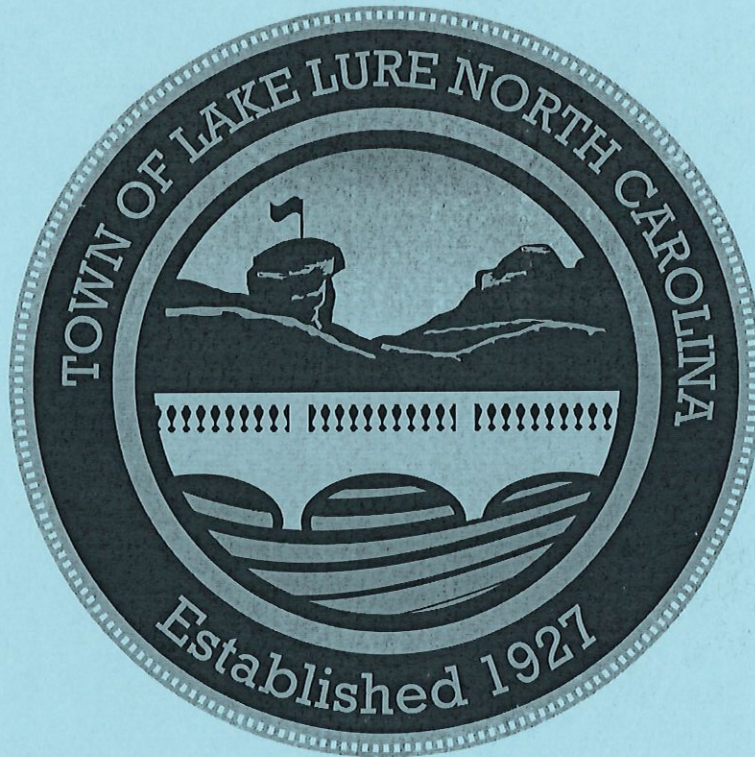


LAKE LURE MARINE COMMISSION REGULAR MEETING PACKET

Tuesday, June 13, 2017



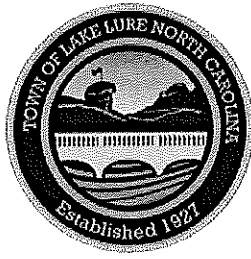
Mayor Bob Keith

Commissioner John Moore

Commissioner Mary Ann Silvey

Commissioner Stephen Webber

Commissioner Bob Cameron



REGULAR MEETING OF THE LAKE LURE MARINE COMMISSION

*Tuesday, June 13, 2017
5:00 P.M.
Lake Lure Municipal Center*

AGENDA

1. Call to Order
2. Invocation
3. Approve the Agenda
4. Public Forum: *The public is invited to speak on any non-agenda and/or consent agenda topics. Comments should be limited to less than five minutes.*
5. Public Hearing and Adoption of Resolution No. 17-06-13 of the Town of Lake Lure Marine Commission Amending the Lake Use Regulations
6. Consent Agenda:
 - a. Approve Minutes – March 14, 2017 (Regular Meeting)
7. Unfinished Business
 - a. Discussion Concerning Fees for Commercial Boat Slips and Moorings
8. New Business
 - a. Proposed Update to Rumbling Bald Resort's Non-Motorized Boat Concession Agreement
9. Adjournment

RESOLUTION NO. 17-06-13

**OF THE TOWN OF LAKE LURE MARINE COMMISSION
AMENDING THE LAKE USE REGULATIONS**

WHEREAS, the Lake Lure Town Council has created the Lake Lure Marine Commission as authorized by special act of the General Assembly of the State of North Carolina for the purposes of regulating all activities on Lake Lure; and

WHEREAS, the Lake Use Regulations were adopted by resolution on March 9, 2004;
and

WHEREAS, the Lake Lure Marine Commission, upon the recommendation of the Lake Lure Lake Advisory Board, has determined that said regulations should be amended to further define and regulate activities on Lake Lure; and

NOW, THEREFORE, BE IT RESOLVED BY THE LAKE LURE MARINE COMMISSION that the following revisions to the lake use regulations are hereby placed in effect and shall be enforced by the Town of Lake Lure:

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

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SECTION 1: INTENT AND DEFINITIONS

§ 1.01 INTENT

All land covered by the waters of Lake Lure at full pond is owned by the Town of Lake Lure. Said lake is held in trust by the Town of Lake Lure for the benefit of the citizens of the Town. The Lake Lure Town Council created the Lake Lure Marine Commission as authorized by special act of the General Assembly of the State of North Carolina for the purposes of regulating all activities on Lake Lure. The Lake Use Regulations were first adopted by Resolution on March 9, 2004 to govern use of the Lake for the purpose of enhancing the health, safety, and general welfare of the citizens.

****Note: The definitions section is currently in the Lake Use Regulations under "BOATING." This is the proposed new location.**

§ ~~1.50~~ 1.02 DEFINITIONS.

For the purpose of ~~this division~~ these regulations, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

"BOAT." For the purpose of these regulations, the term "boat" shall mean any form of water vessel. **Amended 11-9-04**

"COMMERCIAL CRAFT." ~~All w~~Water vessels used in connection with any type of business, trade or commerce, for profit or non-profit, included~~ing~~ but not limited to: boat rentals, marinas, real estate agents, resorts, inns, lodging establishments, camps, ski schools, fishing guides, tour boats, contractors, boat repair companies or house rentals (that are required to pay occupancy tax) with boats, real estate development companies or property owner's associations. **Amended 11-9-04, 4-8-08**

"COMMERCIAL OPERATIONS." Any use of the lake in a manner that will generate direct or indirect revenue or by an entity that operates for profit or not-for-profit (excluding governmentally established entities) **Amended 4-08-08.** This is further quantified into eight classifications:

- (1) Liveries - Boat rentals or boat use privileges with no operator provided that may be associated with (but not limited to) marinas, resorts, inns, lodging establishments, house rentals (that are required to pay occupancy taxes) with boats or real estate agents that rent boats. **Amended 2-13-07**
- (2) Resorts - Boating operations available to patrons at resorts, inns, or lodging establishments that are staff operated.
- (3) Camps - Boating operations at camp facilities that are staff operated.
- (4) Ski Schools - All commercial operations utilizing tow boats for providing water sports activities, which may include instruction that are not associated with a specific

camp, resort, inn or lodging facility.

