

ORDINANCE 0-77-8

AN ORDINANCE SUPERSEDING CHAPTER 12.12 OF THE CONWAY MUNICIPAL CODE:

Section 1: From and after the passage of this Ordinance, Chapter 12.12 of the Conway Municipal Code and the respective hereinafter set forth provisions of said Code shall be amended as follows:

12.12.01 Permitted subject to certain rules. Recreational activity upon the waters of Beaverfork Lake, or upon any land surrounding or adjacent thereto, shall be permitted subject to and in compliance with the following rules and regulations.

12.12.02 Definitions. As used in this chapter:

"Boat" as used herein, shall mean and include all fishing boats, pleasure boats, speed boats, party barges or any other craft or vessel whatever which is intended to travel upon or in the water for the purpose of transporting persons and/or property, and which is propelled by a paddle or paddles, oars, sail, motor or other means, unless the context clearly indicates a contrary intent.

"Class A Boat" as used herein shall mean and include all boats powered by a gasoline engine of 30 horsepower rating or less.

"Class B Boat" as used herein shall mean and include all boats powered by a gasoline engine having more than a 30 horsepower rating.

"Private Dock" as used herein shall mean and include any structure used to tether, hold, or otherwise secure a boat while said boat remains in contact with water of said lake.

"City" means the City of Conway, Arkansas.

"Lake" means Beaverfork Lake.

"Resident" means a person who maintains his bona fide residence within Faulkner County, Arkansas as indicated by his valid driver's license. The burden of proof to indicate an incorrect driver's license address will be on the individual.

"Non-resident" means any person whose bona fide place of residence is situated without the boundaries of Faulkner County, Arkansas as indicated by his valid driver's license. The burden of proof to indicate an incorrect driver's license address will be on the individual.

12.12.03 Boating. (a) No boat shall be permitted to be placed or operated upon the lake unless the same meets all specifications, conditions and requirements therefor as set forth in this or other applicable ordinances of the City of Conway and/or in the statutes of the State of Arkansas.

(b) A boating permit shall be purchased for each boat prior to its use or operation upon the lake. Such permits shall be nontransferable and shall be issued for a period of one (1) calendar day or for an annual period beginning the first day of April of any year and ending March 31st of the next succeeding calendar year. The fees for boating permits shall be as follows:

(1) Class B Boats:	
Daily permit, resident	\$ 3.00
Daily permit, non-resident	4.00
Annual permit, resident	35.00
Annual permit, non-resident	50.00
(2) Class A Boats:	
Daily permit, resident	2.00
Daily permit, non-resident	3.00
Annual permit, resident	15.00
Annual permit, non-resident	25.00

(c) No boat shall be docked at any place on the lake other than the city boat dock, except that the owner of a boat for which a then valid boating permit has been issued may apply for a private dock permit to dock said boat(s) at some other designated place on the lake. The application for the initial private docking permit shall set forth the name and address of the applicant, the need for such permit, the location for which such permit is desired, and shall describe the boat or boats to be docked thereat, together with the number of the currently valid annual boating permit for each such boat. The application for the initial said private docking permit will be submitted to the City Council of the City of Conway at a regularly scheduled meeting for consideration. The issuance of initial said permit will be subject to Council approval. At such time as the Council gives this approval by means of a passed resolution, a private dock permit will be purchased from the City's authorized agent. The cost of said permit will be \$15.00. The purchase of any subsequent year's private dock permit will be subject to the possession of a private dock permit valid for the previous year. Such docking permit shall be issued for an annual period. All such permits shall be non-transferable.

(d) All boats, together with all other property therein, thereon, or accessory thereto, which shall be permitted to be or remain upon the lake and/or the lands adjacent to or surrounding the lake which are owned by the City of Conway, for a period of thirty (30) days after the permit for such boat issued by the city under

