment to the Local Agency.

- l) The Local Agency shall indemnify, protect, defend and hold harmless the Department from any and all liability, costs, damages, expenses, or claims arising under, through or by virtue of the construction, operation and maintenance of the proposed boat launching and access facilities.
- m) The Local Agency shall be responsible for and obtain all necessary permits, licenses or forms of consent from, but not limited to, the following agencies:
 - 1) U.S. Army Corps of Engineers.
 - 2) Illinois Department of Natural Resources regarding cultural resources, endangered species, wetlands, and water resource impacts.
 - 3) Illinois Department of Transportation (Division of Highways).
 - 4) Environmental Protection Agency.
 - 5) Illinois Historic Preservation Agency.
 - 6) Local building or zoning agencies or boards, where applicable.
- n) The Local Agency agrees to comply with the Recreational Area Licensing Act [210 ILCS 95] and the Environmental Barriers Act [410 ILCS 25].
- o) The Local Agency shall agree to abide by the following operation and maintenance provisions:
 - 1) General.
 - A) Operation and maintenance of the grant project facility is the responsibility of the Local Agency. The boat launching and access facilities shall be continuously operated and maintained by the Local Agency at no cost to the Department and shall be operated and utilized in a manner that maximizes the intended benefits to and for the general public.
 - B) All land and water areas that are open to the public shall be available for use and enjoyment by the public without regard to race or color, sex, national origin, age or disability. No lessee or licensee of an area under a concessionaire providing a service to the public, including facilities and accommodations, shall discriminate against any person or persons because of race, color, sex, national origin, age or disability in the conduct of its operation under the lease, license or concession agreement.
 - C) No improvements, alterations or modifications of these facilities shall be permitted except with the prior approval in writing by the Department. Approval will be given by the Department if the improvements, alterations or modifications comply with the criteria in Section 3035.50.

- D) The Department shall have access to all facilities at all times to ensure management and use of the facilities are in compliance with specified program regulations.
 - E) Boats with gasoline or diesel motors shall not be prohibited from using any facility funded through State Boating Act Funds to launch and recover unless the facility is a designated canoe launch facility as approved by the Department.
- 2) User Fees.
- A) The Department discourages the charging of user fees; however, the Local Agency may, by formal resolution of the governing unit, charge minimal fees to offset operation and maintenance, security, and public health and safety costs.
 - B) In the case of locally owned water impoundments, the incurred costs to be offset may also include navigational aids, rescue aids, water patrol and other related costs that are absolutely necessary.
 - C) No other costs will be allowed in calculating the minimal fee. Any discretionary fee for special services that is not a part of the project funded from Marine Motor Fuel Tax Revenue, such as boat slips, moorings or other services that cannot be used by all boaters, shall be levied separately.
 - D) The setting, administering and justifying of the fees to the general public is primarily the responsibility of the Local Agency. The Department reserves the right to ensure that any fee is within the scope of the contract.
 - E) The Local Agency shall maintain accounting records to explain receipt and deposition of all fees related to the launching facility and the Department may request or audit those records at anytime to ensure the revenue received from the fees is being used to operate and maintain the facility. All financial records on approved projects must be maintained and retained, in accordance with State laws, by the project sponsor for possible State audit after final reimbursement payment is made by the Department.
 - F) If fees are determined necessary by the Local Agency, the charging of reasonable daily fees, as well as seasonal use fees, shall be provided to assure that the occasional user is afforded access to the waters served by the facility. In the event the boat access facility is within the boundaries of a public park or recreational area, no annual fee shall be required of non-park district residents using only the boat launching facility constructed or improved with the aid of this grant. However, a daily fee may be required by the Local Agency provided it does not exceed the annual park district fee for residents, computed on a daily basis.

- G) Prior to charging of user fees, the Local Agency is required to give public notice of the fees at least 30 days in advance of the effective date of the fees and provide a copy of the proposed fee schedule and the public notice to the Department prior to implementation.
 - H) The method of collecting fees shall be established by the Local Agency. However, the general public shall not be restricted from use of the facility upon arrival if an authorized representative of the Local Agency is not present to receive the required fee.
 - I) An information sign that lists rules and regulations regarding fees shall be posted in a conspicuous place near a boat ramp or launching site.
- p) Properties acquired or developed with grant assistance must not be converted to a use that would deny public boat access and use of Illinois' surface waters per terms of this Part without prior Department of Natural Resources approval. Approval for conversion of property acquired per terms of this Part shall only be granted upon the following:
- 1) the Local Agency provides replacement property of at least equal fair market value and comparable recreational usefulness, quality and general location; or
 - 2) the repayment of funds to the State of Illinois equals the actual amount of grant funds or 50% of the property's certified fair market value at the time of conversion, whichever is greater.
- q) For projects receiving development/construction grant assistance only, terms of the grant agreement between the Local Agency and the Department shall no longer apply after the time period established in this subsection relating to the total amount of grant funds received.

<u>Total Grant Amount</u>	<u>Time Period After Receipt of Final Grant Payment</u>
\$0-\$25,000	7 years
\$25,001--\$100,000	12 years
\$100,001-\$200,000	17 years

- r) Leasing or assignment of a Department funded facility is prohibited without prior approval of the Department.
- s) The Local Agency shall agree that, in the event of its breach or non-compliance with any of the terms of the agreement between the Local Agency and the Department, 10 days following receipt of a written notice from the Department of the existence of the breach or non-compliance, if the condition is not corrected within this 10 day period, the Department shall have full right and authority to take the action it deems necessary, whether by way of injunction or otherwise, to enforce the provisions of the agreement. In

the event it is adjudicated by any court that the Local Agency's activities are deemed to be a breach or violation of the agreement, as a part of the relief awarded to the Department, the Local Agency will reimburse the Department for the legal fees and all costs incurred by the Department in the pursuit of its rights under this subsection. For purposes of this subsection, "legal fees" shall be deemed to be the entire sum presented for payment by any attorney or law firm to the Department relating to the claim of the Department alleging the Local Agency's breach or violation, that sum being approved for payment by the Attorney General's office of the State of Illinois. For purposes of this subsection, "costs" shall be deemed to be all those expenses, including court costs, reasonably incurred by the Department. In the event of breach of the agreement, the Department reserves the right to demand return of any State funds awarded under the agreement.

- t) The Local Agency shall agree that the Department reserves the right to audit records relative to the agreement.

(Source: Amended at 31 Ill. Reg. 9237, effective June 18, 2007)

Section 3035.80 Program Information Contact

Write: Illinois Department of Natural Resources
Division of Grant Administration
One Natural Resources Way
Springfield IL 62702-1271
Telephone: 217-782-7481

(Source: Amended at 28 Ill. Reg. 10644, effective July 13, 2004)