- (5) Tour Boats - Boating operations that are used to provide piloted tours of the lake. Boats in this class require a concession agreement with the Town regardless of the number permitted.
~~not associated with a specific camp, resort, inn or lodging facility that are used to provide piloted tours of the lake.~~
- (6) Fishing Guides - Boating operations that are not associated with a specific camp, resort, inn or lodging facility and are used to provide a piloted fishing excursion.
- (7) Services - Boating operations utilized by building contractors and boat repair companies.
- ~~(8) Real Estate Agents - Boating operations utilized by real estate agents. Amended 11-9-04~~

"COMMERCIAL OPERATORS." All boat operators who pilot boats for commercial classifications 2-~~8-7~~, inclusive. **Amended 11-9-04**

"DEVELOPED LOT." A developed lot shall be a lot whereon a residence or business building is constructed. (Res. Passed 4-11-06)

"LAKE, also LAKE LURE" The ~~artificial-water~~ body of water known as Lake Lure formed by the creation of the dam at Tumbling Shoals over the Broad River in Rutherford County, NC and including that portion of the Broad River above the lake extending below the elevation of 992 feet above mean sea level. **Amended 11-9-04**

"LAKE COMMERCIAL LICENSE." A license issued annually by the Marine Commission for commercial operations on the waters of Lake Lure. **Amended 11-9-04**

"LAUNCHING." Any method of placing a water vessel onto the lake from the land above the shoreline. This does not include launching of water vessels from lake structures. **Amended 11-9-04**

"LAUNCH SITE." Any location on the land adjacent to the shoreline of Lake Lure that may be used for launching water vessel(s), provided that this term does not include lake structures, ~~other than launch ramps~~ as defined in the Lake Structures Regulations. **Amended 11-9-04**

"LAUNCH SITE PERMIT." Permit issued by the Marine Commission for operating general and private launch sites. **Amended 11-9-04**

"LAUNCH SITE, PRIVATE." A launch site available for use by one single-use family dwelling for launching only boats permitted in that family's name. **Amended 11-9-04**

“LAUNCH SITE, GENERAL.” Any launch site other than a private launch site.
Amended 11-9-04

“MARINE COMMISSION.” The Lake Lure Marine Commission as established by Ordinance 03-09-09. **Amended 11-9-04**

“NON-PEAK SEASON.” The period of each year starting on the Tuesday after Labor Day through the Thursday before Memorial Day. **Amended 11-9-04**

“NON-RESIDENT.” Any person not owning real property within the corporate limits of the town or any person who resides outside the corporate limits of the town for more than 50% of the calendar year.

“NO-WAKE.” Idle speed or a slow speed creating no appreciable wake (producing white water off the bow).

“PEAK SEASON.” The period of each year starting on the Friday before Memorial Day through Monday, Labor Day. **Amended 11-9-04**

“PERMIT.” A display permit issued by the Marine Commission to operate a boat on Lake Lure for recreational, fishing and/or commercial purposes.

“PERMIT LIMIT.” The maximum number of permits which will be issued for a specific permit classification. **Amended 11-9-04**

“PERSONAL WATERCRAFT” (ALSO KNOWN AS PWC OR SKICRAFT). An inboard powered craft using a water-jet pump as the primary source of propulsion and operated by a person sitting, standing or kneeling on the craft rather than in the conventional manner of boat operation.

“PROPERTY OWNERS.” This term shall be deemed to include corporations, joint property owners (i.e. a person listed on the deed of record as an owner of the real property), and “time share” owners.

“PUBLIC BATHING BEACH.” A public access to the waters of Lake Lure where swimming is allowed.

“RESIDENT.” Any person owning real property within the corporate limits of the town or any person who resides within the corporate limits of the town for more than 50% of the calendar year.

“WATER SPORTS.” Water skiing, knee boarding, wake boarding, tubing, and other similar activities which involve being towed behind a boat.

“WATER VESSEL(S).” Every description of watercraft ~~or structure~~, other than a seaplane on the water, used or capable of being used as a means of transportation ~~or habitation~~ on the water. Said term shall include, but shall not necessarily be limited to pontoon boats, fishing boats, house boats, ski boats, pleasure boats, personal watercraft, row boats, kayaks, stand up paddleboards, sail boats, hydro-bikes, paddle boats or canoes. (Res. Passed 3-9-04)

SECTION 2: FISHING

~~§ 1.01~~ 2.01 LICENSE REQUIRED.

All required persons shall secure a license from the North Carolina Wildlife Resources Commission in accordance with NC General Statutes, ~~to the extent such license may be required,~~ before fishing in the waters of Lake Lure. (Authority: G. S. § 113-270.1B)
(Res. Passed 3-9-04) Penalty, see § ~~1.99~~ 5.01

~~§ 1.02~~ 2.02 LIMITS ON NUMBERS AND SIZE OF FISH CAUGHT.

The maximum number and minimum size of trout, bass and crappie that may be taken from Lake Lure is as follows:

The creel limits and size restrictions for all fish, including trout, bass and crappie, shall be the equivalent to current state restrictions. See the North Carolina state wildlife regulations for restriction details.

Lake Lure is classified by the NC Wildlife Resources Commission as “Undesignated Waters”. For mountain trout, there is no size limit or bait restriction.

For mountain trout, there is no size limit or bait restriction. There is no closed season and no trout fishing license is required. The daily creel limit for trout is 7 fish.

(Res. Passed 3-9-04) Penalty, see § ~~1.99~~ 5.01 **Amended 4-11-06, 10-14-08, 04-08-14**

~~§ 1.03~~ 2.03 STATIONARY FISHING DEVICES.

It shall be unlawful for any person, firm, or corporation to place basket trot lines or other stationary or unmarked devices, other than poles and those items normally used by sport fishermen, for the catching of fish in the waters of Lake Lure.
(Res. Passed 3-9-04) Penalty, see § ~~1.99~~ 5.01

~~§ 1.04~~ 2.04 TRESPASSING ON BOATS, BOAT HOUSES OR DOCKS.

It shall be unlawful for any person, firm, or corporation to fish or go in or upon any boat, boat house, pier, or dock belonging to another or so near thereto as to interfere with the owner's possession of the same without permission of the owners thereof.
(Res. Passed 3-9-04) Penalty, see § ~~1.99~~ 5.01

SECTION 3: BATHING

§ 1.15 3.01 BATHING OR SWIMMING ENTERING THE WATERS OF LAKE LURE WHILE UNDER THE INFLUENCE OF AN IMPAIRING SUBSTANCE.

