

Incorporated 1927

Town of Lake Lure

P. O. Box 255 • Lake Lure, NC 28746-0255 • 704/625-9983 • FAX 704/625-8371

MINUTES OF THE REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL HELD TUESDAY, AUGUST 9, 1994, 9:30 A.M. AT THE LAKE LURE COMMUNITY CENTER

PRESENT: Mayor Max E. Lehner
Mayor Pro-tem Bud Schichtel
Commissioner Bill Bush
Commissioner Bill Church

Paul Wilson, Interim Town Manager
Sam Karr, Finance Director

ABSENT: Commissioner Jack Donovan

CALL TO ORDER

Mayor Lehner called the meeting to order at approximately 9:30 a.m. Mayor Lehner requested the Clerk to note that a quorum was present.

INVOCATION

Mayor Lehner gave the invocation.

AUDIENCE OF CITIZENS

No persons signed up to speak under audience of citizens.

EMS

Mayor Lehner announced that Robert Dempsey could not attend this meeting and that another meeting would need to be rescheduled at a later date for the purpose of going over the breakdown of budget items for the EMS.

FIRE BOAT

Steve Williams presented Council with drawings of a 28-foot fire boat which he designed for the Town. Mr. Williams explained that the fire boat was a pontoon structure similar to the dredge and could hold up to 8 or 9 people on the boat. Mr. Williams also stated that the fire boat can be built for under \$125,000.

Council requested that Mr. Williams put his proposal for the fire boat in writing for consideration.

APPOINTMENTS TO THE BOARD OF DIRECTORS FOR THE LAKE LURE FIRE DEPARTMENT

Mayor Lehner recommended that Commissioner Bud Schichtel be appointed as the Lake Lure Town Council representative and Finance Director Sam Karr be appointed as the Lake Lure Town Administrator to serve on the Lake Lure Volunteer Fire Department Board of Directors.

Commissioner Bush moved, seconded by Commissioner, to accept Mayor Lehner's recommendation to appoint Commissioner Schichtel and Finance Director Sam Karr to serve on the Lake Lure Volunteer Fire Department Board of Directors. The vote of approval was unanimous.

OTHER OLD BUSINESS

Rodney Hayes, Recreation Supervisor, gave an up-to-date report on proceeds collected from the Town Beach for the fund raiser to help the flood victims in Georgia.

Commissioner Schichtel moved, seconded by Commissioner Bush, to donate \$2,325 (\$1,583 from the Reserve Contingency Fund and \$742 from beach receipts). The vote of approval was unanimous.

Page 3 - Minutes of the August 9, 1994 Regular Council Meeting

Mayor Lehner reviewed changes noted on the Fairfield Mountains Volunteer Fire Department Contract. (Contract attached).

After discussion among Council, it was decided to table action on the contract provisions suggested by the Fairfield Mountains Volunteer Fire Department until the next regular meeting.

PROPOSED AMENDMENTS TO THE LAKE STRUCTURE ORDINANCE

Mary Lynne Ray, Deputy Zoning Administrator, reported on the proposed amendments to the Lake Structures Ordinance. Ms. Ray said that the proposed revisions to the Ordinance Regulating the Construction and Use of Structures on Lake Lure would accomplish the following:

- * Add definitions for "Boardwalk", "Slip", "Temporary Slip".
- * Exempt seawalls from requirement that lot have minimum of 100 feet of lake frontage.
- * Allow approved local contractors to put up irrevocable letter of credit to cover all jobs, rather than individual deposit of compliance for each job.
- * Change construction requirement for concrete and stone seawall footings to coordinate with Rutherford County Building Inspector's requirements.
- * Change deadline for Lake Structure Certification from May 1, 1994 to December 1, 1994.
- * More clearly specify the restrictions for cluster mooring facilities adjacent to the R-3 district - property used in cluster mooring formula must be contiguous with the site of the proposed cluster mooring facility and must be developed with roads and structures in place.

- * Limit future cluster mooring in commercial districts to 8 new slips to be used for temporary mooring only. However up to 3 of the slips in a commercial cluster mooring may be used as permanent mooring for operator(s) of the commercial establishment.