the provisions of this chapter shall have expired, shall be confiscated and held by the city subject to the provisions of this chapter. Immediately upon confiscation of any such boat and other property, as above set out, the city shall notify the owner thereof, as revealed by the registration of such boat for a permit to enter said boat upon the lake, that unless he calls for and redeems said boat and property within thirty (30) days from the date said notice is mailed, the boat and property will be sold at public sale. Such notice shall be sent to such owner at his last known address by certified or registered United States mail, with return receipt requested, and return of such receipt properly signed and shall be sufficient evidence of the delivery of such notice. If the city, after good faith efforts, cannot determine ownership and/or owner address of said confiscated boat, a legal notice published in a newspaper of local circulation will constitute said notice. This legal notice will be published once a week for three consecutive weeks, the last publication to occur seven (7) days before the occurrence of the proposed public sale. If redemption takes place, the owner redeeming said boat will bear the cost of said publication upon redemption in addition to any other fees. Said notice shall further describe the boat and property confiscated and shall set forth the date and time of the proposed public sale. The proceeds derived from the sale of any boat and property hereunder shall be first applied to payment of all costs of sale incurred by the city, then to payment of all charges, fees and sums due to the city under the terms of this chapter, and the balance thereof, if any, shall be paid to the owner of the boat and property so sold.

(e) All boats which do not have a unified hull but which, instead, float upon pontoons shall be equipped with pontoons constructed of wood, metal, fiber glass or other approved watertight materials and so constructed that each pontoon is a single continuous member or unit providing exterior watertight integrity over the entire length thereof, which provides adequate airspace along the entire interior length thereof or which is filled with styrofoam or other suitable flotation material. It is the express intent of this provision that one or more barrels or drums of the type commonly referred to as "oil drums" or other separate flotation chambers shall not be placed together in a series so as to form a unit or pontoon, whether the same be welded together or held together by some other means. Provided, however, those boats now situated upon the lake for which valid permits have been issued and which float upon barrels, drums or other separate flotation chambers placed

together in a series so as to form a unit or units, or pontoon or pontoons, shall be permitted to remain upon the lake so long as the presently existing separate flotation chambers remain watertight and in good condition and capable of providing adequate and safe flotation of the boat of which they are a part. Should any one or more of such barrels, drums or separate flotation chambers for any reason cease to be watertight and in good condition, the same shall be removed from the boat and shall not be replaced by the same or a similar chamber and should a sufficient number of such separate flotation chambers on any boat cease to be watertight and become capable of providing adequate and safe flotation therefor, such boat shall be removed from the lake by the owner thereof and shall not be again placed on the lake until the same is equipped with approved pontoons as hereinabove defined.

(f) Any person, firm or corporation placing any boat upon said lake does so at his or its own risk, and the City of Conway shall in no manner be liable for damage to or theft of boats or any articles left in any boat.

(g) All boats shall be operated in such manner so as not to endanger other boats or the occupants thereof. Normal boating safety precautions and courtesy shall be observed at all times.

12.12.04 Fishing. Fishing shall be permitted only in those areas not designated by the city as swimming areas. No charge shall be made for fishing in the lake and no permit whatever shall be required for fishing from the bank.

All fishing shall be done with pole and line or rod and reel with either live or artificial bait and all regulations of the State Game and Fish Commission pertaining to such manner of fishing shall be in full force and effect and all fishing in Beaverfork Lake shall be subject thereto. It is hereby expressly declared to be unlawful for any person, firm or corporation to take or to attempt to take fish from Beaverfork Lake through the use of trot lines, gigs, Yo Yos, set lines, throw lines, seines, nets or any other means than that hereinabove expressly permitted.

The City of Conway, or its duly appointed agents or employees are hereby authorized and directed to remove and to confiscate all trot lines, gigs, seines, and other unlawful fishing tackle and/or equipment as herein described, which may be found in, on or under said lake.

No gold fish or other species of carp shall be used as bait when fishing in Beaverfork Lake.

12.12.05 Camping and Picnicking. It shall be unlawful for any person to camp upon any lands surrounding or adjacent to Lake Beaverfork which are owned by or leased to the City of Conway, but picnicking will be encouraged in the park areas designated therefor. All persons engaging in picnicking are requested to place all papers, unused food, trash and refuse in the receptacles provided therefor. No person, whether boating, fishing or picnicking, shall deposit any refuse, trash or other materials in the waters of the lake, or upon those lands surrounding or adjacent to the lake and owned by the city. Any person violating these rules designed to prevent littering of the lake premises shall be prosecuted.

Proper rest room facilities will be provided and human excreta and urine shall not be deposited in the water of said lake or on any lands surrounding the lake that are owned by the city, except at such facilities.

12.12.06 Swimming. The area or areas in which only swimming and bathing is permitted shall be clearly marked by cables, ropes, or other means, and by such signs as the city may desire. No person under the age of twelve (12) years shall be permitted to swim or bathe in the lake except when accompanied by his parent, guardian or other responsible adult. Each person who swims or bathes in the lake shall do so at his own risk and the city refuses to assume or accept any responsibility therefor.