No person shall enter the waters of Lake Lure ~~within the corporate limits of the Town~~ for ~~the~~ any purpose ~~of bathing or swimming~~ while under the influence of an impairing substance.
(Res. Passed 3-9-04) Penalty, see § ~~1.99~~ 5.01

§ 1.16 PERMIT REQUIRED TO OPERATE PUBLIC BATHING BEACH.

~~— No public bathing beach shall be operated within the corporate limits of the Town by any person, firm, or corporation without first obtaining a permit from the Marine Commission for said purpose and filing with the Marine Commission a petition for said permit, which shall describe the location of said beach, that adequate bathing insurance will be obtained and kept in force at all times for the protection of the public, and that the same will operate in full compliance with the ordinances and regulations provided by the Town or Marine Commission from time to time regulating beaches within the town.~~
(Res. Passed 3-9-04) Penalty, see § ~~1.99~~

§ 1.17 3.02 SWIMMING OFFSHORE.

It shall be unlawful to swim in Lake Lure off the shore of any town-owned property except ~~at the town-owned beach~~ permitted beaches. No person shall swim farther than 50 feet from the shoreline of Lake Lure unless accompanied by an observer in a boat, unless it is a marked-off area permitted by Marine Commission regulations.
(Res. Passed 3-9-04) Penalty, see § ~~1.99~~ 5.01

§ 1.18 3.03 JUMPING FROM ROADWAYS OR BRIDGES.

It is unlawful to dive, jump or swim into the waters of Lake Lure from any road or road right of way, bridge or the area adjacent to any bridge within the town limits.
(Res. Passed 3-9-04) Penalty, see § ~~1.99~~ 5.01

SECTION 4: BOATING

§ 1.51 4.01 PERMIT FEE; BOATING PERMIT REQUIRED.

- (A) Except as hereinafter provided, all persons, firms, or corporations shall secure a permit from the Marine Commission or its designated agents before placing,

operating, or allowing any water vessel to be placed or operated on Lake Lure.

- (B) All commercial operations must apply for a lake commercial license in accordance with section ~~1.57 and 1.59~~ 4.08 and 4.09 of these regulations. **Amended 4-11-06**
- (C) All town employees and any member on the active roster of the Lake Lure, Bill's Creek, Chimney Rock, or Fairfield Volunteer Fire Departments shall be entitled to receive one complimentary annual water vessel permit. A member on the active roster of the Bat Cave, Gerton or Sunny View Volunteer Fire Departments may purchase one annual water vessel permit at the resident rate. A member on the active roster of the Hickory Nut Gorge Emergency Medical Service shall be entitled to one complimentary annual water vessel permit. **Amended 7-12-11**
- (D) (1) Federal, State and Local governmental agencies are exempt from this Section provided they are operating in an official capacity, including but not limited to training, research, data collection, emergency response, or other service related duties. Complimentary permits will be provided for the dates and times needed to perform their official duties, and will only require a valid registration. Vessel length restrictions shall not be imposed. Vessels permitted under this policy shall not be used for recreational activities. **Adopted 12-13-16**
- (2) Contractors that are providing a lake-related service to the Town of Lake Lure under a Town sponsored project, without a boat permit will receive a complimentary boat permit. Permits granted under this section are only valid for the duration of the project. Valid registration and insurance will be required. Vessel length restrictions shall not be imposed. Vessels permitted under this policy shall not be used for recreational activities. **Adopted 12-13-16**
- (E) All water vessel permit fees shall be assessed according to a schedule of permit fees adopted ~~from time to time~~ annually by the Marine Commission. **Amended 4-11-06**
- (F) (1) Water vessel permit fees for "non-residents" may be set at a greater amount than water vessel permit fees for residents. **Amended 4-11-06**
- (2) Corporations owning real property in the Town of Lake Lure may purchase an annual water vessel permit at resident rates, provided the proper registration papers can be presented showing the boat is registered to the corporation.
- (3) Residents or their spouses who own ~~an improved a developed~~ lot (a lot with a dwelling or commercial structure) qualify for up to three resident annual motorized over 10 HP boat permits, provided that the maximum number of permits for motorized over 10 HP boats have not been issued. ~~Non-resident children and other relatives do not qualify for permits at the resident rate.~~ **Amended 4-11-06, 2-13-07**

- (4) Property owners or their spouses owning an ~~unimproved undeveloped~~ lot qualify for one annual motorized boat permit or one peak season weekday only permit. **Amended 4-11-06, 2-13-07, 9-09-14**
- (G) The valid and current state registration of the water vessel must be presented to the designated issuing agent when purchasing a Lake Lure water vessel (boat) permit. A resident's or property owner's registration must match the name on the town's tax records for the permit to be issued as a resident permit. Commercial operators must present tax records if their water vessel is registered with a leasing agency.
- (H) Owners of timeshare properties within the Town of Lake Lure may purchase one motorized boat permit at the resident rate for the week(s) for which they have a timeshare contract. Verification of the contract is required. **Amended 4-11-06**
- (I) ~~For 2012 and until amended,~~ The Marine Commission has adopted the following limits on motorized boat permits:
- (1) A maximum of 1,000 resident annual unlimited use permits for boats with more than 10 HP.
 - (2) A maximum of 250 resident annual peak season weekday (no use on holidays), unlimited off-peak season permits for boats with more than 10 HP.
 - (3) A maximum of 75 non-resident annual unlimited use permits.
 - (4) A maximum of 75 non-resident annual peak season weekday (no use on holidays), unlimited off-peak season permits for boats with more than 10 HP.
- Amended 12-11-12**
- (J) Owners of lakefront lots having structures thereon shall have the E911 designated address assigned to the property posted ~~abutting the lakeshore~~ in accordance with §42.06 of ~~this code~~ the Code of Ordinances of the Town of Lake Lure titled Boat House Numbering. Said signs shall be ordered through the Town office before any annual water vessel permit may be obtained from the Town. **Amended 4-11-06**
- (K) The Marine Commission will determine the total number of available commercial and/or non-commercial boat permits based on a schedule of permit limits. To insure the health, safety and welfare of those who use the lake, the schedule will be reviewed annually; utilizing standards established by the Marine Commission which may include, but are not limited to formulas utilized by the US Army Corps of Engineers, Department of the Interior, Environmental Protection Agency and data from the Coast Guard and the Town of Lake Lure.
- (L) All applications for motorized boat permits must be accompanied by proof of marine liability insurance coverage written by a company approved by the State of North Carolina and AM Best. All non-commercial motorized applications must have minimum marine liability coverage of \$300,000.00 per incident. All applicants for commercial motorized boat permits must hold a lake commercial license, and adhere