Ms. Ray also stated that Council has already amended SECTION 4. LIABILITY INSURANCE to require that property owners carry \$500,000 liability insurance on both new lake structures and existing lake structures. This amendment would also be included in the final printed version of the ordinance.

Ms. Ray said that the Lake Advisory Committee undertook a review and revision of the lake structures ordinance in order to make the ordinance easier to interpret and to enforce. With input from both the Board and the staff, the Committee drafted a revision to the Ordinance which was distributed to Council.

After discussion among Town Council, Commissioner Schichtel moved, seconded by Commissioner Bush, to approve the changes to the Ordinance Regulating the Construction and Use of Structures on Lake Lure as presented by the zoning staff. The vote of approval was unanimous. (Revised Ordinance Attached).

<p>SCHEDULE PUBLIC HEARING FOR PROPOSED AMENDMENTS TO THE ZONING ORDINANCE REGARDING PERMITTED AND CONDITIONAL USES IN ALL RESIDENTIAL DISTRICTS</p>

Mary Lynne Ray, Deputy Zoning Administrator, read aloud the following memorandum of August 4, 1994 addressed to Council regarding proposed amendments to the Zoning Ordinance regarding permitted and conditional uses in all residential districts.

The Zoning and Planning Board brings to you two separate but related recommendations regarding the Zoning Ordinance.

In March of this year the Board voted to recommend text changes to Sections 601, 603, 604, and 605 of the Zoning Ordinance. These proposed changes, affecting all residential districts, would:

- 1) allow customary accessory uses (detached garages, storage buildings, etc.) as permitted use, rather than as a conditional use which requires an application to the Board of Adjustment.
- 2) require conditional use approval for non-customary accessory buildings. The Board feels that unusual accessory uses should be subject to Board of Adjustment review.
- 3) delete any reference to boathouses from the Zoning Ordinance. Boathouses and other lake structures are now governed by a separate Ordinance, the Ordinance Regulating the Construction and Use of Structures on Lake Lure.

In addition, at their July 19, 1994 meeting, the Zoning and Planning Board voted to recommend further text changes for Section 605. R-3 Resort Residential District. These changes would reconcile the Intent paragraph with the uses actually allowed within the district.

More specifically, while restaurants and other uses are mentioned in the Intent paragraph of Section 605, currently these uses would not be allowed in the R-3 district because they are not listed among either the permitted uses or conditional uses. The proposed new wording would allow restaurants, golf courses, and other commercial uses as conditional uses in the R-3 district when in conjunction with a hotel, motel, or lodge.

If all the proposed changes are adopted, the Zoning Ordinance text will read as follows:

- 1) Changes to Section 601. R-1 Residential District.
- (2) Permitted Uses. Within the R-1 Residential District, a building or land shall be used only for the following purposes.

- (a) Single-family dwellings, excluding mobile homes.
 - (b) Family care homes.
 - (c) Customary accessory buildings, including private garages, storage buildings, and non-commercial workshops.
- (3) Conditional Use Permit. The following uses require a conditional use permit subject to a finding by the Board of Adjustment that all applicable provisions of Article VIII and Article X have been met.
 - (a) Basement or garage apartments, one per lot.
 - (b) Duplexes.
 - (c) Non-customary accessory uses.
 - (d) Public utility buildings . . .
 - (e) Home occupations . . .
 - (f) Planned unit developments . . .
- 2) **Changes to Section 603. R-1D Residential District.**
 - (2) Permitted Uses. Within the R-1D Residential District, a building or land shall be used only for the following purposes.
 - (a) Single-family dwellings, excluding mobile homes.
 - (b) Family care homes.
 - (c) Customary accessory buildings, including private garages, storage buildings, and non-commercial workshops.
 - (3) Conditional Use Permit. The following uses require a conditional use permit subject to a finding by the Board of Adjustment that all applicable provisions of Article VIII and Article X have been met.
 - (a) Non-customary accessory uses.
- 3) **Changes to Section 604. R-2 General Residential District.**
 - (2) Permitted Uses. Within the R-2 General Residential District, a building or land shall be used only for the following purposes.

