



TOWN OF LAKE LURE • P. O. BOX 255 • LAKE LURE, N.C. 28746
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**RECESSED MEETING OF THE LAKE LURE TOWN COUNCIL HELD
TUESDAY, NOVEMBER 17, 1992 AT THE LAKE LURE COMMUNITY
CENTER AT 3:00 P.M.**

PRESENT: Mayor Priscilla Doyle
Commissioner Bill Bush
Commissioner Jack Donovan
Commissioner Alex Karr
Commissioner Max Lehner

Thomas M. Hord, Town Manager

ABSENT: N/A

Mayor Doyle called the meeting to order at approximately 3:00 p.m. Mr. Gary McGill and Mr. Denny Martin, Consulting Engineers with McGill and Associates, Asheville, NC, were present to review and discuss with Council the preliminary information relative to the water and wastewater rate study.

Mr. McGill explained to Council that Lake Lure's water and sewer systems are truly atypical. The following is a concise summary of the major findings and conclusions contained in the presentation synopsis:

The current rate structure favors sewer users, especially large users.

The total annual water consumption is atypically low.

Average monthly water use is about 1,173,637 gallons.

There is a very wide variation between winter and fall consumption.

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Some 42 % of users use less than 2,000 gallons of water per period.

Residential consumption/user is quite low.

There is a high percentage of zero use over the entire year.

Commercial water consumption per user is quite high.

There are four unmetered user units for each metered user.

The Mountain Utility Company System has more billing units than the Town sewer system.

The water and sewer budgets do not reflect the full cost of the programs.

Total cost of operating the systems is about \$245,000.

Approximately 81 % of those costs are fixed.

Revenues do not offset annual costs.

The present rate system does not promote water conservation.

Present practices do not provide for current or future capital requirements.

Commissioner Karr expressed concern that commercial businesses in Town pay more for sewer than a person out of Town. Council recommended that McGill and Associates study this matter and correct that disparity in the proposed rate study.

Mr. Denny Martin suggested that Council study the proposed water and sewer rate study, as presented to them by McGill and Associates, and meet back again in a few weeks.

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After much discussion, it was the consensus of the Council that McGill and Associates would meet back with Council on Wednesday, December 2, 1992 at the Lake Lure Community Center at 10:00 a.m. The meeting will be devoted to the water and sewer proposed rate study. Council requested that any documentation from McGill and Associates regarding the proposed rate study be given to them prior to the meeting so that they will be able to read over the material ahead of time.

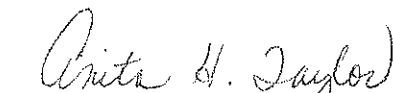
Council discussed the portion of the Town's Ordinance dealing with abandoned structures; unfit dwellings.

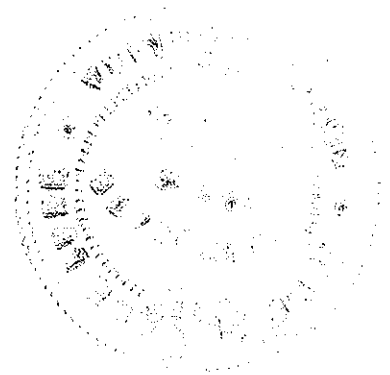
Commissioner Lehner moved, seconded by Commissioner Donovan, that the Town Manager enforce the ordinance dealing with abandoned structures and unfit dwellings. The vote of approval was unanimous. (See copy of ordinance attached.)

With no further items of discussion, Commissioner Lehner moved, seconded by Commissioner Karr, to adjourn. The vote of approval was unanimous.

ATTEST:


Mayor Priscilla Doyle


Anita H. Taylor, Town Clerk



CHAPTER 90: ABANDONED STRUCTURES; UNFIT DWELLINGS

Section

- 90.01 Finding; intent; definition
- 90.02 Duties of the Town Manager
- 90.03 Powers of the Town Manager
- 90.04 Standards for enforcement
- 90.05 Procedure for enforcement
- 90.06 Methods of service of complaints and orders
- 90.07 In rem action by Manager; placarding
- 90.08 Costs a lien on premises
- 90.09 Alternative remedies

§ 90.01 FINDING; INTENT; DEFINITION.

