

LAKE LURE MARINE COMMISSION SPECIAL MEETING PACKET

Tuesday, January 14, 2020



**Mayor Carol C. Pritchett
Mayor Pro Tem John Moore
Commissioner Patrick Bryant
Commissioner David DiOrio
Commissioner John Kilby**



SPECIAL MEETING OF THE LAKE LURE MARINE COMMISSION

Tuesday, January 14, 2020

4:00 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 Consideration of Adoption - Resolution No. 20-01-14 of the Town of Lake Lure Marine Commission Amending the Lake Use Regulations.
6. Consent Agenda:
 - A. Adoption of the October 8, 2019 Special Meeting Minutes
7. Old Business:
 - A. Discussion on Grandfathering Non-Complying "Illegal" Uses
8. New Business:
 - A. Amend the 2020-2021 Lake Civil Penalty Fee Schedule
 - B. Approval of the 2020 Marine Commission Meeting Schedule
 - C. Approval of the 2020 Lake Commercial Licenses
9. Adjournment



RESOLUTION NO. 20-01-14
OF THE TOWN OF LAKE LURE MARINE COMMISSION
AMENDING THE LAKE USE REGULATIONS CONCERNING
DEFINITIONS, COMMERCIAL OPERATIONS, CIVIL FINES

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 revise definitions, regulate commercial livery and vacation rental operations, and schedule civil fines; 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:

[Words ~~stricken through~~ to be deleted, words underlined to be added]

SECTION ONE. Amend Section 1.02 Definitions as follows:

For the purpose of 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.” Water vessels used in connection with any type of business, trade or commerce, for profit or non-profit, including 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 owners associations. **Amended 11-9-04, 4-8-08, 6-13-17**

“COMMERCIAL OPERATIONS.” Any use of the lake in a manner that will generate direct

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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 – Boating operations that provide watercraft for rent and may be associated with marinas or other establishments that provide boats to individuals to operate for short periods of time. **Amended 2-13-07, 10-8-19**
- (2) Resorts - Boating operations available to patrons at resorts, inns, or lodging establishments. **Amended 3-13-2018**
- (3) Camps - Boating operations at camp facilities. **Amended 3-13-2018**
- (4) Ski Schools - All commercial operations providing water sports activities, not associated with a specific camp, resort, inn or lodging facility. **Amended 3-13-2018**
- (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. **Amended 6-13-17**
- (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. **Amended 6-13-17**
- (8) Vacation Rentals - Boating operations available to individuals renting a residential vacation rental ~~for the same duration of time.~~ **during their stay. Adopted 10-8-19**

“COMMERCIAL OPERATORS.” All boat operators who pilot boats for commercial classifications 2-7, 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 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, 6-13-17**

“LAKE COMMERCIAL LICENSE.” A license issued annually by the Marine Commission for commercial operations on the waters of Lake Lure. **Amended 11-9-04, 6-13-17**

“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

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be used for launching water vessel(s), provided that this term does not include lake structures as defined in the Lake Structures Regulations. **Amended 11-9-04, 6-13-17**

“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). **Amended 6-13-17**

“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

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swimming is allowed. **Adopted 6-13-17**

“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.

“RESIDENTIAL VACATION RENTAL.” The renting of a single-family dwelling, duplex, or any portion thereof, for occupancy, dwelling, lodging or sleeping purposes. Said term shall include a motorized pontoon or tritoon boat and/or non-motorized watercraft(s) which shall also be rented only to the tenants of the property, and registered in the property owner’s name. **Adopted 10-8-19**

“VACATION RENTAL MANAGEMENT COMPANY.” A business that is the responsible party as designated by the owner to act for and on behalf of the owner in managing the property, that provides motorized and/or non-motorized watercraft(s) that are registered with the business. **Adopted 10-8-19**

“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, other than a seaplane on the water, used or capable of being used as a means of transportation 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. **(Adopted 3-9-04, Amended 6-13-17)**

SECTION TWO. Amend Section 4.07 Commercial Operations as follows;

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. **Amended 6-13-17**
- (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, & 8 must have minimum liability coverage of \$1,000,000.00. Commercial classification 7 shall

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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, 6-12-18

- (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 or in total 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, 6-13-17
- (H) Livery operations shall be located within a Zoning District that permits commercial use.
Adopted 10-8-19
- (I) Commercial craft with more than 100 horsepower shall have boat-to-shore communications capability.
- (J) Commercial operators shall report to law enforcement any violation of State or local regulations as well as any observed accidents.
- (K) Commercial operators must render assistance to any disabled vessel(s). (Res. Passed 4-12-05) Penalty, see § 5.01
- (L) Water sports are expressly prohibited behind boats with a resort, livery, service, tour boat and fishing commercial classification (including boats associated with rental homes). (Res. Passed 4-11-06) **Amended 6-13-17, 6-12-18**

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- (M) Commercial 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) **Amended 6-13-17**
- (N) 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. Dual permitting of boats is prohibited. (Res. Passed 10-12-10) **Amended 6-12-18**
- (O) Boats licensed in commercial classification 5 (tour boats) shall be subject to the following further conditions:
- (1) Voice amplification systems shall not be allowed. **Amended 6-13-17**
 - (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 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. **Adopted 6-13-17**
 - (5) Tour boats shall not navigate in “no wake zones”- except when picking up and dropping off passengers. **Adopted 6-13-17**
 - (6) Boarding and departing passengers will be allowed access only from commercial landings with the exception of special events approved by the Town Manager- or Parks, Recreation, and Lake Director. **Adopted 6-13-17**
 - (7) Tour Boats shall not travel in clusters and must be separated at a minimum distance of 100 yards. **Adopted 6-13-17**
 - (8) Tour boats require a concession agreement with the Town regardless of the number permitted. **Adopted 6-13-17**
- (P) ~~Owners of residential vacation rentals and vacation rental management companies shall only rent their permitted motorized and non-motorized watercraft(s) for the same duration of time as their residential vacation rental(s).~~ Commercial licenses and boat permits issued for Class 8, are for use with Vacation Rental properties only, and only to the tenants of said property. Class 8 boat rentals to the general public at large, are prohibited.
- (Q) No vacation rental watercraft shall be permitted to tow any person(s) at any time. **Adopted 10-8-19**
- (R) Vacation rental management companies shall only provide motorized and non-motorized watercraft(s) that are registered and commercially permitted with their business. **Adopted 10-8-19**

SECTION THREE: Amend Section 5.01 Enforcement; Penalties, and Schedule of Civil Fines for Lake as follows:

- (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 the Lake Use Regulations. **Amended 6-13-17**
- (B) Any person, firm, or corporation violating any provision of the Lake Use Regulations for which no specific penalty is otherwise provided, shall upon conviction be guilty of a misdemeanor as provided in NCGS § 14-4; however, violations of § 4.04 shall be as provided in NCGS § 75A-18. **Amended 6-13-17**
- (C) Any person, firm, or corporation violating any provisions of the Lake Use Regulations, upon conviction thereof, may be suspended from further use of Lake Lure, at the discretion of the Marine Commission. **Amended 6-13-17**
- (D) Any person, firm, or corporation attempting to manipulate or defraud the permitting system, upon conviction thereof, may be suspended from further use of Lake Lure, at the discretion of the Marine Commission. **Adopted 10-8-19**
- (E) The Marine Commission may also provide for enforcement of the Lake Use Regulations by other remedies, as authorized in 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. (Res. Passed 3-9-04) **Amended 4-11-06, 6-13-17**
- (F) A schedule of 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) **Amended 6-13-17**
- (G) All Class D violations, and the conviction thereof, will be in perpetuity and may result in permit revocation: at the discretion of the Marine Commission. **Adopted 10-8-19**

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Schedule of Civil Fines for	Fine Number	Violation Category
1 - General Lake Use		
Disposal of any litter, raw sewage, bottles, cans, papers or other liquid or solid materials on the waters of Lake Lure	1.1	C
Disposal of any trash, brush, leaves or scrap building materials into the lake	1.2	C
Trespassing on boats, boat houses or docks	1.3	B
2 - Swimming		
Swimming under the influence of an impairing substance	2.1	B
Unaccompanied swimming greater than 50 feet offshore	2.2	B
Diving, jumping or swimming from any bridge or road	2.3	C
3 - Fishing		
Use of more than two fishing lines per person	3.3	A
4 - Boating (Permits)		
Operation of boat without a valid permit	4.1	C
Failure to display 911 address on boat house	4.2	A
Manipulation of permitting process	4.3	D
5- Boating (Operation)		