to the insurance requirements defined under section ~~(3)~~ 4.07 below. Proof of marine liability insurance coverage shall be the actual marine liability insurance policy (or either a copy of the marine liability insurance policy or certificate of marine liability insurance ~~faxed~~ provided directly to town from insurance provider) which specifically references the boat by listing the boat's serial number, state registration number or reference that adequately insures that the boat is covered by the policy that a permit is being requested for, states liability limits for said boat, and identifies effective and renewal dates for policy. **Amended 11-9-04, 4-28-05** (Res. Passed 3-9-04) Penalty, see ~~§ 1.99~~ 5.01

~~§ 1.52~~ 4.02 PROHIBITED WATER VESSELS.

- (A) No pontoon boat, canoe, kayak, rowing shell, row boat or any motorized craft with less than 10 horsepower longer than 28 feet in length, nor any other boat type (including but not limited to runabouts, ski boats, deck boats, sail boats and canoes) longer than 21 feet registered length, will be permitted on Lake Lure. Rowing shells greater than 28 feet in length must be approved annually by the Marine Commission. The Town of Lake Lure Lake Operations Department reserves the right to measure boats if staff finds it necessary. Boats will not be measured if the length listed on the boat's state registration exceeds the allowed length. **Amended 4-12-05, 12-13-16**
- (B) No boat, other than pontoon boats, exceeding 4000 pounds dry weight, per manufacturer's specs, will be permitted on Lake Lure. **Adopted 1-12-16**
- (C) The Marine Commission shall allow the issuance of permits for personal watercraft only to:
 - (1) Residents of the town who were previously issued permits for the same personal watercraft in 1988; and
 - ~~(2) Residents who owned a personal watercraft in 1988 and who, for an acceptable reason, did not purchase a permit in 1988; and~~
 - ~~(3)~~ (2) All ~~such future~~ permits for personal watercraft as allowed herein shall be of the "annual" type only. No permits shall be issued for any other personal watercraft, including replacements for currently permitted ones.
- (D) Water vessels with built-in kitchen and toilet facilities and/or houseboats shall not be permitted on the waters of Lake Lure.

- (E) (1) No vehicle, watercraft, ~~and particularly a~~ seaplane, airboat, fly board, or hovercraft shall be allowed on Lake Lure unless said watercraft or vessel qualifies for and has obtained a current permit pursuant to this division the Lake Use Regulations of the Town of Lake Lure. Certain vehicles, such as seaplanes, do not qualify for permits under any circumstances and, therefore, are prohibited from the waters of Lake Lure. Any vessel, including a watercraft and a seaplane which is not specifically allowed ~~to qualify~~ and/or has a current permit shall not be placed on the waters of Lake Lure.
- (2) Firefighting Emergency watercraft ~~operated by the town or fire departments having jurisdiction within the town and firefighting emergency aircraft operated by the North Carolina Department of Environment and Natural Resources, Division of Forest Resources for the purposes of firefighting, employed in actual firefighting and/or emergency activities~~ are exempt from this prohibition. (Res. Passed 3-9-04) (Penalty, see § 4.99 5.01)

~~§ 4.53~~ 4.03 REGULATIONS REGARDING OPERATION OF BOATS; RESTRICTED AREAS.

- (A) No water vessels shall be operated shoreward of markers designating restricted areas.
- (B) No water vessels shall be tied to any Town owned public dock for longer than two and a half hours, except for boats owned or permitted in the name of the Town, unless special permission is received from the Town Manager.
- (C) No water vessels shall be operated at a speed greater than “no wake” speed within 75 feet of another vessel or the shoreline of Lake Lure. **Amended 2-13-07**
- (D) No water vessels shall operate at a speed greater than “no wake” on areas of Lake Lure not regulated by (C) above, when such areas are properly marked with a lawfully placed buoy or marker.
- (E) No water vessel shall be tied to any lawfully placed marker buoy on the lake or shoreline of Lake Lure.
- (F) All buoys, including mooring buoys, or safety marker placements must be approved by the Marine Commission. All markings will be in accordance with the uniform State Waterway Marking System.
- (G) All water vessels must be operated at “no wake” speed from 7 p.m. to 7 a.m. during the months of October through April and 9 p.m. to 7 a.m. during the months of May through September.

- (H) No person may operate a recreational vessel under way with any child under 13 years old aboard unless each such child is either:
 - (1) Wearing an appropriate personal flotation device (PFD) approved by the U. S. Coast Guard; or
 - (2) Below decks or in an enclosed cabin (Res. Passed 3-9-04) Penalty, see § ~~1.99~~ 5.01
- (I) All non-motorized boats, excluding sailboats and rowing shells, shall stay within 75ft of the shore or within the no-wake zone except when crossing the lake.
Adopted 1-12-16

§ ~~1.54~~ 4.04 MANNER OF OPERATION OF BOATS.