- (a) Single-family dwellings.
 - (b) Mult-family dwellings.
 - (c) Family care homes.
 - (d) Customary accessory buildings, including private garages, storage buildings, and non-commercial workshops.
- (3) Conditional Use Permit. The following uses require a conditional use permit subject to a finding by the Board of Adjustment that all applicable provisions of Article VIII and Article X have been met.
- (a) Boarding and rooming houses, non-profit retreats and non-profit lodges with eating facilities for clientele only.
 - (b) Non-customary accessory buildings.
 - (c) Home occupations . . .
 - (d) Cemeteries.
 - (e) Churches or similar places of worship, including convents and dormitories.
 - (f) Day nurseries and kindergartens . . .
 - (g) Golf courses, parks, playgrounds, swimming pools, community centers, country clubs, civic clubs, private social clubs, lodges, travel trailer parks, and other recreational uses.
 - (h) Public elementary and high schools, trade schools, and private schools having similar curricula.
 - (i) Public utility buildings and facilities . . .
 - (j) Radio and television transmitting stations . . .
 - (k) Mobile home parks . . .
 - (l) Planned unit developments.
 - (m) Nursing homes.
 - (n) Hospitals, but not animal hospitals.
- 4) Changes to Section 605. R-3 Residential District.

Section 605. R-3 Resort Residential District.

- (1) **Intent.** The R-3 Resort Residential District is established as a district in which the principal use of land is for residential and commercial hospitality purposes to include multi-family structures, hotels, motels, and lodges. Uses in conjunction with hotels, motels, and lodges may also be allowed when approved as a conditional use.
- (2) **Permitted Uses.** Within the R-3 Resort Residential District, a building or land shall be used only for the following purposes.
 - (a) Single-family dwellings, excluding mobile homes.
 - (b) Multi-family dwellings, including duplexes.
 - (c) Family care homes.
 - (d) Hotels, lodges, motels, boarding and rooming houses, or private clubs to provide lodging, services, and board for the general public.
 - (e) Customary accessory buildings, including private garages, storage buildings, and non-commercial workshops.
- (3) **Conditional Use Permit.** The following uses require a conditional use permit subject to a finding by the Board of Adjustment that all applicable provisions of Article VIII and Article X have been met.
 - (a) Non-customary accessory buildings.
 - (b) Home occupations as defined in Article IV, Section 401 of this ordinance and subject to all conditions stated therein.
 - (c) Public utility buildings and facilities as previously described in Article VI, Section 601 (3).
 - (d) Planned unit developments.
 - (e) Restaurants, golf courses, and other uses designed in response to the unique natural setting of the area when in conjunction with a hotel, motel, or lodge.

The Town of Lake Lure Zoning and Planning Board respectfully submits

these recommendations to the Town Council and requests that a public hearing be scheduled for these proposed amendments. Thank you.

Commissioner Bush moved, seconded by Commissioner Church, to approve the Lake Lure Zoning and Planning Board request to schedule a public hearing for 7:30 p.m., September 27, 1994, at Fairfield Mountains Bald Mountain Club for the proposed amendments presented. The vote of approval was unanimous.

CAPITAL BUDGET REVIEW

Commissioner Bush moved, seconded by Commissioner Schichtel, to approve the following Budget Adjustments to the Capital Reserve Fund and requested that the Finance Director Sam Karr provide Council with a revised Capital Reserve Fund report. The vote of approval was unanimous.

TRANSFER FROM:

TRANSFER TO:

604300.7402	Update Mule	\$5,000	604200.7402	Town Hall Holdings
604300.7403	Remodel House	\$12,981.37		\$48,913.94
604300.7404	Engineer Rept.	\$2,500		
	Gates			
605100.7406	Remodel Boat Hse	\$3,000		
606220.7401	Remodel Main Bch Hse	\$12,000		
608200.7402	Sludge Spreader	\$5,000		
609000.7407	Lake/Sea Walls	\$7,176.96		
609000.7409	Health & Safety	\$1,255.61		
	Equipment			
609000.7413	Downtown Park	\$10,000	609000.7411	Gazebo Acct.
				\$10,000

NCLM 1994 ANNUAL CONVENTION

Mayor Lehner announced that the North Carolina League of Municipalities was holding their 1994 Annual Convention in Asheville on October 16--18, 1994 and those who are interested in attending this convention must turn in their registration forms to the Town Clerk before September 30, 1994.