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Schedule of Civil Fines for	Fine Number	Violation Category
Operation of boat at a speed greater than "no wake" speed within 75 feet of shoreline	5.2	C
Operation of boat at a speed greater than "no wake" speed during "no wake" hours	5.4	C
Boat tied to town public dock for longer than 2.5 hours	5.5	A
Boat tied to town buoy or marker	5.6	A
(a) resulting in damage to property	5.8a	B
(b) resulting in personal injury	5.8b	C
(c) resulting in death	5.8c	D
Motorized water vessel racing	5.10	C
Insufficient exhaust muffling for town sound requirements	5.11	A
6- Water Sports		
Engaging in water sports in prohibited cove	6.2	B
7- Commercial Operations Only		
Use of boat for commercial purposes without a valid lake commercial license and boat permit	7.1	D
Operation of commercial craft greater than 100hp without boat-to-shore communications capability	7.2	B

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Schedule of Civil Fines for	Fine Number	Violation Category
Failure to report violation of state or local regulations or observed accidents	7.3	A
Failure to render assistance to disabled vessel	7.4	A
Uncertified operator	7.5	B
Engaging in water sports (towing) without Class 4 Ski School License (or permission of such)	7.6	C
Operation of boat during lightning threat	7.7	C
Permanent mooring of any commercial boats at a lake structure out of compliance with zoning requirements of upland lots	7.8	D
Conducting business on Town owned land without a required concession agreement	7.9	D
Operation of a residential vacation boat rental for a duration of time less than the dwelling	8.0	C
Operation of a livery from residential vacation rental.	8.0	C
Operation of a livery in a Zoning District that does not permit commercial use	8.1	C
Vacation Rental Management Company providing watercraft(s) for rent that are not registered with their business	8.2	D
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		

Adopted 6-13-17; Amended 3-13-18, 10-8-19

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SECTION FOUR. This Resolution shall be in full force and effect from and after the date of adoption.

Adopted this 14th day of January, 2020.

ATTEST:

Michelle Jolley, Town Clerk

Carol C. Pritchett, Mayor

CONSENT AGENDA

- Adoption of the October 8, 2019 Special Meeting Minutes



MINUTES OF THE SPECIAL MEETING OF THE LAKE LURE MARINE COMMISSION HELD TUESDAY, OCTOBER 8, 2019, 4:00 P.M. AT THE LAKE LURE MUNICIPAL CENTER

PRESENT: Mayor Carol C. Pritchett
Mayor Pro Tem John W. Moore
Commissioner Bob Cameron
Commissioner John Kilby
Commissioner Stephen M. Webber
Shannon Baldwin, Town Manager

ABSENT: N/A

CALL TO ORDER

Mayor Carol C. Pritchett called the meeting to order at 4:00 p.m.

INVOCATION

Mayor Pro Tem John Moore gave the invocation and Council members led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

Commissioner Bob Cameron made a motion to approve the Agenda, as presented. Commissioner Stephen Webber seconded and the motion carried 4-0.

PUBLIC HEARING AND ADOPTION

A. PROPOSED RESOLUTION NO. 19-10-08 AMENDING THE LAKE USE REGULATIONS

Mayor Carol C. Pritchett opened the public hearing concerning the Proposed Resolution to amend the Lake Use Regulations.

Parks, Recreation and Lake Director Dean Givens noted that a subcommittee of the Lake Advisory Board (LAB) met to study the commercial lake use model and monitor how many hours commercial boats were actually being used on the lake. As a result, the subcommittee requested a new vacation rental commercial boat permit

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category for vacation rental homes with boats and vacation rental management companies. Mr. Givens noted that vacation rental boats could only be used by the renter and only during the period of time they have rented the home.

Commissioner Bob Cameron questioned the reasoning behind not allowing livery operations outside of commercially zoned districts. Mr. Givens responded that the Lake Use Regulations prohibits operating off of town property without a concession agreement. He added that several people are conducting business off of town docks, which takes space away from the people who want to tie their boats up in order to visit the restaurants, etc. Commissioner Cameron felt that the Town would purposely be excluding a group of people from renting their boats because they do not own a commercial business and a grandfather clause was not enacted. Commissioner John Kilby explained that the Lake Advisory Board discussed this for many hours and their final recommendation was to not allow this type of business because it was not allowed in the Regulations. Commissioner Stephen Webber asked who would be allowed to rent out a commercial motorized boat under the proposed amendments to the Regulations. Mr. Givens responded any business in a commercially zoned district including vacation rental properties and vacation rental management companies, with the proper permits. Commissioner Webber added that anyone with a concession agreement could as well and questioned if the intent was to prohibit everyone else from the ability to rent their boats. He stated that he felt the intent was to close a loophole in the Regulations and felt that the Regulations could be refined as needed or as problems arise.

Commissioner Cameron questioned what the intent was by limiting rentals to the specific dates the home is rented for. Mr. Givens responded that the Commercial Model gets expanded every year to allow more hours in categories that fill up, particularly livery rental hours, by transferring unused hours from other categories in the Model. He explained that creating a new category for vacation rentals reduces the amount of hours being used in the livery rental category and makes it easier to track how many hours would be used by vacation rentals. Commissioner Webber referred to Section 4.07(P) in the proposed resolution, noting that the wording needs to be refined. He explained that as it is now, a property owner would only be allowed to rent their boat to the renters of their property for the duration of time that they have the property rented for. Their boat could not be rented to the public at large, unless they are renting the property, and the boat must be rented the entire duration of time that the renter would be occupying the vacation rental home. Commissioner Cameron suggested a grandfather clause to allow the current businesses to continue operating. Commissioner Webber recommended tasking the Lake Advisory Board (LAB) to discuss a grandfather clause and provide a recommendation to the Marine Commission at their next meeting in December. He also suggested that the proposed changes to Section 4.07(P) not go in effect until January, 2020.

Commissioner Webber noted that "Residential Vacation Renal" should be changed to "Residential Vacation Rental" on the third page of the Resolution. He also proposed amending Section 4.07(C) from "1, 2, 3, 4, 5, & 6" to "1, 2, 3, 4, 5, 6, & 8," to require the new category 8, Vacation Rentals, to have minimum liability coverage of \$1,000,000. On page twelve, he proposed changing "10 VRN" to "5 VRN" and there was

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no opposition. Mr. Givens pointed out that the proposed amendment to "Commercial Operators" on page two of the resolution should remain "2-7," as category 8, Vacation Rentals, are not piloted boats.

Commissioner Moore suggested a sunset provision, as an alternative to a grandfather clause, to provide that operations must cease after a specific date. Commissioner Kilby pointed out that the Regulations would have to be changed to allow operations that are currently not allowed to continue in a non-commercial zone. The Board ensued in discussion. Attorney Morgan stated that there would be a fundamental conflict if the Board were to grandfather something that is being conducted in a partially non-compliant way and suggested removing the zoning violations before adopting a grandfather policy.

Andrew Stephenson of 121 Middle Oaks Trail stated that he lives approximately five miles outside of town limits. Mr. Stephenson explained that he rents out his boat to people renting vacation rental homes in Lake Lure that do not include boats. He noted that he moors his boat at the boat docks at the Dam, owned by Allen Moore, but stated that he does not allow anyone to rent his boat from that property; instead, he delivers his boat to the property that is being rented and has the renter fill out a contract. He pointed out that renters may not always want to rent a boat for the entire duration of their stay and therefore stated he was against that proposed amendment to the Regulations. He noted, however, that he was in favor of a grandfather clause that would allow him to keep his boat rental business. Mr. Stephenson stated that his business is only advertised strictly by word of mouth. He noted that he usually rents his boat for a full week but has some renters that only wish to rent his boat for a few days. He reported that he is very thorough, has never had a ticket or a complaint, and explains the regulations to his renters. Mr. Stephenson noted that he is aware of 130 residential vacation rental homes that do not include boats with their rental. Commissioner Webber questioned if this is the type of business the Board would want to eliminate and brief discussion followed.

Commissioner John Moore made a motion to close the Public Hearing. Commissioner Bob Cameron seconded and the motion carried 4-0.