(A) It is hereby found that there exist within the town dwellings that are unfit for human habitation due to dilapidation; defects increasing the hazards of fire, accident, or other calamities; lack of ventilation, light, or sanitary facilities; and other conditions rendering the dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety, morals, or otherwise inimical to the welfare of the residents of the town, and that there exist within the town abandoned structures which the Town Council finds to be hazardous to the health, safety, and welfare of the residents of the town due to the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities. Therefore, pursuant to the authority granted by G.S. 160A-441, it is the intent of this chapter to provide for the repair, closing, or demolition of any such dwellings or abandoned structures in accordance with the provisions and procedures as are set forth by law.

(B) A "STRUCTURE" is defined as a combination of material to form a construction; the term "STRUCTURE" shall be construed as if followed by the words "or part thereof".
(Ord., passed 3-23-82)

§ 90.02 DUTIES OF THE TOWN MANAGER.

The Town Manager is hereby designated as the town officer to enforce the provisions of this chapter. It shall be his duty to:

(A) Locate abandoned structures within the town and determine which structures are in violation of this chapter;

(B) Locate dwellings within the town that are unfit for human habitation;

(C) Take such action, pursuant to this chapter as may be necessary to provide for the repair, closing, or demolition of such structures and dwellings;

(D) Keep an accurate record of all enforcement proceedings begun pursuant to the provisions of this chapter; and

(E) Perform such other duties as may be prescribed herein or assigned to him by the Town Council.
(Ord., passed 3-23-82)

§ 90.03 POWERS OF THE TOWN MANAGER.

The Town Manager is authorized to exercise such powers as may be necessary to carry out the intent and the provisions of this chapter, including the following powers in addition to others herein granted:

(A) To investigate the condition of buildings within the town in order to determine which structures are abandoned and in violation of this chapter and to report same to the Town Council;

(B) To investigate the condition of dwellings within the town in order to determine those that are in violation of this chapter and to report same to the Town Council;

(C) To enter upon premises for the purpose of making inspections;

(D) To administer oaths and affirmations, examine witnesses, and receive evidence; and

(E) To designate such other officers, agents, and employees of the town as he deems necessary to carry out the provisions of this chapter.
(Ord., passed 3-23-82)

§ 90.04 STANDARDS FOR ENFORCEMENT.

(A) Every abandoned structure within the town shall be deemed in violation of this chapter whenever such structure constitutes a hazard to the health, safety, or welfare of the town citizens as a result of:

(1) The attraction of insects or rodents;

(2) Conditions creating a fire hazard;

(3) Dangerous conditions constituting a threat to children;
or

(4) Frequent use by vagrants as living quarters in the absence of sanitary facilities.

(B) In making the determination of whether or not an abandoned structure is in violation of this chapter, the Town Manager may, by way of illustration and not limitation, consider the presence or absence of the following conditions:

(1) Holes or cracks in the structure's floors, walls, ceilings, or roof which might attract or admit rodents and insects, or become breeding places for rodents and insects;

(2) The collection of garbage or rubbish in or near the structure which might attract rodents and insects, or become breeding places for rodents and insects;

(3) Violations of the fire prevention code which constitute a fire hazard in such structure;

(4) The collection of garbage, rubbish, or combustible material which constitute a fire hazard in such structure;

(5) The use of such structure or nearby grounds or facilities by children as a play area;

(6) Repeated use of such structure by transients and vagrants, in the absence of sanitary facilities, for living, sleeping, cooking, or eating.

(C) A dwelling within the town shall be deemed unfit for human habitation, and the Town Manager may so determine, if he finds that conditions exist in the dwelling that render it dangerous or injurious to the health, safety, or morals of the occupants of the dwelling, the occupants of neighboring dwellings, or other residents of the town.