OTHER NEW BUSINESS

Commissioner Bush reported that 31 applications had been received as of last Friday for the Town Manager position. Commissioner Bush said that the Town will be accepting applications through September 6, and then will be narrowed down to 10 people who will be interviewed by the Lake Lure Town Manager Search Committee.

REVIEW PLANS FOR NEW GOVERNMENT CENTER

Carroll Hughes, AIA, Spaceplan Architect, presented to Council the following list of item that are yet unresolved for the new government complex:

1. Police radio system: We are waiting for a description from the Police Chief (antenna, hardwiring, power requirements, etc.)
2. 911 Console: We need location and power communication wiring requirements.
3. Entire building. We need the location of phone jacks, receptacle outlets, computer, etc; We are waiting for feedback from staff.
4. Existing drainage ditch: Council/Town Manager to decide if the Town handles the design and construction or if it is made part of the building project.

5. Furnishings: Council, Department Heads and Architect to review locations and types of new and existing furnishings, lockers and shelving, and built-in casework.
6. Site Lighting: Architect to give the Town Manager a site plan to review with Duke Power. The Town to decide if the lighting is designed and installed by the utility company or the building contractor.
7. Fire sprinkler system: After further review by the Architect and Consultants, the original estimate of \$70,000 for an optional fire sprinkler system supplied with water pumped from the river by a diesel pump remains an accurate cost opinion. It is the opinion of the mechanical engineer that there would be no appreciable savings to supply an electric pump with power from the emergency generator. He also would recommend a wet system since all spaces will be heated. The likelihood of freezing is minimal. The estimated cost of \$70,000 includes the pump, a wet well, piping to the building, the sprinkler system, a small above-ground fuel tank and housing to be shared with the emergency generator. Town Council is to decide if sprinkler system is to be included in this project upon review of insurance savings. The decision, hopefully, will be made at today's meeting, to allow time to design and detail the system for inclusion in construction documents.
8. Emergency Power Supply: An emergency back up supply power to the Police Department and key operational areas is to be added to the electrical design. The 85 KW required load will be supplied by a diesel generator. Currently, a budget price of \$35,000 - \$40,000 is shown. A more accurate price will be forthcoming.

After discussion among Council, it was the consensus to do the following for the above listed items:

1. Items #1 and #2 have Police Chief assist in getting the information needed for the police radio system and 911 console.

Page 12 - Minutes of the August 9, 1994 Regular Council Meeting

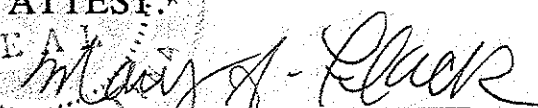
2. Item #3 -- Commissioner Bush work with Michael McDonough (Spaceplan Designer) getting information needed on the location of phone jacks, receptacle outlets, computers, etc.
3. Item #4 -- have Interim Town Manager Paul Wilson check on what is needed to be done on the existing drainage ditch.
4. Item #5 -- have Finance Director check on state approved listing of vendors.
5. Item #6 -- have Interim Town Manager Paul Wilson to talk to Duke Power about installing lights.
6. Item #7 -- Mayor Lehner received comments from Council members as to whether or not the sprinkler system should be included in the contractor's specifications. Commissioner Schichtel spoke in favor of the system and spoke on behalf of Commissioner Donovan in his absence who also was in favor of the system. Commissioner Bush and Commissioner Church stated their recommendation to eliminate the system from the specifications. Mayor Lehner recommended to the architects that the sprinkler be removed from the specifications.

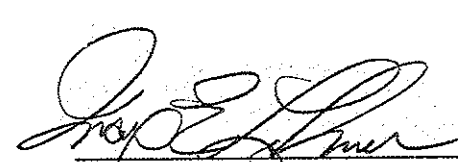
Commissioner Bush moved, seconded by Commissioner Schichtel, to approve the Design Development Submittal Plan as presented by Architect Carroll Hughes. The vote of approval was unanimous.