Commissioner Stephen Webber made a motion to adopt Resolution No. 19-10-08 amending the Lake Use Regulations, as amended during the discussion, with the exception of the sales of permits for the new category 8, Vacation Rentals, to allow the LAB to study further, and to further study Section 4.07(P) and Section 5.01(G). Commissioner John Kilby seconded. Commissioner John Kilby, Commissioner John Moore, and Commissioner Stephen Webber voted in favor. Commissioner Bob Cameron voted no. The motion carried 3-1.

Commissioner Bob Cameron stated that he did not support Section 4.07(H) requiring livery operations to be located within a commercially zoned district.

CONSENT AGENDA

Mayor Carol C. Pritchett presented the Consent Agenda.

Commissioner John Kilby made a motion to approve the Consent Agenda. Commissioner Stephen Webber seconded and the motion with discussion.

Commissioner Webber noted corrections to dates listed in the June 11, 2019 Minutes and the August 13, 2019 Minutes. All members voted in favor of the motion to approve the Consent Agenda and the motion carried 4-0. Therefore, the Consent Agenda incorporating the following item was unanimously approved:

- A. Adopt the June 11, 2019 Regular Meeting Minutes, the July 9, 2019 Special Meeting Minutes, and the August 13, 2019 Special Recessed Meeting Minutes.

NEW BUSINESS

There was no new business to discuss.

ADJOURNMENT

With no further business, Commissioner Bob Cameron made a motion to adjourn the meeting at 5:00 p.m. Commissioner Stephen Webber seconded and the motion carried 4-0.

Michelle Jolley,
Lake Lure Marine Commission Clerk

OLD BUSINESS

- Discussion on Grandfathering Non-Complying “Illegal” Uses



MEMORANDUM

TO: Mayor and Town Council

FROM: Dean Givens, PRL Director

SUBJECT: Grandfathering Non-Complying Uses

DATE: January 9, 2020

At the Marine Commission meeting held on Tuesday, October 8, 2019, a decision was made by the Marine Commission to adopt Resolution No. 19-10-08 concerning definitions, complimentary boat permits, commercial operations, and lake commercial license. During the discussion regarding grandfathering illegal uses, Town Attorney William Morgan stated the following relative to renting boats from properties not zoned for commercial use:

“...there would be a fundamental conflict if the Board were to grandfather something that is being conducted in a partially non-compliant way and suggested removing the zoning violations before adopting a grandfather policy.” (Marine Commission draft minutes from October 8, 2019)

The Lake Advisory Board did not take a position on this matter and the above legal opinion is being submitted for consideration relative to renting boats from properties not zoned for commercial use.

Michelle Jolley

From: Shannon Baldwin
Sent: Friday, January 10, 2020 5:31 PM
To: Carol Pritchett; Carol Pritchett; John Kilby; John Moore; David Diorio; Patrick Bryant
Cc: Michelle Jolley
Subject: FW: statement concerning grandfathering illegal uses
Attachments: WCM's Statement.docx

See below and attached.

Shannon

From: William Morgan [mailto:wcmorganlaw@gmail.com]
Sent: Friday, January 10, 2020 3:44 PM
To: Shannon Baldwin <townmgr@townoflakelure.com>; Dean Givens <loa@townoflakelure.com>; Brad L. Burton <blburton@townoflakelure.com>; Mitchell Anderson <manderson@townoflakelure.com>
Subject: statement concerning grandfathering illegal uses

See attached. It might be a bit too long. But I realized that the whole discussion of whether and what to "grandfather" certain use(s) might have been overlooking the fact that legal, conforming uses (grandfathered uses) are a land use concept. Here we are dealing with rules of the Marine Commission, which are rules promulgated under the special police power authority bestowed on the Lake Lure Council by the General Assembly and deal with use of the waters of Lake Lure. In essence, the Lake Use Regulations are criminal rules. Upon adoption (or the effective date thereof) they apply to everyone. You can't continue to do an act legally once it is declared to be illegal. Especially if it was already illegal for some other reason.

William

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Law Offices of William C. Morgan, Jr.
PO Box 5343
Asheville, NC 28813
(828) 274-4373
(828) 274-4374

A land use that is conforming (legal) and is then made non-conforming by a zoning ordinance amendment, is considered a nonconforming legal use (commonly known as being "grandfathered") unless the ordinance is made to apply retroactively. In that case, the nonconforming use must comply with the new ordinance, on the effective date. A delayed effective date is known as an amortization clause. To be legally nonconforming, the use has to be legal prior to the ordinance change. If the use was already illegal for one or more reasons, it doesn't enjoy "grandfathered status."

Zoning ordinances, however, deal with the use of land and are promulgated under the governing board's zoning authority (Article 19 of the NC General Statutes). The Lake Lure Marine Commission's Lake Use Regulations deal with use of the waters of the Lake and are promulgated under authority of Chapter 77, Article 6A of the NC General Statutes, unique to Lake Lure. The General Assembly directed that violations of rules promulgated by the Marine Commission shall constitute Class 3 misdemeanors. In other words, violations constitute crimes. As such, the rules are more like Town Code ordinances adopted pursuant to the Town's Police Power to declare certain acts to be illegal. Police Power ordinances and the rules of the Marine Commission apply to everyone equally upon the effective date and there are no grandfathered activities or uses.

Whether viewed as land use/zoning ordinances or police power ordinances, it would be fundamentally at odds with settled law to make an activity legal, or legal for a limited time, that was already illegal or prohibited prior to the change in the rule or ordinance.

NEW BUSINESS

- Amend the 2020-2021 Lake Civil Penalty Fee Schedule
- Approval of the 2020 Marine Commission Meeting Schedule
- Approval of the 2020 Lake Commercial Licenses

**LAKE LURE TOWN COUNCIL
REQUEST FOR BOARD ACTION
Meeting Date: January 14, 2020**

SUBJECT: FY2020-2021 Lake Civil Penalty Fee Schedule Amendment

AGENDA INFORMATION:

Agenda Location: New Business
Item Number: A
Department: Parks, Recreation and Lake Department
Contact: Dean Givens, PRL Director
Presenter: Dean Givens, PRL Director

BRIEF SUMMARY: A subcommittee of the Lake Advisory Board discussed the need to increase safety on the lake by increasing civil penalties for violations of the Lake Use Regulations. The Lake Advisory Board reviewed the proposal at a Special Meeting on October 1, 2019 and voted to recommend an increase in lake civil penalties to the Marine Commission.

RECOMMENDED MOTION AND REQUESTED ACTIONS: To amend the FY2020-2021 Lake Civil Penalty Fee Schedule as presented.

FUNDING SOURCE: n/a

ATTACHMENTS: Current and Proposed Lake Civil Penalty Fee Schedule

STAFF'S COMMENTS AND RECOMMENDATIONS: Staff recommends approval of this amendment to the lake civil penalty fee schedule.

CURRENT AND PROPOSED LAKE CIVIL PENALTY FEE SCHEDULE

FY 2019-2020 CURRENT FEE SCHEDULE			
Current Civil Penalties (Lake Citations)	1st Offense	2nd Offense	3rd Offense
Class A	\$50		
Class B	\$65	\$125	\$250
Class C (Non-motorized)	\$50	\$100	\$200
Class C (Motorized)	\$125	\$250	\$500
Class D	\$1,000		

FY 2020-2021 PROPOSED FEE SCHEDULE			
Proposed Civil Penalties (Lake Citations)	1st Offense	2nd Offense	3rd Offense
Class A	\$125		
Class B	\$150	\$250	\$500
Class C (Non-motorized)	\$225	\$500	\$1,000
Class C (Motorized)	\$250	\$500	\$1,000
Class D	\$1,500	Revoked Indefinitely	

LAKE LURE MARINE COMMISSION MEETING SCHEDULE FOR YEAR 2020

<u>DATE</u>	<u>LOCATION</u>	<u>TIME</u>	<u>TYPE</u>
March 10, 2020	Lake Lure Municipal Center	4:00 p.m.	Regular
June 9, 2020	Lake Lure Municipal Center	4:00 p.m.	Regular
September 8, 2020	Lake Lure Municipal Center	4:00 p.m.	Regular
December 8, 2020	Lake Lure Municipal Center	4:00 p.m.	Regular

* Regular Lake Lure Marine Commission meetings are held four times per year during the months of March, June, September, and December on the second Tuesday at 4:00 p.m.