(D) In seeking the determination of whether or not a dwelling is in violation of this chapter, the Town Manager may, by way of illustration and not limitation, consider the following defective conditions:

(1) Defects therein increasing the hazards of fire, accidents, or other calamities;

(2) Lack of adequate ventilation, light, or sanitary facilities;

(3) Dilapidation;

(4) Disrepair;

(5) Structural defects;

(6) Uncleanliness.

(Ord., passed 3-23-82)

§ 90.05 PROCEDURE FOR ENFORCEMENT.

(A) Preliminary investigation; notice; hearing. Whenever a petition is filed with the Town Manager by a public authority or by at least five residents of the town charging that any dwelling or structure exists in violation of this chapter or whenever it appears to the Manager, upon inspection, that any dwelling or structure exists in violation hereof, he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling or structure a complaint stating the charges and containing a notice that a hearing will be held before the Manager at a place therein fixed, not less than ten nor more than 30 days after the serving of the complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one of the persons signing a petition relating to such dwelling or structure. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Manager.

(B) Procedure after hearing.

(1) After such notice and hearing, the Manager shall state in writing his determination whether such dwelling or structure violates this chapter, including his findings of fact in support of that determination.

(2) If the Manager determines there is a violation he shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to either repair, alter, and improve such dwelling or structure or else remove or demolish the same within a specified period of time not to exceed 90 days.

(C) Failure to comply with order.

(1) In personam remedy. If the owner of any dwelling or structure shall fail to comply with an order of the Manager within the time specified therein, the Manager may submit to the Town Council at its next regular meeting a resolution directing the Town Attorney to petition the superior court for an order directing such owner to comply with the order of the Inspector, as authorized by G.S. 160A-446(g).

(2) In rem remedy. After failure of an owner of a dwelling or structure to comply with an order of the Manager within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in division (C)(1) above, the Manager shall submit to the Town Council an ordinance ordering the Manager to cause such dwelling or structure to be removed or demolished, as provided in the original order of the Manager and pending such removal or demolition, to placard any such dwelling as provided by G.S. 160A-443.

(D) Petition to superior court by owner. Any person aggrieved by an order issued by the Manager shall have the right, within 30 days after issuance of the order, to petition the superior court for a temporary injunction restraining the Manager pending a final disposition of the cause, as provided by G.S. 160A-446(f). (Ord., passed 3-23-82)

§ 90.06 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.

Complaints or orders issued by the Town Manager shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the Manager in the exercise of reasonable diligence, the Manager shall make an affidavit to that effect, and the serving of such complaint or order upon such person may be made by publication in the manner prescribed in the North Carolina Rules of Civil Procedure. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order. (Ord., passed 3-23-82)

§ 90.07 IN REM ACTION BY MANAGER; PLACARDING.

(A) After failure of an owner of a structure to comply with an order of the Town Manager issued pursuant to the provisions of this chapter, and upon adoption by the Town Council of an ordinance authorizing and directing him to do so, as provided by G.S. 160A-443(5) and § 90.05(C) of this chapter, the Manager shall proceed to cause such structure to be removed or demolished, as directed by the ordinance of the Town Council and shall cause to be posted on the main entrance of such structure a placard prohibiting the use or occupation of the structure. Use or occupation of a building so posted shall constitute a misdemeanor.

(B) Each such ordinance shall be recorded in the office of the Register of Deeds in Rutherford County, and shall be indexed in the name of the property owner is the grantor index, as provided by G.S. 160A-443(5). (Ord., passed 3-23-82)

§ 90.08 COSTS A LIEN ON PREMISES.

As provided by G.S. 160A-446(6), the amount of the cost of any removal or demolition caused to be made or done by the Town Manager pursuant to this chapter shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by Article 10, Chapter 160A of the General Statutes. (Ord., passed 3-23-82)

§ 90.09 ALTERNATIVE REMEDIES.

Neither this chapter nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this chapter by criminal process, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

(Ord., passed 3-23-82)