

Sponsor: Councilwoman Forbes
First Reading: 10/19/20
Second Reading: 11/02/20
Third Reading: 11/16/20
Ord. No.: 022-20

AN ORDINANCE TO AMEND CHAPTER 46 (“PARKS AND RECREATION”), TO ESTABLISH AND CLARIFY REGULATIONS PERTAINING TO THE USE OF LAKE COMO AND THE SURROUNDING RECREATION AREAS

WHEREAS, the Smyrna Town Charter authorizes the Town Council to “regulate or prohibit the use of public streets, alleys, sidewalks, boardwalks, beaches, parks, right-of-ways [sic], public places and Town-owned lands for commercial uses or activities not otherwise protected from such regulation or prohibition by the Constitutions of either the United States or the State of Delaware, or by any controlling federal statute”;

WHEREAS, Lake Como is a valuable nature resource of the Town that provides active and passive recreational opportunities to residents and visitors; and

WHEREAS, in order to preserve and protect Lake Como so that it can be safely enjoyed by residents and visitors in a variety of different ways, in the opinion of the Town Council it is necessary for the public health, safety, and welfare to clarify and establish regulations to provide for the safe and orderly use of Lake Como.

NOW THEREFORE, BE IT HEREBY ENACTED by the Town Council of the Town of Smyrna, a majority thereof concurring in Council duly met, that the Town Code of the Town of Smyrna be and hereby is amended as follows:

Section 1. Amend Chapter 46 (“Parks and Recreation”), Article II (“Use of Town Parks”) by making insertions as shown by underlining and deletions as shown by strike through as follows:

~~Secs. 46-33—46-55. — Reserved.~~
Secs. 46-33 – 46-53. – Reserved

Section 2. Amend Chapter 46 (“Parks and Recreation”), Article III (“Lake Como”), Division 1 (“Generally”) by making insertions as shown by underlining and deletions as shown by strike through as follows:

~~Sec. 46-56.~~ Sec. 46-54. **State laws in effect.**

The state laws and regulations pertaining to inland waters shall be in effect and shall govern the use of Lake Como regarding swimming, boating and fishing.

Sec. 46-55. - Hours of operation.

(a) The dedicated beach recreation area at Lake Como shall be open to the public from 8:00 a.m. to dusk. The Smyrna Police Department is responsible for locking the gate at closing time and

unlocking the gate at the scheduled opening time. All other public areas in and around Lake Como that are used in conjunction with Lake Como such as the boat access areas, gazebo, and parking areas shall be open to public use from dawn to 10:00 p.m.

(b) No camping or overnight stays of any kind are permitted at the Lake Como recreational areas.

Sec. 46-56. - Motor vehicles.

Except in the designated parking areas and boat ramp access and loading areas during the hours of operation listed in Section 46-55, it shall be unlawful to drive, park, or store motor vehicles and/or boats at the Lake Como recreational areas.

Sec. 46-57. - Swimming.

(a) *Area limits.* Use of Lake Como for swimming is confined to the beach area designated for that purpose and is located just west of the extreme south end of Main Street. It shall be unlawful for any person to go outside the designated, roped area for the purpose of swimming or bathing.

(b) Swimming "at your own risk" shall be permitted within the designated, roped area located adjacent to the public beach between the hours of ~~10:00~~ 8:00 a.m. and ~~8:00 p.m.~~ dusk seven days a week. The ~~town~~ Town shall install and maintain signs at the entrance to the public beach area and at least two other places at the public beach area which prominently announce "WARNING! SWIM AT YOUR OWN RISK — NO LIFEGUARD ON DUTY - Children Under the age of 14 must be accompanied by an adult".

(c) Any person observed by a ~~town police officer or town employee~~ police officer or employee of the Town to be creating a public nuisance or threatening the safety or peaceful enjoyment of other persons at the public beach area or the roped swimming area shall be in violation of this section and may be ordered to leave the roped swimming area and beach area and prohibited from re-entering those areas for up to ten days. Any person violating such an order may be taken into custody and, upon conviction, fined up to \$100.00.

Sec. 46-58. - Boating.