**LAKE LURE MARINE COMMISSION
REQUEST FOR BOARD ACTION**

Meeting Date: January 14, 2020

SUBJECT: 2020 Lake Commercial Licenses

AGENDA INFORMATION:

Agenda Location: New Business
Item Number: C
Department: Lake Operations
Contact: Dean Givens, PRL Director
Presenter: Dean Givens, PRL Director

BRIEF SUMMARY: The 2020 Commercial License Applications were reviewed by the LAB at their meeting on Monday, January 6, 2020. The LAB is recommending approval of all requests, except for the following seven applications from: Andrew Stevenson, Dan Breneman, Ed Lee, Lake Lure Boat Rental, Lake Mountain Property Maintenance, Steve Campbell, and Wau Mauna. The LAB's reasoning for these seven denials are attached with their commercial license applications, included in the packet.

RECOMMENDED MOTION AND REQUESTED ACTIONS: To approve the 2020 lake commercial license applications submitted except for the applications from Andrew Stevenson, Dan Breneman, Ed Lee, Lake Lure Boat Rental, Lake Mountain Property Maintenance, Steve Campbell, and Wau Mauna.

FUNDING SOURCE: n/a

ATTACHMENTS: 2020 Commercial License Applications, Seven Applications Recommended for Denial,

STAFF'S COMMENTS AND RECOMMENDATIONS: Staff defers to the LAB's recommendation.

2020 Lake Lure - Lake Commercial License Applications

Order of Priority for Boat Approvals (loading the model to fill up capacity)

Assuming that all applicants meet all criteria established for their commercial class, the capacity model will be loaded with boats in the following order:

FIRST: Boats of resident businesses that were approved in the prior year, provided the business remains in good standing with respect to lake operations and adherence to regulations.

SECOND: Additional boats for resident 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 resident businesses, provided there is capacity remaining for the desired class of commercial boating activity.
(a) ordered by date established

FOURTH: Out-of-Area businesses
(a) prior year license holders
(b) additional boats for prior year license holders, provided all conditions from SECOND above are met
(c) new 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

(3) *** Applicants that failed to submit application on or before November 1st
Resulting in loss of seniority

"It is the intent of the Marine Commission to limit lake commercial licenses to those business entities which are principally located in the corporate town limits of the Town of Lake Lure. If approved, non-resident commercial business licensees will be allocated one motorized boat permit."

(3) *** Applicants that failed to submit application on or before November 1st Resulting in loss of seniority										Vacation Rentals Individual Business Maximums: Out-of-area businesses: Unless in a concession with the Town																		
										0 1 0 0 0 0 1 5 4 0 2 2 1 2 7 10 0 0 0 0 1 1 1 0																		
New Applicants										# of Boats on Application																		
Priority Order	Company Name	Primary Business	Mooring Address	Contact Name	First License Year (resets on break)	Date Established	Commercial Classification's	Vacation Rental Livery	Tours	Towed Activities	Fishing	Service	Total Motorized	Non-Motorized	Does Applicant Meet Marine Commission Criterion For Commercial License?							Has taken class by the Town to be Licensed	Total Acre-Hour Impact For Year	Late application \$100 fee	Application fee \$45.00 Plus permit 2019			
Lake Lure Businesses Licensed in Prior Year (oldest operating businesses first unless late or missed renewal) Motorized/Non-Motorized.																												
Requirements are based on Commercial Classification (s) of Business																												
M1	Lake Lure Tours, Inc.	Tours	Town Marina	Martha Clark	2005	1994 (first in list due to town concession)	Concession Tours- Livery	7		4				11	25	Yes	per concession agreement with Town	Yes Town Marina	Yes (none allowed)	Yes	Yes	Yes	Yes	Yes	Yes	108,918		\$21,045.00
M2	Camp Lurecrest Ministries, Inc.	Camp	207 Charlotte Drive	David Butts	2005	1948	Camp TWA				2		1	3	10	Yes	Yes	Yes 207 Charlotte Drive	Yes	Yes	Yes	Yes	Yes	Yes	N/A	15,390		\$4,545.00
M3	Rumbling Bald Resort, Inc.	Resort	112 Mountains Blvd	Cary Martin/ James Cain	2005	1977	Concession, Resort Tours-Livery	3		2				5	40	Yes	per concession agreement with Town	Yes Rumbling Bald Resort marina	Yes	Yes	Yes	Yes	Yes	Yes	Yes	65,154		\$12,545.00
M4	Lake Country Vacation Rentals	V R Company	2992 Memorial Hwy	Carole McKay	2005	1991	Vacation Rental Company Livery	4					1	5	4	Yes	Yes	Maximum of 3 boats at 2992 Memorial Hwy. Others must be trailered.	Yes (none allowed)	Yes	N/A	Yes		N/A	21,362		\$6,945.00	
M5	Lake Lure Adventure Company	Ski School	470 Memorial Hwy	Mark Helms	2005	1999	Towed Water Activities-Livery	4			2		1	7	10	Yes	Yes (at maximum of 4 livery)	Maximum of 3 boats at 470 Memorial Hwy. Others must moor at Dam Marina	Yes (none allowed)	Yes	Yes	Yes	Yes	Yes	Yes	51,870		\$10,545.00
M6	Tom and Jenny Cox "Ledford's Landing"	VR	174 Elk wood Drive	Tom Cox	2005	2002	Vacation Rental Home		1					1	5	Yes	Yes	not applicable	Yes	Yes	not applicable	Yes		N/A	4,673		\$2,045.00	
M7	Tim Fisk - Rental	VR	132 Tanner Drive	Tim Fisk	2005	2004	Vacation Rental Home		1					1	5	Yes	Yes	not applicable	Yes	Yes	not applicable	Yes		N/A	3,728		\$2,045.00	
M8	Two Scotch By The Lake, LLC "Pawley's Place"	VR	191 Garner Drive	Andrew Johnson (Tom McKay)	2005	2005	Vacation Rental Home		1					1	3	Yes	Yes	not applicable	Yes	Yes	not applicable	Yes		N/A	3,422		\$1,845.00	
M9	Freeman Stone Masonry	Service	Dam Marina	Jay Freeman	2005	1998	Service						1	1	1	No	Yes	Yes Dam Marina	Yes (none allowed)	Yes	Yes	Yes	Yes	Yes	N/A	442		\$645.00
M10	The Grand Daddy Fly Fishing Experience	Fishing Guide	Pier Point	Michael Yelton	2006	2005	Fishing Guides					1		1	0	Yes	Yes	Yes Dam Marina	Yes (none allowed)	Yes	Yes	Yes	Yes	Yes	N/A	1,224		\$545.00
M11	Marathon Builders	Service	Town Marina	Jonathan Hinkle	2011	2000	Service						2	2	0	Yes	Yes	Yes Town Marina	Yes	Yes	not applicable	Yes		N/A	1,046		\$1,045.00	
M12	David Soule Kelly (Soul Haven)	VR	413 Holmes Road	David Kelly	2008	2008	Vacation Rental Home		1					1	5	Yes	Yes	Yes	Yes	Yes	not applicable	Yes		N/A	3,734		\$2,045.00	
M13	Steve Kriete (Lake Lure Fishing Excursion)	Fishing Guide	RBR Marina	Steve Kriete	2015	2014	Fishing Guides					1		1	0	No	Yes	not applicable	Yes (none allowed)	Yes	Yes	Yes	Yes	Yes	N/A	2,064		\$545.00
M14	K Enterprises	Service	Town Marina	Eric Kunath	2009	1988	Service						2	2	0	Yes	Yes	Yes Town Marina	Yes (none allowed)	Yes	Yes	Yes	Yes	Yes	N/A	821		\$1,045.00
M15	Banjo Reality	VR	178 Mark Twain	Bruce Ikelheimer	2017	2017	Vacation Rental Home		1					1	3	Yes	Yes	Yes	Yes	Yes	N/A	Yes		N/A	2,945		\$1,845.00	
M16	Neil & Kathy Gurney	VR	174 Havnaers Pt.	Neil Gurney	2018	2017	Vacation Rental Home		1					1	0	Yes	Yes	Yes	Yes	Yes	N/A	Yes		N/A	1,260		\$1,545.00	