- (A) It shall be unlawful for any person to operate a water vessel on Lake Lure in a reckless or negligent manner so as to endanger the life, limb, or property of any person upon or near said lake. It shall also be unlawful for the owner of any water vessel to allow said water vessel to be operated in a reckless or negligent manner so as to endanger life, limb, or property of any person upon or near said lake. (Authority: N.C.G.S. § 75A-10)
- (B) No person shall operate a water vessel on the waters of Lake Lure while under the influence of an impairing substance or after having consumed sufficient alcohol that said person has, at any relevant time after the operation of said water vessel, an alcohol concentration of 0.08 or more. The consumption of fortified wine and spirituous liquor on the Lake is prohibited by N.C.G.S. §18B-301. The fact that a person charged with violating this subsection is or has been legally entitled to use alcohol or a drug is not a defense to a charge under this section. (~~Authority: G.S. § 75A-9~~)
- (C) No person shall allow a minor (a person under the age of 16) to operate a motorized water vessel on Lake Lure unless accompanied by an adult (a person aged 21 or older). **Amended 2-13-07**
- (D) No person shall engage in motorized water vessel racing on Lake Lure.
- (E) The exhaust of every internal combustion engine used on any water vessel shall be effectively muffled by equipment so constructed and used as to muffle the noise of the exhaust in a reasonable manner. (Authority: N.C.G. S. § 75A-9)
- (F) No person shall place, throw, deposit, or discharge or cause to be placed, thrown, deposited, or discharged on the waters of Lake Lure, any litter, raw sewage, bottles, cans, papers, or other liquid or solid materials which render the waters unsightly,

noxious, or otherwise unwholesome so as to be detrimental to the public health or welfare or to the enjoyment and safety of the water for recreational purposes. (Authority: N.C. G. S. § 75A-10) (Res. Passed 3-9-04) Penalty, see § ~~1.99~~ 5.01

~~§ 1.55~~ 4.05 WATER SPORTS.

- (A) All persons involved in water sports in Lake Lure shall wear proper U.S. Coast Guard approved life vest gear. No more than two persons engaged in water sports may be towed behind one boat (with the exception of water skiing shows permitted by the Town).
- (B) No person shall engage in water sports in any cove of less than 300 feet in width or in any cove marked by "no wake" buoys. (Res. Passed 3-9-04) Penalty, see § ~~1.99~~ 5.01

~~§ 1.56~~ 4.06 FEES.

- (A) Water vessel permit fees. Various fees shall be assessed for water vessel permits for residents, non-residents, dealers, and commercial establishments (both resident and non-resident) and shall be as established by the Marine Commission pursuant to a schedule adopted ~~from time to time~~ annually. A copy of the schedule of current fees shall be kept at all times in the Town office.
- (B) Slip fees. Various rental fees shall be assessed for ~~covered and open~~ slips at the Town Marina and shall be as established by the Marine Commission pursuant to a schedule adopted ~~from time to time~~ annually. A copy of the schedule of current fees shall be kept at all times in the Town office. (Res. Passed 3-9-04)

~~§ 1.57~~ 4.07 COMMERCIAL OPERATIONS.

Commercial operations shall be allowed on the waters of Lake Lure subject to the following conditions:

- (A) A lake commercial license shall be required annually prior to purchasing commercial boat permits. ~~(See schedule in section 1.59(D) for the maximum number of permits allowed in each of the eight commercial classifications.)~~
- (B) All commercial operators shall successfully complete a Marine Commission approved boating safety class annually.
- (C) All applications for lake commercial licenses shall be accompanied by proof of marine liability insurance written by a company approved by the state of North Carolina and AM Best for all

associated motorized boats. Commercial classifications 1, 2, 3, 4, 5, & 6 must have minimum liability coverage of \$1,000,000.00. Commercial classifications 7 & 8 shall carry the appropriate type of insurance policy (commercial/non-commercial) suitable for business operation, and have minimum marine liability coverage of \$300,000.00. All commercial operators shall name the town as co-insured on the required policies. **Amended 4-28-05**

- (D) No single business owner or commercial operation may have more than seven permits for motorized boats over 10 HP, unless they have a concession agreement with the Town specifically stating a different number.
- (E) No single business owner or commercial operation may have more than seven permits for motorized boats 10 HP or less, unless they have a concession agreement with the Town specifically stating a different number.
- (F) No single business owner or commercial operation may have more than ten (10) permits for non-motorized boats, unless they have a concession agreement with the Town specifically stating a different number. **Amended 4-28-05**
- (G) The only way that a business owner or commercial operation may obtain more permits than what is allowed in any one classification (~~see Section 1.59(D)~~) or in total (~~see Sections 1.57(D), (E), and (F)~~) is to enter into a concession agreement with the Town of Lake Lure. A concession agreement is also required if a business owner or commercial operator wishes to do business from any land owned by the Town. **Amended 4-10-12**
- (H) Commercial craft with more than 100 horsepower shall have boat-to-shore communications capability.
- (I) Commercial operators shall report to law enforcement ~~lake-enforcement agency(s)~~ any violation of State or local regulations as well as any observed accidents.
- (J) Commercial operators must render assistance to any disabled vessel(s). (Res. Passed 4-12-05)
Penalty, see § ~~1.99~~ 5.01
- (K) Water sports are expressly prohibited behind boats with a livery, service, tour boat and fishing commercial classification (including boats associated with rental homes). (Res. Passed 4-11-06)
- (L) ~~All~~ eCommercial craft shall not be operated when lightning is visible, or thunder is audible. Commercial craft operating on the lake when these conditions occur must return to moorings immediately. (Res. Passed 4/11/06)
- (M) Because there are limits in the numbers of commercial boat permits issued, once a boat permit has been issued for a particular commercial classification, that boat shall retain that classification until the permit expires. A boat cannot change classification in the same calendar year that it was permitted. Commercial vessels may only be operated for the purpose approved in the commercial license. (Res. Passed 10-12-10)

- (N) Boats licensed in commercial classification 5 (tour boats) shall be subject to the following further conditions:
- (1) ~~No~~ Voice amplification systems is shall not be allowed
 - (2) Operations will be carried out at low wake in all parts of the lake except the center
 - (3) Each boat shall show the name of the commercial operator and have large numerals to facilitate identification for complaints comments. **Amended 4-10-12**
 - (4) Tour boats shall not navigate under a bridge or enter a cove other than the town marina cove except for picking up and dropping off passengers.
 - (5) Tour boats shall not navigate in "no wake zones".
 - (6) Boarding and departing passengers will be allowed access only from commercial landings with the exception of special events approved by the Town Manager.
 - (7) Tour Boats shall not travel in clusters and must be separated at a minimum distance of 100 yards.
 - (8) Tour boats require a concession agreement with the Town regardless of the number permitted.