COUNCIL COMMENTS

With no further items of discussion, Commissioner Bush moved, seconded by Commissioner Schichtel, to adjourn the meeting. The vote of approval was unanimous.

ATTEST:


Mary A. Flack, CMC/AE
Town Clerk


Mayor Max E. Lehner

**ORDINANCE REGULATING
THE CONSTRUCTION AND USE OF
STRUCTURES ON LAKE LURE
(With Amendments Through 8/9/94)**

WHEREAS, the land covered by the waters of the lake known as "Lake Lure" and any land within the "Lake Boundary" is owned by the Town of Lake Lure: and

WHEREAS, the Town Council desires to establish regulations governing structures to be erected and maintained within the boundaries of the lake known as Lake Lure for the purpose of enhancing the health, safety, and welfare of the general public and to preserve the property of the Town and the properties of the land owners;

The Town Council of the Town of Lake Lure, North Carolina hereby rules this ordinance to be effective December 15, 1992.

SECTION 1. USE OF LAKE LURE

No structure shall hereafter be erected or maintained upon the lake boundary of Lake Lure within the corporate limits of the Town of Lake Lure and no use made of the water surface and land thereunder or any facility or structure located thereon, except in conformity with the regulations of this ordinance, or amendments thereto.

SECTION 2. DEFINITIONS

The following terms as used in this ordinance shall have the meanings hereinafter respectively ascribed to them:

- [a] "Boathouse" means any roofed structure enclosed with walls designed for permanent or temporary storage and/or housing of water-craft.
- [b] "Boardwalk" is a structure which the outside dimension may extend from the "shoreline" no further than six (6) feet and be up to four (4) feet in width. If approved by adjoining property owners, the "Boardwalk" may run the full distance from property line to property line or even cross the property line if the adjacent properties' owners approve of its construction and wish it to continue along in front of their property. * **Amended 8/9/94**
- [c] "Cluster Mooring Facility" is a fixed or floating pier(s) adjacent to land zoned R-3 or C to provide dock space to owners of condominiums and other dwellings or customers of marinas.
- [d] "Distance from the shoreline" shall be measured from the elevation of 990 feet MSL.
- [e] "Dock" means a platform for the reception, loading and unloading of boats.
- [f] "Float" means a platform located near the shoreline for the use of swimmers or boats.
- [g] "Lake Boundary" means contour elevation 995 feet MSL.
- [h] "Lake Structure Certificate" refers to the document that is issued to the property owner following approval by the Zoning Administrator that the structure on his property conforms to this policy.
- [i] "Markers" are floating buoys or fixed signs that give navigational or warning information.
- [j] "MSL" refers to the elevation above mean sea level.
- [k] "Permit" refers to the documents that are required prior to any construction of a structure on land or in the lake on or below the "Lake Boundary" of 995 feet MSL.
- [l] "Pier" means a structure extending from solid land out into the lake to afford convenient passage of passengers and cargo to and from boats.
- [m] "Ramp" means a short slope extending from the shoreline into the lake for the purpose of launching a boat.
- [n] "Sea Wall" means a structure built along the shoreline to resist the erosion of the land

caused by the lake and which can also be used as a structure to received and discharge a boat's passengers and cargo.

- [o] "Slip" is an area within or alongside a lake structure that is confined by at least two sides of the structure and that is designed for the temporary or permanent mooring of boats.
* **Amended 8/9/94**
- [p] "Shoreline" is the line where the land and water meet most of the year which is at the elevation of 990 feet MSL.
- [q] "Structures" shall include any pier, wharf, dock, boathouse, slip, ramp, float, sea wall, or similar facility on Lake Lure whether fixed or floating or a combination thereof, used primarily as a stationary facility.
- [r] "Temporary Slip" is a mooring facility for boats that can only be occupied during the hours between 6:00 a.m. and 12:00 midnight. * **Amended 8/9/94**
- [s] "Wharf" means a structure built along the shoreline of the lake so that boats may come alongside to receive or discharge passengers and cargo.
- [t] "Water Depth" shall be measured at the average lake level of 990 feet above mean sea level, USGS datum.