2020 Lake Lure - Lake Commercial License Applications

New Applicants								# of Boats on Application							Does Applicant Meet Marine Commission Criterion For Commercial License?											
Priority Order	Company Name	Primary Business	Mooring Address	Contact Name	First License Year (resets on break)	Date Established	Commercial Classification's	Vacation Rental	Tours	Towed Activities	Fishing	Service	Total Motorized	Non-Motorized	Resident Local Business?	Max Permits Per Owner Not Exceeded?	Zoning OK for Mooring?	Lodging Requirements Met?	Sufficient Marine Liability Insurance?	Operator Certification Requirements Met?	Need Registration	Has taken class by the Town to be Licensed	Total Acre-Hour Impact For Year	Late application \$100 fee	Application fee \$45.00 Plus permit 2019	
M17	Decked Out John Dunbar	VR	187 Garner Dr.	Melissa Messer	2018	2018	Vacation Rental Home	1					1	2	Yes	Yes	Yes	Yes	Yes	N/A	Yes	N/A	2,935		\$1,745.00	
M18	Waters Edge Richard and Catherine Lindsay	VR	348 Charlotte Dr.	Melissa Messer	2018	2018	Vacation Rental Home	1					1	3	Yes	Yes	Yes	Yes	Needs	N/A	Yes	N/A	3,427		\$1,845.00	
M19	Byron Marsh Lake Dog Properties	VR	201 Havnaers Pl.	Byron Marsh	2018	2018	Vacation Rental Home	1					1	3	Yes	Yes	Yes	Yes	Yes	N/A	Yes	N/A	3,422		\$1,845.00	
M20	John Garle	VR	286 Homestead Dr.	John Garle	2019	2019	Vacation Rental Home	1					1	3	Yes	Yes	Yes	Yes	Needs	N/A	Yes	N/A	3,422		\$1,845.00	
M21	Carolina Properties	VR Company	2483 Memorial Hwy	Kevin Everhart	2019	2019	Vacation Rental Company	1					1	5	Yes	Yes	Yes	Yes	Yes	N/A	Yes	N/A	4,411		\$2,045.00	
M22	Lakeside Mannor	VR	339 Charlotte Dr.	Jim Robinson	2019	2019	Vacation Rental Home	1					1	0	Yes	Yes	not applicable	Yes	Yes	not applicable	Yes	N/A	1,951		\$1,545.00	
M23	Kenneth Appling	VR	#7 Dogwood (Fairfield)	Hazel Appling	2010	2000	Vacation Rental Home	1					1	2	Yes	Yes	not applicable	Yes	Needs Co-Ins	not applicable	Yes	N/A	2,222		\$1,745.00	
M24	John Moore	VR	138 Lake Ridge Road	John Moore	2008	2008	Vacation Rental Home	1					1	5	Yes	Yes	not applicable	Yes	Yes	not applicable	Yes	N/A	4,411		\$2,045.00	
M25	Tara Thomas Sheehan	VR	1104 Memorial Highway	Tara Thomas Sheehan	2015	2015	Vacation Rental Home	1					1	3	Yes	Yes	Yes	Yes	Yes	not applicable	Yes	N/A	4,195		\$1,845.00	
M26	Anchor's Aweigh	VR	305 N Shore Dr.	Eric Kunath	2020	2020	Vacation Rental Home	1					1	4	Yes	Yes	Yes	Yes	Yes	not applicable	Yes	N/A	5,423		\$1,945.00	
M27	Stairway to Heaven	VR	131 Neighborly Dr.	Mara Butera	2020	2020	Vacation Rental Home	1					1	3	Yes	Yes	Yes	Yes	Need	not applicable	Need	N/A	3,235		\$1,845.00	
M28	Michael & Gwen Meguiar	VR	304 Holmstead Dr.	Gwen Meguiar	2020	2020	Vacation Rental Home	1					1	3	Yes	Yes	Yes	Yes	Yes	not applicable	Yes	N/A	3,235		\$1,845.00	
Lake Lure Businesses Licensed in Prior Year (oldest operating businesses first unless missed or late renewal) <i>Non-Motorized Only</i>																										
NM29	Fire Fly Cove (POA)	POA	Firefly Cove	Bob Cameron	2008	1994	Home Owners Asso.						0	5	Yes	Yes	not applicable	N/A	not applicable (no motorized)	not applicable	N/A	N/A	1,840		\$545.00	
NM30	Carol Mandy	VR	236 Thomas Dr.	Carol Mandy	2011	2007	Vacation Rental Home						0	5	Yes	Yes	Yes	Yes	not applicable (no motorized)	not applicable	N/A	N/A	1,232		\$545.00	
NM31	Snug Harbor Retreat	VR	180 Snug Harbor Cr.	Kathryn Morgan	2011	2010	Vacation Rental Home						0	2	Yes	Yes	Yes	Yes	not applicable (no motorized)	not applicable	N/A	N/A	616		\$245.00	
NM32	LouBee Lure	VR	146 Yacht Island Drive	Martha Jones	2008	2008	Vacation Rental Home						0	2	Yes	Yes	Yes	Yes	not applicable (no motorized)	not applicable	N/A	N/A	360		\$245.00	
NM33	Randy/Beth Dillon (Camp View Cabin)	VR	172 View Trail	Randy/Beth Dillon	2015	2014	Vacation Rental Home						0	1	Yes	Yes	Yes	Yes	not applicable (no motorized)	not applicable	N/A	N/A	180		\$145.00	
NM34	Patricia Edwards	VR	2311 Buffalo Shoals Rd	Patricia Edwards	2015	2014	Vacation Rental Home						0	4	Yes	Yes	Yes	Yes	not applicable (no motorized)	not applicable	N/A	N/A	720		\$445.00	
NM35	Pine Gables Cottages	VR	328 Boys Camp Rd	Jim Proctor	2007	1946	Vacation Rental Home						0	5	Yes	Yes	Yes	Yes	not applicable (no motorized)	not applicable	N/A	N/A	2,460		\$545.00	
NM36	Four Angels	VR	117 Neighborly	Gregorie Shay	2016	2016	Vacation Rental Home						0	1	Yes	Yes	Yes	Yes	not applicable (no motorized)	not applicable	N/A	N/A	308		\$145.00	
NM37	Patricia Gergen & Daniel Hopkins	VR	1942 Memorial Hwy	Patricia Gergen	2016	2016	Vacation Rental Home						0	2	Yes	Yes	Yes	Yes	not applicable (no motorized)	not applicable	N/A	N/A	984		\$245.00	
NM38	Lured in Lake House	VR	321 Holmes Rd.	Kenneth Frick	2016	2016	Vacation Rental Home						0	2	Yes	Yes	Yes	Yes	not applicable (no motorized)	not applicable	N/A	N/A	984		\$245.00	
NM39	Turtle Mtn. Vacation Rental	VR	184 Ridge rd.	Karen MacNiel	2018	2010	Vacation Rental Home						0	2	Yes	Yes	N/A	Yes	not applicable (no motorized)	not applicable	N/A	N/A	924		\$245.00	
NM40	Leilani Lowery	VR	402 Holmstead	Leilani Lowery	2017	2017	Vacation Rental Home						0	4	Yes	Yes	N/A	Yes	not applicable (no motorized)	not applicable	N/A	N/A	1,472		\$445.00	
NM41	Deerwood Dr. LLC	VR	169 Deerwood Dr.	Meghan Wells	2019	2019	Vacation Rental Home						0	5	Yes	Yes	N/A	Yes	not applicable (no motorized)	not applicable	N/A	N/A	1,840		\$545.00	
NM42	Wet Feet Retreats	VR	218 Boys Camp Rd.	Genevieve Helms	2019	2019	Vacation Rental Home						0	2	Yes	Yes	N/A	Yes	not applicable (no motorized)	not applicable	N/A	N/A	736		\$245.00	
NM43	Casa Largo	VR	142 Waters edge Ct.	Tracy McGlohnnon	2019	2019	Vacation Rental Home						0	2	Yes	Yes	N/A	Yes	not applicable (no motorized)	not applicable	N/A	N/A	736		\$245.00	
NM44	Simple Life Cabin	VR	180/184 Ridge Rd.	Angie Fontana	2019	2019	Vacation Rental Home						0	3	Yes	Yes	N/A	Yes	not applicable (no motorized)	not applicable	N/A	N/A	736		\$345.00	
NM45	Robert Moore (Cottage in the cove)	VR		Roger Moore	2019	2019	Vacation Rental Home						0	2	Yes	Yes	N/A	Yes	not applicable (no motorized)	not applicable (no motorized)	N/A	N/A	736		\$245.00	
NM46	Bellmark Properties	VR	132 Falls View Trail	Carolina Properties	2014	2002	Vacation Rental Home						0	1	Yes	Yes	N/A	Yes	not applicable (no motorized)	not applicable	N/A	N/A	368		\$145.00	