§ 1.58 4.08 LAUNCHING WATER VESSELS & LAUNCH SITES

- (A) Launching of motorized water vessels into the lake shall be allowed only from general and private launch sites. ~~having valid launch site permits.~~
- ~~(B) All general launch sites providing entry of motorized water vessels into the lake are required to obtain and display a launch permit at launch site.~~
- ~~(C) General launch site permits shall be renewed annually. Initially, the Marine Commission shall issue permits for no more than four general launch sites. The Marine Commission may increase or decrease the number of permits issued for general launch sites as the demand for such launch sites and the utilization of permitted general launch sites may dictate.~~
- ~~(D) The Marine Commission reserves the right to revoke general and private launch site permits.~~
- ~~(E) Beginning in 2005 and for every year thereafter, general launch site renewal applications must be submitted to the Marine Commission prior to the first day of November. Permits will then be approved or disapproved by the Marine Commission prior to the first day of January of the following year and, unless revoked by Marine Commission, shall remain in effect until the last day of December of that year.~~
- ~~(F) Beginning in 2005, existing private launch sites shall be required to obtain a private launch site permit.~~
- ~~(G)~~ (B) No new private launch sites for motorized boats may be created on the lake.

~~(H)~~ (C) The Marine Commission may close or restrict use of any or all general launch sites when it is deemed that conditions exist which threaten the safe, recreational usage of the lake. (Res. Passed 4-12-05) Penalty, see § ~~4-99~~ 5.01

§ ~~4-59~~ 4.09 LAKE COMMERCIAL LICENSING

- (A) A lake commercial license is required prior to purchasing commercial boat permits.
- (B) ~~For the year 2005, all lake commercial license applications must be received by the marine commission on or before the first day of February. For the year 2006 and every year thereafter,~~ All new lake commercial license applications and all lake commercial license renewal applications ~~for the following year~~ must be received by the first day of November.
- (C) The Marine Commission will complete its review of all license applications and may issue lake commercial licenses by the first day of January of the following year

~~(D) See next page.~~ Section Continued on next page.

(D) Lake Commercial License Schedule of Criterion – In determining both the number of lake commercial licenses that may be available for issuance to each of the eight commercial classifications defined in section ~~1.50~~ **1.02** and whether to issue a license in response to an application either for a new lake commercial license or to renew an existing lake commercial license, the Marine Commission may consider the following criteria (and such other criteria as the Marine Commission may consider reasonable and appropriate.)

Criterion	Commercial Classifications							
	Livery (Class 1)	Resorts (Class 2)	Camps (Class 3)	Ski Schools (Class 4)	Tour Boats (Class 5)	Fishing Guides (Class 6)	Services (Class 7)	Real Estate Agents (Class 8)
Lake Impact Limit (Summer)	TBD per Calc*	TBD per Calc*	TBD per Calc*	TBD per Calc*	TBD per Calc*	TBD per Calc*	TBD per Calc*	TBD per Calc*
Lake Impact Limit (Spring/Fall)	TBD per Calc*	TBD per Calc*	TBD per Calc*	TBD per Calc*	TBD per Calc*	TBD per Calc*	TBD per Calc*	TBD per Calc*
Lake Impact Limit (Winter)	TBD per Calc*	TBD per Calc*	TBD per Calc*	TBD per Calc*	TBD per Calc*	TBD per Calc*	TBD per Calc*	TBD per Calc*
Max Permits / Operation	4 per owner or business entity**	3 per owner or business entity**	3 per owner or business entity**	2 per owner or business entity**	2 per owner or business entity**	2 per owner or business entity**	2 per owner or business entity**	3 per owner of business entity**

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Criterion	Commercial Classifications							
	Livery (Class 1)	Resorts (Class 2)	Camps (Class 3)	Ski Schools (Class 4)	Tour Boats (Class 5)	Fishing Guides (Class 6)	Services (Class 7)	Real Estate Agents (Class 8)
Mooring Restrictions	Commercial business operations must be conducted from lake structures adjacent to lots zoned CG, GU, R3 or R4 (except house rentals, service boats or real estate agents). Commercial boats may be moored in any zoning district under these conditions: a) <u>The boat is moored at property being used as a residence for the business owner or an employee.</u> b) <u>Primary business operations are not being conducted at the residence.</u>							
Residence Requirements	It is the intent of the Marine Commission to limit lake commercial licenses to those business entities, which are principally located in the corporate limits of the Town of Lake Lure. The Marine Commission reserves the right to cancel lake commercial licenses, if it is later discovered that the business entity is not principally located in the corporate limits of the Town of Lake Lure. Non-resident real estate agents, fishing guides, contractors and boat repair companies hired by residents of Lake Lure may apply to the Lake Lure Marine Commission for special permits. If approved, non-resident commercial licensees will be allocated boat permits at a fee adjusted to represent the Non-Resident annual fee plus the commercial surcharge as applied to Resident annual permit fee.							
Marine Liability Insurance Requirements	Minimum coverage of \$1,000,000 per incident. Town of Lake Lure must be listed as co-insured.	Minimum coverage of \$1,000,000 per incident. Town of Lake Lure must be listed as co-insured.	Minimum coverage of \$1,000,000 per incident. Town of Lake Lure must be listed as co-insured.	Minimum coverage of \$1,000,000 per incident. Town of Lake Lure must be listed as co-insured.	Minimum coverage of \$1,000,000 per incident. Town of Lake Lure must be listed as co-insured.	Minimum coverage of \$1,000,000 per incident. Town of Lake Lure must be listed as co-insured.	Minimum coverage of \$300,000 per incident. Town of Lake Lure must be listed as co-insured.	Minimum coverage of \$300,000 per incident. Town of Lake Lure must be listed as co-insured.

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Commercial Classifications								
Criterion	Livery (Class 1)	Resorts (Class 2)	Camps (Class 3)	Ski Schools (Class 4)	Tour Boats (Class 5)	Fishing Guides (Class 6)	Services (Class 7)	Real Estate Agents (Class 8)
Lodging Restrictions	House rentals must occur in corporate limits of the Town of Lake Lure	All clientele must be lodged at facilities within the corporate limits of the Town of Lake Lure	All campers must be lodged at facilities within the corporate limits of the Town of Lake Lure	No lodging amenities allowed for this commercial category	No lodging amenities allowed for this commercial category	No lodging amenities allowed for this commercial category	No lodging amenities allowed for this commercial category	No lodging amenities allowed for this commercial category
Operator Requirements	All operators must be informed of lake use regulations, and provided lake use regulation pamphlet	All commercial operators shall successfully complete a Marine Commission approved boating safety class annually. Applications for lake commercial license(s) require a list of operator(s). Any changes to operator(s) list must be delivered to Town within 14 days prior to <u>of the</u> change. Boating safety course certificates required for all operator(s) listed on application. Certificates must be submitted to Town prior to operator(s) performing lake associated business service(s).						