SECTION 3. PERMIT TO CONSTRUCT

No structure of any kind whether stationary, floating, or access ramp, or fuel dispensing system for boats, shall be constructed or installed before having first made written application for and obtained from the Zoning Administrator of the Town of Lake Lure a Lake Structure Permit. A Building Permit must be obtained from the Rutherford County Building Inspector. The applicant shall present to the Zoning Administrator, upon application for a Lake Structure Permit, the following:

- [a] Location of the proposed installation with respect to the boundaries of the lot on which it is to be located or adjacent to.
- [b] Height, length, width and configuration of the proposed installation.
- [c] Whether covered or uncovered (enclosed or open).
- [d] Specified materials for use in construction or installation.
- [e] "Water depth" at the farthest point of projection.
- [f] Distance from the farthest point of projection to the opposite shore.
- [g] Proof of liability insurance.
- [h] Documents showing approval of fuel storage and dispensing systems from any appropriate federal, state and local agencies.
- [i] In the case of a "Boathouse", proof of owning a residence or construction of a residence on the same lot or an adjoining lot. (This is not required for any other lake structures).
- [j] Plans for the construction of a sea wall (if required).
- [k] Proof that lot(s) have a minimum front footage at "shoreline" of one hundred (100) front feet. Sea wall construction permits are exempt from this requirement. * Amended 8/9/94
- [l] The application and all plans shall be signed and dated by the property owner.
- [m] The application fee which will be established by Town Council.
- [n] A Deposit of Compliance that is refundable if the structure receives a "Lake Structure Certificate". The Deposit of Compliance shall be a certified check for \$500.00 for any structure or alteration costing more than \$1000.00 and less than \$5000.00 or \$1000.00 for any structure or alteration costing more than \$5000.00. An irrevocable letter of credit may be accepted instead of a Deposit of Compliance when a builder that is approved by the Town of Lake Lure is acting as an agent for the property owner. * Amended 8/9/94

Dimensional and structural guidelines are in **SECTION 5. PROVISIONS FOR CONSTRUCTION** of this ordinance. Because of great differences in lot size, property topographies, location of adjacent homes, shoreline and road contours, location of ledges and other

variables, the Lake Structures Appeals Board may grant a variance in special situations if the Board of Appeals believes equity so demands and no neighbor (adjoining property owner or other land owner whose projected boundary lines are affected) will have his view of the lake from his house obstructed or the ability to construct or alter lake structures within his projected boundaries impaired.

Should construction be started before a permit is issued, or non-approved alterations be made during construction, legal action may be taken against the owner to stop construction and, if the Town Council elects, to force a return of the site to its original condition.

Said Lake Structure Permit will remain valid for a period of six (6) months from the date of issuance for construction to commence. If the construction begins and then ceases for a period of twelve (12) months the Lake Structure Permit becomes invalid.

The final approval of the construction shall require an inspection and certification by the Zoning Administrator that the structure was built substantially in accordance with the approved plans. All approved structures, upon final inspection, shall have a Lake Structure Certificate attached to the structure to indicate it is an approved structure.

SECTION 4. LIABILITY INSURANCE

All property owners having structures on Lake Lure (including existing lake structures as well as future lake structures) must at all times keep and maintain in force, at their sole expense, public liability insurance against claims for bodily injury, death or property damage occurring in or about the lake structure in the amount of at least \$500,000 per person. Prior to applying for a Lake Structure Permit, proof of this liability insurance must be provided the Town pursuant to Section 3 (g). * Amended 6/28/94

SECTION 5. PROVISIONS FOR CONSTRUCTION

The following provisions must be adhered to during the design and construction of any structure on Lake Lure. The Zoning Administrator will carefully examine plans submitted with any applications for a Lake Structure Permit as described in **SECTION 3 PERMIT TO CONSTRUCT**, to be sure that the plans meet the following provisions. Requests for variances must be made when the Lake Structure Permit application is submitted.