(a) ~~Reserved. Permit required.~~ Before any person shall operate any boat upon Lake Como, he shall obtain a permit for each boat from the police department. Thereafter, the owner of the boat shall be responsible for the operation of the boat on Lake Como and shall be responsible for the compliance with any requirements whether or not the owner is the operator. Each permit shall be good for one calendar year—January 1 through December 31.

(b) ~~Reserved. Permit fee.~~ For each permit issued pursuant to subsection (a) of this section, the ~~town office shall collect the following:~~

(1) Resident \$ 4.00

(2) Nonresident 10.00

Note: This fee is nonrefundable.

(c) *Outboard motors.* It shall be unlawful for any person to operate an outboard motorboat in excess of "no wake speed" which shall mean as slow as possible without losing steerageway and so as to make the least possible wake. This will almost always mean speeds of less than five miles per hour.

(d) *Lifesaving equipment.* As required by Title 23 of the Delaware Code Annotated.

(e) *Age of operators.* No person under 16 years of age will be permitted to operate a ~~gasoline powered driven~~ a motorized boat unless accompanied by a person at least 16 years of age.

(f) ~~*Water Sports*~~ *Water skiing.* Water skiing, wakeboarding, and tubing are ~~is~~ not permissible at any time.

(g) *Hours of operation.* ~~Hours of operation for all boats shall be limited to daylight hours~~ Motorized boats may be operated on Lake Como between dawn and 10:00 pm. Non-motorized boats, such as canoes, kayaks, paddle boats, paddle boards, rafts, and rowboats, may only be operated on Lake Como between dawn and dusk.

* * *

Sec. 46-59. - Copy of article's restrictions ~~to be furnished to boat permit applicant.~~

A copy of the restrictions of this article shall be ~~provided at the time of the issuance of a boating permit.~~ available at Town Hall, the Smyrna Police Station, and on the Town's website.

Sec. 46-60. - Responsibility and liability.

All boat owners will be responsible for any damage or injury caused through the operation of their boat.

Sec. 46-61. - ~~Pets~~ Dogs and other animals.

Between April 15 and October 15 of each year, it shall be unlawful for any person to knowingly take, lead, permit or allow any ~~pet~~ dog or animal in their possession or under their ownership or control, in, on or upon the Lake Como public bathing beach or swimming area. In addition to any other enforcement provisions provided by this article, it shall be lawful for the ~~town~~ Town's police, ~~town lifeguards~~ or any other person duly authorized by the ~~town~~ Town or the State of Delaware to impound any such dog or other animal found in, on or upon the Lake Como bathing beach and swimming area in violation of this section. ~~The town~~ For any dogs or animals impounded by the Town, the Town shall notify the owner of any such impounded dog or animal, if known, and post notice of such impounding at the police station, within 24 hours of such impoundment. If not reclaimed within six days of the posting of such notice of impoundment, the dog or other animal may be destroyed.

Sec. 46-62. - Exemptions.

The ~~town council~~ Town Council may, by resolution, exempt Citizens Hose Company No. 1, Incorporated, from any or all of the provisions of this division and subject to such terms and conditions as may be expressed in the resolution, where that corporation desires to make use of

Lake Como for training exercises for rescue operations, dragging operations and similar activities.

Section 2. Effective Date. This Ordinance shall become effective immediately upon its adoption by the Town Council.

SYNOPSIS

This ordinance sets forth the hours when Lake Como and the surrounding areas may be used by the public. Camping and overnight stays at Lake Como are prohibited. This ordinance clarifies parking regulations and outlines those water sports that are not permitted on Lake Como. Minor clarifications are made to the regulations pertaining to bringing dogs and other animals to Lake Como.

This will certify that this is a true and correct copy of the Ordinance duly adopted by the Town Council of the Town of Smyrna at its regular Council meeting on _____, 2020.

ATTEST:

Council Secretary

Mayor

This shall certify that the title and synopsis of this Ordinance was published in the "Smyrna/Clayton Sun Times" on _____, 2020 and posted at the Town Hall on _____, 2020.

So Certifies:

Town Clerk