2020 Lake Lure - Lake Commercial License Applications

New Applicants								# of Boats on Application							Does Applicant Meet Marine Commission Criterion For Commercial License?														
Priority Order	Company Name	Primary Business	Mooring Address	Contact Name	First License Year (resets on break)	Date Established	Commercial Classification's	Vacation Rental	Tours	Towed Activities	Fishing	Service	Total Motorized	Non-Motorized	Resident Local Business?	Max Permits Per Owner Not Exceeded?	Zoning OK for Mooring?	Lodging Requirements Met?	Sufficient Marine Liability Insurance?	Operator Certification Requirements Met?	Need Registration	Has taken class by the Town to be Licensed	Total Acre-Hour Impact For Year	Late application \$100 fee	Application fee \$45.00 Plus permit 2019				
NM47	Beth Foster	VR	187 Wilderness	Carolina Properties	2017	2017	Vacation Rental Home						0	1	Yes	Yes	N/A	Yes	not applicable (no motorized)	not applicable	N/A	N/A	368		\$145.00				
NM48	Distinctive Mountain lodging	VR		Sharon Ryan	2019	2019	Vacation Rental Home						0	4	Yes	Yes	N/A	Yes	not applicable (no motorized)	not applicable (no motorized)	N/A	N/A	1,472		\$445.00				
NM49	British Enterprises Inc. (Acorn Cabins)	VR	122 Harris Rd.	Martyn Watts	2005	1999	Vacation Rental Home						0	2	Yes	Yes	5 Holmes Road/Is R-	Yes	N/A	N/A	N/A	N/A	1,104		\$245.00				
NM50	Paul and Paula Heinauer "Bedford Falls"	VR	114 Hemingway	Paul and Paula Heinauer (Tom McKay)	2006	2006	Vacation Rental Home						0	3	Yes	Yes	not applicable	YES	NEED	not applicable	N/A	N/A	1,476		\$345.00				
NM51	Brandon Hawkins	VR Company	1105 Tryon Bay	Bobbie Elliott	2020	2020	Vacation Rental Company						0	2	Yes	Yes	N/A	Yes	N/A	N/A	N/A	N/A	616		\$245.00				
NM52	Steve Hardigree	VR	222 Ridge	Greg Balk	2020	2020	Vacation Rental Home						0	2	Yes	Yes	N/A	Yes	N/A	N/A	N/A	N/A	616		\$245.00				
NM53	Lee Blair	VR	128 Winding CK.	Bobbie Elliott	2020	2020	Vacation Rental Home						0	2	Yes	Yes	N/A	Yes	N/A	N/A	N/A	N/A	736		\$245.00				
NM54	Sara Lowery	VR	166 Neighborly Dr.	Carolina Properties	2020	2020	Vacation Rental Home						0	1	Yes	Yes	N/A	Yes	N/A	N/A	N/A	N/A	368		\$145.00				
NM55	Lake Life Living (Michael Jackyra)	VR	2483 Memorial Hwy	Valerie Wroble	2020	2020	Vacation Rental Home						0	1	Yes	Yes	N/A	Yes	N/A	N/A	N/A	N/A	368		\$145.00				
NM56	Martha Emrich-Stiles	VR	128 Lake Blvd.	Carolina Properties	2020	2020	Vacation Rental Home						0	2	Yes	Yes	N/A	Yes	N/A	N/A	N/A	N/A	736		\$245.00				
NM57	Crissy Ball	VR	1920 Memorial Hwy	Carolina Properties	2020	2020	Vacation Rental Home						0	3	Yes	Yes	N/A	Yes	N/A	N/A	N/A	N/A	1,225		\$345.00				
NM58	Lorrie Barnwell	VR	115 Pine Tree Ct.	Lorrie Barnwell	2020	2020	Vacation Rental Home						0	2	Yes	Yes	N/A	Yes	N/A	N/A	N/A	N/A	616		\$245.00				
NM59	Horseshoe Cove LLC	VR	2052 Memorial Hwy	Kevin Minger	2020	2020	Vacation Rental Home						0	2	Yes	Yes	N/A	Yes	N/A	N/A	N/A	N/A	616		\$245.00				
NM60	Paula Boyd Irving	VR	138 Neighborly Dr.	Paula Irving	2020	2020	Vacation Rental Home						0	1	Yes	Yes	N/A	Yes	N/A	N/A	N/A	N/A	368		\$145.00				
NM61	William R Hilburn	VR	2175 Buffalo Shoals Rd.	William Hilburn	2020	2020	Vacation Rental Home						0	2	Yes	Yes	N/A	Yes	N/A	N/A	N/A	N/A	736		\$245.00				
Out-of-Area B	Out of area Businesses																												
OB62	Rob's Guide Service	Fishing Guide	5541 S. Wilson Hill Rd Mill Spring/Trailerred	Robert McComas	2005	2002	Fishing Guides					1	1	0	No	Yes	Yes (trailerred)	Yes (none allowed)	Yes	Yes	Yes	N/A	3,720		\$545.00				
OB63	Barry Capps Marine Service	Service	Lake Lure Marina	Barry Capps	2013	2013	Service					1	1	0	No	Yes	Yes	Yes (none allowed)	Yes	Yes	Yes	N/A	160		\$545.00				
OB64	Brad Peters (Lake Lure Marine)	Service	Lake Lure Marina	Brad Peters	2015	2014	Service					1	1	0	No	Yes	not applicable	Yes (none allowed)	Yes	Yes	Yes	N/A	506		\$545.00				
OB65	Lewis No Clark Expeditions	Fishing Guide	Trailerred	Michael Lewis	2005	2000	Fishing Guides				1		1	0	No	Yes	Yes(trailerred)	Yes(none allowed)	Yes	Yes	Yes	N/A	2,028		\$545.00				
OB66	MBM Builders	Service	???	Jerome	2020	2020	Service					1	1	0	No	Yes	NEED	Yes (none allowed)	NEED	Yes	Yes	N/A	154		\$545.00				
Totals							Totals 2020	19	17	6	4	4	11	61	227											Total acre-hours	365,563	\$0	\$105,170.00
							Totals 2019	2	42	6	4	5	10	69	203											Total Commercial Revenue for 2020		\$105,170.00	
								Vacation Rental	Tours	Fishing	Service	Total Motorized	Non-Motorized											Non-Commercial 2019 Revenue \$346,940				Total Commercial Revenue for 2019 \$114,770	

2020 Lake Lure - Lake Commercial License Applications

New Applicants								# of Boats on Application							Does Applicant Meet Marine Commission Criterion For Commercial License?										
Priority Order	Company Name	Primary Business	Mooring Address	Contact Name	First License Year (resets on break)	Date Established	Commercial Classification's	Livery	Vacation Rental	Tours	Fishing	Service	Total Motorized	Non-Motorized	Resident Local Business?	Max Permits Per Owner Not Exceeded?	Zoning OK for Mooring?	Lodging Requirements Met?	Sufficient Marine Liability Insurance?	Operator Certification Requirements Met?	Need Registration	Has taken class by the Town to be Licensed	Total Acre-Hour Impact For Year	Late application \$100 fee	Application fee \$45.00 Plus permit 2019
	Applicants that did not meet requirements per the Lake Use Regulations																								
	Ed Lee	Livery	Rumblng Bald Marina	Ed Lee	2013	2012	Livery - Livery+10hp	2						2	0										
	Dan Breneman	Livery		Dan Breneman	2018	2018	Livery +10	3						3	1										
	Lake Lure Boat Rental (Brian & Jenny Lal)	Livery	150 Neighborly Dr.	Brian & Jenny				2						2											
	Steve Campbell	Livery	Carolina Moon?												10										
	Andrew Stephenson Pottery	Livery	121 Middle Oaks Dr. Rutherfordon/Dam Marina	Andrew	2016	2016	Livery	1						1	0										
	Wai Mauna, SUP Tours	Livery	30 Westgate Pkwy #103 Asheville, NC	Kyle Ellison	2015	2017	Livery							0	10										
	Lake Min. Properties Maintenance	Livery	2992 Memorial Hwy	Bill McKay	2012	2012	Livery - Livery+10hp	3						3	0										

11 21

Lake Impact Calculator 2020		
Current #		Available
4	Towed Water Activity	0
6	Tours	0
19	Livery	1
17	Vacation Rentals	21
4	Fishing's	2
11	Service	4
227	Non-Motorized	65

2020 Commercial License for Lake Use – Application Review*

Company Name: Andrew Stevenson Pottery

Applicant Name: Andrew Stevenson

Mailing Address: 121 Middle Oaks Drive, Rutherfordon, NC 28139

Mooring Address: Not specified.