- [a] No structure shall be placed in the water more than thirty (30) feet or one third (1/3) the distance to the opposite shore, whichever is less as measured to and from the "shoreline". Variances may be granted to a property owner for unusual horizontal or vertical configurations of the shoreline in coves or peninsulas which may prevent a property owner fair access and use of the lake. In such cases, the Lake Structures Appeals Board will make a determination for the entire area affected. At least one third of the waterway must be left unobstructed.
- [b] No structure, with the exception of "sea walls", shall be closer than fifteen (15) feet to an adjoining lot line at the "shoreline". The projected boundary lines into the lake should be established by using the fifteen (15) foot points on the "shoreline" as the center of a ten (10) foot radius. By measuring fifteen (15) feet from the property line to the radius and pulling the projected boundary line through the center of the radius on the two fifteen foot marks will create a line that is parallel to the property lines and determines the structure's

maximum width so it remains within the confines of the lake front lot it serves.

- [c] Three (3) boat slips of eleven (11) feet in width will be the maximum for any structure or combination of structures built. (Refer to **SECTION 12** for Cluster Mooring Facilities.)
- [d] Hand rails should be constructed in such a way so as not to interfere with boaters' visibility.
- [e] Lake Structures shall not exceed fifteen (15) feet in height above the "shoreline". This does not include the additional height of railings (no greater than 42") around a rooftop deck. Establishing the "shoreline" elevation of 990 feet MSL can be achieved by using a surveyor's level to shoot an elevation from the top of one or more of the sewer manholes which are all at 995 feet MSL or by calling the Town Office for the lake level reading at the dam on that particular day.
- [f] Materials of construction for pilings shall include reinforced concrete, hot dipped galvanized steel, aluminum, or pressure treated wood. Floating structures shall be constructed of hot dipped galvanized steel and polystyrene floatation. Steel drums are prohibited. Anchorage for floating structures shall be of galvanized steel cables secured to reinforced concrete anchorage and/or to steel anchor piles in firm ground on shore. Alternate materials of construction may be approved if found structurally satisfactory and if they do not pose a threat to the environment.
- [g] The Town of Lake Lure exercises no jurisdiction or control over the design of structures to be built over the lake, but strongly urges that the design be compatible with that of the residence(s) that the lake structure will adjoin.
- [h] Any sewage or waste water systems installed in/on lake structures must meet State Health Department requirements.
- [i] No lake structure will serve as a temporary or permanent living quarters.
- [j] No antennas are to be installed on lake structures.
- [k] "Floats" shall be no greater than sixty-four (64) square feet in size and have white reflectors affixed to each corner.

SECTION 6. ALTERATION OF STRUCTURES

Property owners must apply for a Lake Structure Permit as described in **SECTION 3** before any alteration (costing more than \$1000.00) to a lake structure from its existing condition, including plumbing and electrical work, is performed.

SECTION 7. SEA WALLS

Property owners are required to construct a sea wall on every lot with a lake structure or have a written exemption from the Zoning Administrator regarding this requirement if the property is determined by the Lake Structures Appeals Board to be substantially free of erosion potential. The construction of the wall shall only disrupt the contour of the shoreline to a minimum. The application for the construction of a sea wall shall include the following:

- [a] An existing site plan with an overlay showing any proposed changes to the contours and

profiles of the shoreline.

- [b] Dimensions and proposed type of construction.
- [c] Application shall be signed and dated by property owner.

The sea wall must be constructed at the "shoreline" elevation of 990 feet MSL. Earth fills in areas below the "shoreline" are prohibited. (Note: Refer to **SECTION 5**, provision [e] for details on how to establish the "shoreline" elevation of 990 feet MSL.) The sea wall shall be constructed of one of the materials and in the prescribed manner that follow:

- [a] Concrete - 3000 psi minimum, not less than four (4) inches in thickness, reinforced with steel rod and attached to a footing approved by the Rutherford County Building Inspector and that extends not less than one (1) foot vertically into the lake bottom and is no less than six (6) inches thick. * **Amended 8/9/94**
- [b] Stone - footing at same depth and of same dimensions as concrete with mortar consisting of 1 part Portland cement, 1/4 part hydrated lime, 3 3/4 parts sand and no more water than necessary to make a workable mixture.
- [c] A properly designed steel or aluminum sheet piling system.
- [d] A properly designed pressure treated wood piling system.