Criterion	Commercial Classifications							
	Livery (Class 1)	Resorts (Class 2)	Camps (Class 3)	Ski Schools (Class 4)	Tour Boats (Class 5)	Fishing Guides (Class 6)	Services (Class 7)	Real Estate Agents (Class 8)
Order of Priority	Among applicants that meet all of the criteria (above) for their classification, lake commercial licenses will be granted in priority order until the available commercial capacity is fully consumed for a given classification. The order of priority will be as follows: First: Commercial boats that were approved in the prior year, provided the business remains in good standing with respect to lake operations and adherence to regulations, in order of business establishment date. Resident businesses have priority over nonresident businesses. Second: Additional boats for businesses approved in the prior year, provided: (a) the business has not reached the individual maximums for # of boats (by class) (b) the business remains in good standing with respect to lake operations and adherence to regulations (c) there is capacity remaining for the desired class of commercial boating activity (additional boats ordered by date of business establishment) Third: New applicant businesses, provided there is capacity remaining for the desired class of commercial boating activity. Boats for these new businesses will be approved in the following priority order: (a) businesses based in the Lake Lure town limits, ordered by date established (b) out-of-area businesses, ordered by date established Notes: (1) A business that does not renew a boat for a year loses their priority position if they decide to return to commercial operations in succeeding years. They will be considered a new business. (2) A business that transfers owners and does not miss a year of commercial licensing will retain their priority position							

Amended 04-08-2014

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**In determining lake impact limits, formulas and data utilized by the U.S. Army Corps of Engineers, the Department of the Interior, the Environmental Protection Agency and the Coast Guard were employed to determine the following impact per business classification.*

*** As provided in section ~~1.57(D)~~ 4.07, no business owner or commercial operation may have more than 7 motorized over 10 hp boat permits across all commercial classifications, unless they have obtained a concession agreement with the town.*

- (E) The Marine Commission may suspend or revoke lake commercial licenses at any time for violation of applicable lake use regulations. (Res. Passed 4-12-05) Penalty, see § ~~1.99~~ 5.01

SECTION 5: ENFORCEMENT; PENALTIES

§ ~~1.99-5.01~~ ENFORCEMENT; PENALTIES.

- (A) All law enforcement officers with territorial jurisdiction as to any part of the waters of Lake Lure or its shoreline area within the limitations of their subject matter jurisdiction, have the authority of peace officers in enforcing the laws over all of the waters of Lake Lure and its shoreline area. A certificate of training issued by the North Carolina Criminal Justice Education and Training Standards Commission or the North Carolina Sheriffs' Education and Training Standards Commission will suffice for certification for the purposes of ~~this chapter~~ the Lake Use Regulations.
- (B) Any person, firm, or corporation violating any provision of ~~this chapter~~ the Lake Use Regulations for which no specific penalty is otherwise provided, shall upon conviction be guilty of a misdemeanor as provided in ~~G.S. NCGS~~ § 14-4; however, violations of § ~~1.54~~ 4.04 shall be as provided in ~~G.S. NCGS~~ § 75A-18.
- (C) Any person, firm, or corporation violating any provisions of ~~this chapter~~ the Lake Use Regulations, upon conviction thereof, may be suspended from further use of Lake Lure, ~~in~~ at the discretion of the Marine Commission.
- (D) The Marine Commission may also provide for enforcement of ~~this chapter~~ the Lake Use Regulations by other remedies, as authorized in ~~G.S. NCGS~~ § 160A-175, including the imposition of those civil fines defined in the schedule of fines, the ordering of specific equitable relief, including injunctions, or a combination of remedies. In addition the Marine Commission may seek an appropriate equitable remedy issuing from a court of competent jurisdiction. **Amended 4-11-06** (Res. Passed 3-9-04)
- (E) A schedule of ~~fine fees for violations of Class A, Class B, Class C (Non-motorized), Class C (Motorized), and Class D~~ shall be adopted by the Marine Commission annually. Said schedule may be amended by Resolution of the Commission as required. (Res. Passed 4-11-06)

**Schedule of
Civil Fines for
Lake**

**Fine
Number Violation
Category**

1 - General Lake Use

<u>Disposal of any litter, raw sewage, bottles, can, papers or other liquid or solid materials on the waters of Lake Lure</u>	<u>1.1</u>	<u>C</u>
<u>Disposal of any trash, brush, leaves or scrap building materials into the lake</u>	<u>1.2</u>	<u>C</u>
<u>Trespassing on boats, boat houses or docks</u>	<u>1.3</u>	<u>B</u>

2 - Swimming

<u>Swimming under the influence of an impairing substance</u>	<u>2.1</u>	<u>B</u>
<u>Unaccompanied swimming greater than 50 feet offshore</u>	<u>2.2</u>	<u>B</u>
<u>Diving, jumping or swimming from any bridge or road</u>	<u>2.3</u>	<u>C</u>

3 - Fishing

<u>Use of more than two fishing lines per person</u>	<u>3.3</u>	<u>A</u>
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4 - Boating (Permits)

<u>Operation of boat without a valid permit</u>	<u>4.1</u>	<u>C</u>
<u>Failure to display 911 address on boat house</u>	<u>4.2</u>	<u>A</u>

5- Boating (Operation)

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**Schedule of
Civil Fines for
Lake**

**Fine
Number** **Violation
Category**

<u>Operation of boat at a speed greater than "no wake" speed within 75 feet of shoreline</u>	<u>5.2</u>	<u>C</u>
<u>Operation of boat at a speed greater than "no wake" speed during "no wake" hours</u>	<u>5.4</u>	<u>C</u>
<u>Boat tied to town public dock for longer than 2.5 hours</u>	<u>5.5</u>	<u>A</u>
<u>Boat tied to town buoy or marker</u>	<u>5.6</u>	<u>A</u>
<u>(a) resulting in damage to property</u>	<u>5.8a</u>	<u>B</u>
<u>(b) resulting in personal injury</u>	<u>5.8b</u>	<u>C</u>
<u>(c) resulting in death</u>	<u>5.8c</u>	<u>D</u>
<u>Motorized water vessel racing</u>	<u>5.10</u>	<u>C</u>
<u>Insufficient exhaust muffling for town sound requirements</u>	<u>5.11</u>	<u>A</u>

