

Iowa Navigability Report

Summary

In Iowa, the public may float on any navigable stream and engage in activities that are incident to navigation, including fishing, swimming, and wading. Navigable waters are all lakes, rivers and streams that can support a vessel capable of carrying one or more persons during a total six-month period in one out of every ten years. The right to portage is unknown.

State Test of Navigability

The Iowa legislature enacted a definition of “navigable waters” in relation to the right of the public to use streams flowing in privately-owned beds. “Navigable waters” means “all lakes, rivers, and streams, which can support a vessel capable of carrying one or more persons during a total six-month period in one out of every ten years.”¹ Coupled with the statutory definition of “navigable waters,” Iowa law further clarifies that “flowing surface water [] is declared to be public waters of the state of Iowa and subject to use by the public for navigation purposes.”² The public has the right to navigate for recreational purposes on non-meandered streams that have enough flow to float a small recreational vessel.³ This rule applies regardless of who owns the land underneath: “Land underlying flowing surface water is held subject to a trust for the public use of the water flowing over it.”⁴ Meanwhile, both “privately owned lakes”⁵ and “farm ponds”⁶ are exempted from the statutory definition of “navigable waters.” Whether a lake is privately owned rests upon whether the lake is open to public, not whether substantially all the actual users happen to be owners of shoreline property.⁷

Extent of Public Rights in Navigable and Non-Navigable Waters

Whether waters are navigable generally determines whether the bed is owned by the state or by private parties.⁸ “In Iowa, the legal title to the beds of all navigable lakes to the high-water mark is in the state in trust for the use and benefit of the public.”⁹ But nonnavigable bodies of water

¹ Iowa Code § 462A.2.22 (2020).

² *Id.* § 462A.3A (2020) (“Water occurring in any river, stream, or creek having definite banks and bed with visible evidence of the flow of water is flowing surface water and is declared to be public waters of the state of Iowa and subject to use by the public for navigation purposes in accordance with law”).

³ *Id.*

⁴ *Id.*; see also *State v. Meyers*, 938 N.W.2d 205, 210-11 (Iowa 2020).

⁵ *Id.* § 462A.2.31 (“Privately owned lake” means any lake, located within the boundaries of this state and not subject to federal control covering navigation owned by an individual, group of individuals, or a nonprofit corporation and which is not open to the use of the general public but is used exclusively by the owners and their personal guests).

⁶ Iowa Code § 462A.2.15 (“Farm pond” means a body of water wholly on the lands of a single owner, or a group of joint owners, which does not have any connection with any public waters and which is less than ten surface acres).

⁷ *Meyers*, 938 N.W.2d at 211.

⁸ *Orr v. Mortvedt*, 735 N.W.2d 610, 616 (Iowa 2007) (citations omitted).

⁹ *Id.* (quoting *State v. Nichols*, 44 N.W.2d 49, 57 (Iowa 1950)).

are “privately owned by those who own the land beneath the water’s surface and the lands abutting it, and may be regulated by them.”¹⁰

The public may float on any navigable stream in Iowa and engage in activities that are incident to navigation, including fishing, swimming, and wading.¹¹ To the extent that hunting waterfowl in Iowa stream beds is customary, some particular types of waterfowl hunting might be considered as incidental to public recreational navigation.¹²

The Attorney General of Iowa opined that portaging over shallow areas in a navigable stream is permissible under Iowa law.¹³ The opinion does not address whether it is permissible to portage over privately-owned banks. Iowa statutes similarly are silent on the issue.

Miscellaneous

The owner of a non-meandered navigable stream bed has a right to erect a fence across the stream as necessary to confine livestock on the owner’s land in a manner that affords boaters safe passage.¹⁴

Motor vehicles may not be used in any portion of a meandered stream, any portion of the bed of a nonmeandered stream that has been identified as a navigable stream or river, and which is covered by water, and any portion of a stream identified as a trout stream.¹⁵

An air mattress, inner tube, or similar water toy is not clearly within the scope of the term “vessel” as defined in Iowa Code section 462A.2(29) and used in Iowa Code section 462A.9(6). Thus, Iowa does not require that a person wear a personal flotation device while floating on an air mattress, inner tube, or similar water toy in a public water body.¹⁶

For additional information on boating information in Iowa, see the Iowa Department of Natural Resources as <https://www.iowadnr.gov/Things-to-Do>.

¹⁰ *Id.* (quoting *Mountain Props., Inc., v. Tyler Hill Realty Corp.*, 767 A.2d 1096, 1100 (Pa. Super. Ct. 2001).

¹¹ Office of the Att’y Gen. of the State of Iowa, Op. No. 96-2-3, 1996 Iowa AG LEXIS 5, Feb. 6, 1996.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Iowa Code § 462A.34A. One may ford a navigable stream, however. *Id.*

¹⁶ Office of the Att’y Gen. of the State of Iowa, Op. No. 99-8-1(L), 1999 Iowa AG LEXIS 2, Aug. 31, 1999.