PIN# Not specified.

Zoning District Mailing Address: Outside of Town limits

Zoning District Mooring Address: Not specified.

Primary Business: Boat Rental (livery)

Company Type: Sole Owner

Total Amount of Vessels Requested: The applicant has applied for one commercial motorized over 10hp.

Residence Requirements (Lake Use Regulations Pg. 17)	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.
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Staff and LAB Recommendations:

The applicant is desirous of operating a livery outside of Town limits and then delivering watercraft to a pre-determined location, which is against the Residence Requirements on Page 17 of the Lake Use Regulations for all categories.

Operating a livery outside of city limits is also against section 4.07(H) which states "Livery operations shall be located within a Zoning District that permits commercial use".

Staff and the Lake Advisory Board recommends that a permit not be issued due to these violations.

REFERENCED SECTIONS OF THE LAKE USE REGULATIONS

Lake Use Regulations: Page 3

SECTION 1: INTENT AND DEFINITIONS

§ 1.02 DEFINITIONS.

"COMMERCIAL CRAFT." Water vessels used in connection with any type of business, trade or commerce, for profit or non-profit, including 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 owners associations. **Amended 11-9-04, 4-8-08, 6-13-17**

"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 – Boating operations that provide watercraft for rent and may be associated with marinas or other establishments that provide boats to individuals to operate for short periods of time.

Amended 2-13-07, 10-8-19

Commented [GM1]: Defines "liveries"

Lake Use Regulations: Page 13

§ 4.07 COMMERCIAL OPERATIONS.

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

- (H) Livery operations shall be located within a Zoning District that permits commercial use. **Adopted 10-8-19**

Commented [GM2]: No business or mooring address specified.

2020 Commercial License for Lake Use – Application Review*

Company Name: Lake Lure Landing

Applicant Name: Dan Breneman

Mailing Address: 2655 Memorial Highway, Lake Lure, NC 28746

Mooring Address: 178 Village Blvd, Lake Lure, NC 28746

PIN# 0216982 (Not a Parcel Identification Number)

Zoning District Mailing Address: Commercial General (Old Business Address)

Zoning District Mooring Address: R-3 Residential

Primary Business: Boat Rental (livery)

Company Type: No category selected by applicant.

Total Amount of Vessels Requested: The applicant has applied for two motorized commercial rental boats over 10hp, requested an undocumented third, and for a commercial non-motorized kayak.

Residence Requirements (Lake Use Regulations Pg. 17)	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.
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Staff and LAB Recommendations:

The applicant is desirous of operating a livery from a residence within Town limits that does not permit commercial use which could be in violation of § 4.07(H).

The applicant has also been known to perform business on Town owned land without a concession agreement, which is a violation of § 4.07(G).

A valid registration card has not been presented for any vessel, which is a required by § 4.01(H).

Staff and the Lake Advisory Board recommends that a permit not be issued due to violations of the Lake Use Regulations, and an incomplete application.

REFERENCED SECTIONS OF THE LAKE USE REGULATIONS

Lake Use Regulations: Page 3

SECTION 1: INTENT AND DEFINITIONS

§ 1.02 DEFINITIONS.

"COMMERCIAL CRAFT." Water vessels used in connection with any type of business, trade or commerce, for profit or non-profit, including 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 owners associations. **Amended 11-9-04, 4-8-08, 6-13-17**

"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** – Boating operations that provide watercraft for rent and may be associated with marinas or other establishments that provide boats to individuals to operate for short periods of time. **Amended 2-13-07, 10-8-19**

Commented [GM1]:

This section defines a livery as "commercial operations".

Lake Use Regulations: Page 8

SECTION 4: BOATING

§ 4.01 PERMIT FEE: BOATING PERMIT REQUIRED.

- (H) 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.

Commented [GM2]: No registration card has been presented for all vessels which is a violation of this section, and no tax records have been presented (if the vessel(s) are being leased).

Lake Use Regulations: Page 13

§ 4.07 COMMERCIAL OPERATIONS.

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

- (G) The only way that a business owner or commercial operation may obtain more permits than what is allowed in any one classification or in total 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, 6-13-17**
- (H) Livery operations shall be located within a Zoning District that permits commercial use. **Adopted 10-8-19**

Commented [GM3]: The applicant has been known to perform business on Town owned land which is in violation of this section.

Commented [GM4]: Mooring location is located in R-3 Residential, with no associated conditional use permit from the Town.

2020 Commercial License for Lake Use – Application Review*

Company Name: Not specified.

Applicant Name: Ed Lee

Mailing Address: 111 Buckeye Rd, Lake Lure, NC 28746

Mooring Address: 111 Buckeye Rd, Lake Lure, NC 28746

PIN# 1604194

Zoning District Mailing Address: R-3 Residential

Zoning District Mooring Address: (Same)

Primary Business: Not specified.

Company Type: No category selected by applicant.

Total Amount of Vessels Requested: The applicant has applied for two motorized commercial boats, one for rental livery over 10hp, and the second was not specified.

Residence Requirements (Lake Use Regulations Pg. 17)	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.
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Staff and LAB Recommendations:

The applicant is desirous of operating a livery from a residence within Town limits that does not permit commercial use, which is a violation of Section 4.07(H) of the Lake Use Regulations.

The applicant would like to have a vacation rental category vessel permitted as well, but the vessel could not be used for a livery operation, as this would violate Section 4.07(P).

The applicant does not have a permitted residential vacation rental with the Town, which is a zoning violation.

A valid registration card has not been presented, which is required by § 4.01(H).

Staff and the Lake Advisory Board recommends that a permit not be issued due to potential violations of the Lake Use Regulations.

REFERENCED SECTIONS OF THE LAKE USE REGULATIONS

Lake Use Regulations: Page 3

SECTION 1: INTENT AND DEFINITIONS

§ 1.02 DEFINITIONS.

"COMMERCIAL CRAFT." Water vessels used in connection with any type of business, trade or commerce, for profit or non-profit, including 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 owners associations. **Amended 11-9-04, 4-8-08, 6-13-17**

"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** – Boating operations that provide watercraft for rent and may be associated with marinas or other establishments that provide boats to individuals to operate for short periods of time. **Amended 2-13-07, 10-8-19**

Lake Use Regulations: Page 8

SECTION 4: BOATING

§ 4.01 PERMIT FEE: BOATING PERMIT REQUIRED.

- (H) 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.

Lake Use Regulations: Page 13

§ 4.07 COMMERCIAL OPERATIONS.

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

- (H) Livery operations shall be located within a Zoning District that permits commercial use. **Adopted 10-8-19**
- (P) Commercial licenses and boat permits issued for Class 8, are for use with Vacation Rental properties only, and only to the tenants of said property. Class 8 boat rentals to the general public at large, are prohibited. **(Proposed but not yet approved 10-8-19)**

Commented [GM1]:

These definitions define liveries as "commercial operations".

Commented [GM2]: No registration card has been presented for all vessels which is a violation of this section, and no tax records have been presented (if the vessel(s) are being leased). Also, the application registration date provided for the second vessel expired 8/31/2019.

Commented [GM3]: Mooring location is located in R-3 Residential, with no associated conditional use permit from the Town.

Commented [GM4]: Vacation Rental boats are not intended for livery operations.

2020 Commercial License for Lake Use – Application Review*

Company Name: Lake Lure Boat Rental

Applicant Name: Brian and Jenny Lail

Mailing Address: 150 Neighborly Drive, Lake Lure, NC 28746

Mooring Address: 150 Neighborly Drive, Lake Lure, NC 28746

PIN# 1620263

Zoning District Mailing Address: R-1 Residential

Zoning District Mooring Address: R-1 Residential

Primary Business: Boat Rental (livery)

Company Type: LLC, Partnership

Total Amount of Vessels Requested: The applicant has applied for two commercial motorized boats over 10 hp.

Residence Requirements (Lake Use Regulations Pg. 17)	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.
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Staff and LAB Recommendations:

The applicant is desirous of operating a livery from a R-1 Residential district within Town limits which is against § 4.07(H) of the Lake Use Regulations which state "Livery operations shall be located within a Zoning District that permits commercial use".