6- Water Sports

<u>Engaging in water sports in prohibited cove</u>	<u>6.2</u>	<u>B</u>
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**7- Commercial
Operations Only**

<u>Use of boat for commercial purposes without a valid lake commercial license and boat permit</u>	<u>7.1</u>	<u>D</u>
<u>Operation of commercial craft greater than 100hp without boat-to-shore communications capability</u>	<u>7.2</u>	<u>B</u>
<u>Failure to report violation of state or local regulations or observed accidents</u>	<u>7.3</u>	<u>A</u>
<u>Failure to render assistance to disabled vessel</u>	<u>7.4</u>	<u>A</u>

**Schedule of
Civil Fines for
Lake**

**Fine
Number Violation
Category**

<u>Uncertified operator</u>	<u>7.5</u>	<u>B</u>
<u>Engaging in water sports (towing) without Class 4 Ski School License (or permission of such)</u>	<u>7.6</u>	<u>C</u>
<u>Operation of boat during lightning threat</u>	<u>7.7</u>	<u>C</u>
<u>Permanent mooring of any commercial boats at a lake structure out of compliance with zoning requirements of upland lots</u>	<u>7.8</u>	<u>D</u>

8- Launch Sites

<u>Launching of motorized water vessels from unapproved launch site (one without valid permit)</u>	<u>8.1</u>	<u>A</u>
<u>Operation of general launch site without display of launch permit</u>	<u>8.2</u>	<u>B</u>
<u>Operation of general launch site during Marine Commission restriction</u>	<u>8.3</u>	<u>C</u>
<u>Failure to obtain permit for private launch site</u>	<u>8.4</u>	<u>A</u>

Violation Category

A = nuisance, little impact on others

B = minor impact on lake operations and safety

C = significant impact on lake operations and safety

D = major impact on lake operations and safety

(F) Any person, firm, or corporation that fails to pay a lake regulations civil fine within thirty (30) days of such fine being imposed may be suspended from further use of Lake Lure, including the forfeiture of boat permits, ~~in~~ at the discretion of the Marine Commission. (Res. Passed 4-11-06)

(G) Civil penalties must be paid either in person or mailed to Lake Lure Town Hall, 2948 Memorial Highway Lake Lure NC 28746. Revenues from lake use regulation civil fines

shall belong to the Town of Lake Lure and used solely for funding lake operations. (Res. Passed 4-11-06)

- (H) Appeals from the provisions of ~~this chapter~~ the Lake Use Regulations shall be made to the Lake Lure Marine Commission. (Res. Passed 4-11-06)
- (I) It shall be the responsibility of the owner of any permitted vessel, to see that any and all civil fines are paid, in the event an operator using said vessel receives a citation. Failure to pay a lake regulations civil fine within 30 days may result in suspension from further use of the lake, including the forfeiture of boat permits, at the discretion of the Marine Commission. (Res. Passed 10-12-10)



May 24, 2017

Via Email Only

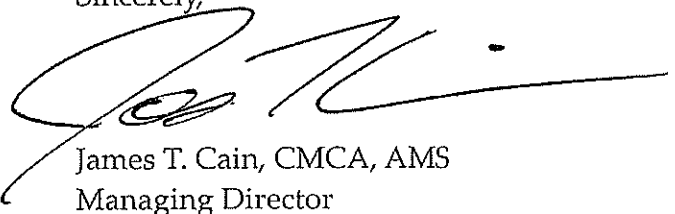
Dean Givens
Town of Lake Lure
Director of Lake Operations

Re: Rumbling Bald Resort Concessions Agreement

Dear Mr. Givens:

Rumbling Bald Resort is respectfully requesting an amendment to our existing Concession Agreement, which would allow us 40 non-motorized boats as opposed to the 30 stipulated in the current agreement. Previously the Resort has been allowed to exceed the 30 vessels by the former Town Manager. Right or wrong, we relied on this variance and purchased additional vessels a couple years ago we would like to continue to utilize on the lake. As you are aware we are in the process of negotiating another Concession Agreement with the Town of Lake Lure, which would allow us the use of up to 40 vessels. We appreciate your consideration. If you have any questions do not hesitate to call me at (828) 694-3011 or email me at jcain@rumblingbald.com.

Sincerely,



James T. Cain, CMCA, AMS
Managing Director

**ADDENDUM TO JANUARY 1, 2012 CONCESSION AGREEMENT
FOR THE OPERATION OF NON –MOTORIZED BOATS
ON LAKE LURE**

THIS ADDENDUM, made this 13th day of June, 2017 by and between: THE TOWN OF LAKE LURE, Lake Lure, North Carolina, a Municipal Corporation, hereinafter called "Town"; and Fairfield Mountains Property Owners Association, LLC d/b/a Rumbling Bald Resort, a North Carolina Corporation, 112 Mountains Blvd, Lake Lure, NC, hereinafter called "Concessioner;"

Item 6 of the JANUARY 1, 2012 CONCESSION AGREEMENT shall be modified as follows with the underlined text added to the Item and the text containing a strikethrough deleted:

(6) That Concessioner will have the right to operate up to ~~thirty (30)~~ forty (40) non-motorized boats for the 2017-2018 boating season or until a new concession agreement is approved and executed. The Concessioner must still apply for commercial permits for the non-motorized boats.

The JANUARY 1, 2012 CONCESSION AGREEMENT is attached and made a part of this document.

IN TESTIMONY WHEREOF, the Town, a municipal corporation has caused this instrument to be signed in its name by its Town Manager and attested by its Town Clerk, and the corporate seal to be hereunto affixed, all with the approval by its Town Council; and the Concessioner, a North Carolina Corporation, has caused this instrument to be signed in its corporate name by its President and attested by its Secretary, and its corporate seal to be hereunto affixed, and being duly approved by its Board of Directors, on the day and year first written above.

CONCESSION AGREEMENT

Town of Lake Lure and Rumbling Bald Resort

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**TOWN OF LAKE LURE,
a Municipal Corporation**

By: _____(SEAL)

Town Manager Ron Nalley, Town of Lake Lure

ATTEST:

Andre Calvert, Town Clerk

**Rumbling Bald Resort,
a North Carolina Corporation**

By: _____(SEAL)

James Cain, Managing Director Rumbling Bald Resort

ATTEST:

Secretary