12.12.07 Water Skiing. Water skiing shall be permitted in limited areas of the lake. The areas in which water skiing is not permitted shall be marked by signs, cables, buoys, or other means and any person who shall water ski, or who shall attempt to do so, in any portion of the lake which is so marked shall be deemed guilty of abuse of park property and upon conviction thereof shall be punished in the manner set forth. Provided, however, should any person violate the provisions of this section of the chapter two (2) times during any period of twelve (12) consecutive months he shall, in addition to any other punishment provided herein, be barred from entering upon or otherwise participating in any recreational activities in, on or about the lake.

12.12.08 Unlawful activities on intake structure and tower. It shall be unlawful for any person to climb upon, enter or fish from the concrete intake structure or tower of the lake.

12.12.09 Hunting. Hunting of any kind, or the discharging of pistols, rifles, shotguns or any other firearm shall be prohibited upon the waters of said lake that are owned by or leased to the City of Conway.

12.12.10 Hours of operation and conduct. It is hereby declared to be a privilege for any person to enter upon or utilize the waters of Lake Beaverfork or any land surrounding said lake or adjacent thereto which are owned by the City of Conway. Should any person at any time be or become disorderly while upon said lake or lands, he shall forthwith be removed therefrom through the use of such force as may reasonably be necessary to accomplish such removal and his privilege to thereafter enter upon said lands and lake may be revoked. Provided, however, the penalties hereinabove set forth shall be in addition to any criminal or other penalties which may now or hereafter be provided by law, and should any person enter upon said lake or lands during the time his or her privilege to do so shall have been revoked he or she shall be deemed guilty of a misdemeanor and upon conviction be fined as hereinafter set forth. Provided, further, that nothing herein shall be construed so as to prevent or prohibit the entry upon said lake or lands by any agent, officer or employee of the City of Conway in the discharge of his official duties.

12.12.11 Patrolling. The city council shall employ such personnel as may be or become necessary to effectively patrol the lake and to enforce the provisions of this chapter. Such personnel shall, during their employment, be members of the police department of the City of Conway, and their salaries and/or wages shall be paid from and out of the City's Recreation Department funds.

12.12.12 Penalty. Any violation of any of the foregoing provisions shall be deemed a misdemeanor and shall be punishable by a fine of not less than \$15.00 nor more than \$200.00 for each offense. The violations not covered in other city ordinances will be classified as follows:

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|---|---------|
| (1) Violation of park permits | \$15.00 |
| (2) Distruction and/or abuse of park property | 25.00 |

12.12.13 Rights of city. The City of Conway or its duly appointed agent or employee shall have the power and authority to revoke any permit issued hereunder for violation of these rules and regulations. The city further reserves the right, for cause shown, to refuse entry of any boat, boat owner or operator, or person to said lake, and the lands surrounding or adjacent to said lake that are owned by,

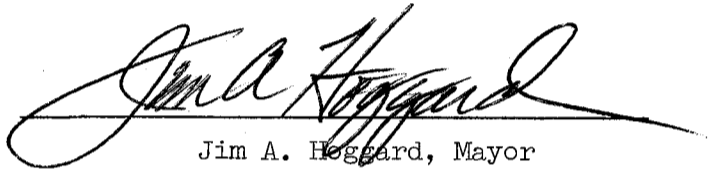
leased to, or under the control and/or supervision of the City of Conway, Arkansas. In addition, the City of Conway hereby prohibits the construction of any structure on any land owned by the City of Conway on or around said lake without a resolution passed by the City Council approving this construction and/or structure presence on said land.

Section 2: All ordinances or parts of ordinances that conflict herewith are hereby specifically appealed.

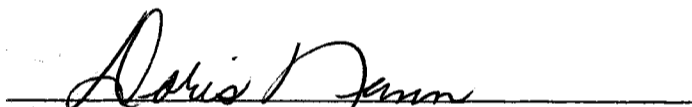
Section 3: It being necessary for the protection of the public an emergency is hereby declared to exist and this ordinance shall take effect immediately upon and after its passage.

PASSED: This 22nd day of March, 1977.

APPROVED:


Jim A. Hoggard, Mayor

ATTEST:


Doris Nunn, Clerk-Treasurer