Staff and the Lake Advisory Board recommends that a permit not be issued due to this violation.

REFERENCED SECTIONS OF THE LAKE USE REGULATIONS

Lake Use Regulations: Page 3

SECTION 1: INTENT AND DEFINITIONS

§ 1.02 DEFINITIONS.

"COMMERCIAL CRAFT." Water vessels used in connection with any type of business, trade or commerce, for profit or non-profit, including 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 owners associations. **Amended 11-9-04, 4-8-08, 6-13-17**

"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 – Boating operations that provide watercraft for rent and may be associated with marinas or other establishments that provide boats to individuals to operate for short periods of time. **Amended 2-13-07, 10-8-19**

Commented [GM1]: These definitions define liveries as "commercial operations".

Lake Use Regulations: Page 13

§ 4.07 COMMERCIAL OPERATIONS.

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

- (H) Livery operations shall be located within a Zoning District that permits commercial use. **Adopted 10-8-19**

Commented [GM2]: Operation is currently in R-1 Residential.

2020 Commercial License for Lake Use – Application Review*

Company Name: Lake Mountain Property Maintenance

Applicant Name: Bill McKay

Mailing Address: P.O. Box 532, Lake Lure, NC 28746

Mooring Address: Not specified.

PIN# Not specified.

Zoning District Mailing Address: Not specified.

Zoning District Mooring Address: Not specified.

Primary Business: Not specified.

Company Type: Not specified.

Total Amount of Vessels Requested: The applicant has applied for two commercial motorized boats over 10 hp, and has requested a third if possible.

Residence Requirements (Lake Use Regulations Pg. 17)	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.
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Staff and LAB Recommendations:

The applicant did not indicate a physical address, and no mooring location has been provided. The applicant has had vessels permitted for “maintenance” of vacation rental properties.

The applicant is not the owner of the vessels as shown on registration card. This could violate § 4.07(R); Vacation rental management companies shall only provide motorized and non-motorized watercraft(s) that are registered and commercially permitted with their business.

Another potential violation is § 4.07(P) which states that “Commercial licenses and boat permits issued for Class 8, are for use with Vacation Rental properties only, and only to the tenants of said property. Class 8 boat rentals to the general public at large, are prohibited”.

The applicant’s brother currently has the maximum amount of vessels permitted for his business, and it may be that they are avoiding a concession agreement with the Town as required by § 4.07(F) of the Lake Use Regulations.

Staff and the Lake Advisory Board recommends that a permit not be issued due to these violations.

REFERENCED SECTIONS OF THE LAKE USE REGULATIONS

Lake Use Regulations: Page 3

SECTION 1: INTENT AND DEFINITIONS

§ 1.02 DEFINITIONS.

“COMMERCIAL CRAFT.” Water vessels used in connection with any type of business, trade or commerce, for profit or non-profit, including 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 owners associations. **Amended 11-9-04, 4-8-08, 6-13-17**

“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:

- (7) Services - Boating operations utilized by building contractors and boat repair companies. **Amended 6-13-17**

Commented [GM1]:

This section defines liveries as “commercial operations”.

Commented [GM2]: Defines “services”

Commented [GM3]: Applicant did not claim a commercial operation category, and the vessels have been used for the “maintenance of properties”.

The definition identifies building contractors and boat repair companies would be the only operators to qualify for the category.

Lake Use Regulations: Page 8

SECTION 4: BOATING

§ 4.01 PERMIT FEE: BOATING PERMIT REQUIRED.

- (H) 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.

Commented [GM4]: Owner a vessel is not the applicant.

Lake Use Regulations: Page 13

§ 4.07 COMMERCIAL OPERATIONS.

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

- (H) Livery operations shall be located within a Zoning District that permits commercial use. **Adopted 10-8-19**
- (R) Vacation rental management companies shall only provide motorized and non-motorized watercraft(s) that are registered and commercially permitted with their business. **Adopted 10-8-19**

Commented [GM5]: No mooring location identified.

Commented [GM6]: The vessels cannot be used in conjunction with vacation rental companies unless the registration matches the owner of the business.

2020 Commercial License for Lake Use – Application Review*

Company Name: Not specified.

Applicant Name: Steve Campbell

Mailing Address: P.O. Box 797 Weaverville, NC 28787

Mooring Address: Sotheby's/Carolina Moon

PIN# 1603164

Zoning District Mailing Address: Outside of Town Limits

Zoning District Mooring Address: Commercial General

Primary Business: Not specified.

Company Type: Sole Ownership (selected)

Total Amount of Vessels Requested: The applicant has applied for ten non-motorized commercial permits for stand up paddle boards.

Residence Requirements (Lake Use Regulations Pg. 17)	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.
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Staff and LAB Recommendations:

The applicant is desirous of operating a livery from a commercial general district within Town limits.

There is information that identifies that Steve Campbell's application is in addition to Wau Mauna Asheville SUP Tours LLC, and that both applicants are attempting to defraud the Town of a concession agreement, as they in combination will have a total of 20 paddleboards. This is a violation of section 4.07(F) of the Lake Use Regulations.

Staff and the Lake Advisory Board recommends that a permit not be issued due to these violations.

REFERENCED SECTIONS OF THE LAKE USE REGULATIONS

Lake Use Regulations: Page 3

SECTION 1: INTENT AND DEFINITIONS

§ 1.02 DEFINITIONS.

"COMMERCIAL CRAFT." Water vessels used in connection with any type of business, trade or commerce, for profit or non-profit, including 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 owners associations. **Amended 11-9-04, 4-8-08, 6-13-17**

"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 – Boating operations that provide watercraft for rent and may be associated with marinas or other establishments that provide boats to individuals to operate for short periods of time. **Amended 2-13-07, 10-8-19**

Commented [GM1]: Defines liveries as "commercial operations"

Lake Use Regulations: Page 13

§ 4.07 COMMERCIAL OPERATIONS.

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

- (G) The only way that a business owner or commercial operation may obtain more permits than what is allowed in any one classification or in total 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, 6-13-17**

Commented [GM2]: 10 non-motorized vessels can be permitted with a concession agreement per business.

2020 Commercial License for Lake Use – Application Review*

Company Name: Wau Mauna Asheville SUP Tours LLC

Applicant Name: Kyle Ellsion

Mailing Address: 30 Westgate Pkwy #103, Asheville, NC 28806

Mooring Address: Not specified.

PIN# Not specified.

Zoning District Mailing Address: (Outside of Town limits)

Zoning District Mooring Address: Not specified.

Primary Business: Boat Rental (livery)

Company Type: Corporation

Total Amount of Vessels Requested: The applicant has applied for six commercial non-motorized vessels.

Residence Requirements (Lake Use Regulations Pg. 17)	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.
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Staff and LAB Recommendations:

The applicant is desirous of operating a livery outside of Town limits and then delivering watercraft to a pre-determined location, which is against the "Residence Requirements" on Page 17 of the Lake Use Regulations for all categories (see above).

There is also information that identifies that Steve Campbell's application is in addition to Wau Mauna Asheville SUP Tours LLC, and that both applicants are attempting to defraud the Town of a concession agreement, as they in combination will have a total of 20 paddleboards. This is a violation of section 4.07(F) of the Lake Use Regulations.

Staff and the Lake Advisory Board recommends that a permit not be issued due to these violations.

REFERENCED SECTIONS OF THE LAKE USE REGULATIONS

Lake Use Regulations: Page 3

SECTION 1: INTENT AND DEFINITIONS

§ 1.02 DEFINITIONS.

"COMMERCIAL CRAFT." Water vessels used in connection with any type of business, trade or commerce, for profit or non-profit, including 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 owners associations. **Amended 11-9-04, 4-8-08, 6-13-17**

"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** – Boating operations that provide watercraft for rent and may be associated with marinas or other establishments that provide boats to individuals to operate for short periods of time. **Amended 2-13-07, 10-8-19**

Commented [GM1]:

This section defines liveries as "commercial operations".

Lake Use Regulations: Page 13

§ 4.07 COMMERCIAL OPERATIONS.

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

- (H) Livery operations shall be located within a Zoning District that permits commercial use. **Adopted 10-8-19**

Commented [GM2]: No business address or mooring address identified.

- (G) The only way that a business owner or commercial operation may obtain more permits than what is allowed in any one classification or in total 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, 6-13-17**

Commented [GM3]: The applicant cannot perform Town owned land for business without a concession agreement.