Alternate materials of construction may be approved if found structurally satisfactory and not to pose a threat to the environment.

The Town of Lake Lure requires that all sea walls be in a good state of repair or the property owner will be subject to penalties outlined in **SECTION 15**.

SECTION 8. MAINTENANCE OF STRUCTURES

The property owner will be responsible for maintaining all lake structures covered by this policy in good repair. All owners of existing structures deemed in compliance with **SECTIONs 7, 9, 10, 11, 13** and provisions [d], [f], [h], [j], and [k] of **SECTION 5** of this policy will be issued a Lake Structure Certificate after the Zoning Administrator receives the Lake Structure Certificate fee and approves the property owner's Lake Structure Certificate Application. The Certificate must be attached to the lake structure so it is visible from the water before December 1, 1994 and be renewed every three years. Therefore any structure not having a Lake Structure Certificate attached by December 1, 1994 shall be considered in violation of this ordinance. The Town of Lake Lure shall have the authority to condemn any lake structure due to decay, disrepair, or any hazardous condition. The property owner will be given a written notice and ninety (90) days to comply with the Town Council's determination. If the owner fails to appeal to come before the Town Council for a hearing or comply with their determination, Council may revoke their Lake Structure Certificate (if one had been issued) and remove the structure at the property owner's expense. * **Amended 8/9/94**

SECTION 9. MARKERS

No markers or signs, other than navigational aids that comply with the Uniform Waterway

Marking System and the North Carolina Wildlife Resources Commission's regulations shall be placed within the lake bed. Placement of these markers will be reviewed and approved by the Lake Advisory Committee.

SECTION 10. LIGHTING & WIRING

All electrical wiring and fixtures must be inspected and approved by the Rutherford County Building Inspector. Lighting, whether public or private, which offers navigational aid on the lake shall comply with the North Carolina Wildlife Resources Commission's regulations. Non-navigational lighting must be non-flashing white or yellow, with the exception of bug lights, and shall be of such a low intensity as to not cause blindness of boat operators on the lake - or inhibit their vision in any way.

SECTION 11. SWIMMING AREAS

Swimming areas, whether adjacent to public or private property, shall be marked in accordance with the North Carolina Wildlife Resources Commission's regulations and the Town of Lake Lure's ordinances regulating boating and water safety. * Amended 8/9/94

SECTION 12. CLUSTER MOORING FACILITIES

Cluster Mooring Facilities may be installed in lieu of private docks or boathouses adjacent to property that is zoned R-3 or C. The same requirements apply to cluster mooring facilities as do to all other lake structures except they must be open (no roofs), and have no more than three (3) individual boat slips per one hundred (100) front feet of lake front property that is owned by the applicant and that is free of any lake structures (other than "sea walls"). For areas that are zoned R-3, the lake front property that is used in the formula for determining the number of slips must be contiguous with the site of the proposed cluster mooring facility and the same lake front property must be developed with roads and structures in place prior to review of the application. Any existing mooring facilities should be deducted from the total slips allowed by the above formula.

For areas zoned C, only temporary mooring slips will be allowed to be constructed or added on to any existing marina with a maximum limit of eight (8) new individual slips regardless of the front footage that may be used in determining the number of slips allowed. A maximum of three craft owned by the operators of the commercial establishment may be permanently moored at the establishment's cluster mooring facility.

The Lake Structures Appeals Board will review each Lake Structure Permit Application for a Cluster Mooring Facility to confirm that the proposed facility conforms to this ordinance and to approve its location with regard to navigation and boating safety. * Amended 8/9/94

SECTION 13. PROHIBITED USES

The following uses or activities shall be prohibited unless written approval is given by the Lake Structures Appeals Board.

- [a] Any activity such as dredging or filling which alters the "shoreline".

- [b] The cutting of standing trees at or below the "lake boundary".
- [c] Any use of the lake bed requiring disposal of any interest in land or involving occupancy, possession or control by the user. Examples of such uses include but are not limited to the following: Construction of causeways, roads, bridges, fences, retaining walls, utility transmission and distribution lines, pipelines, water diversion facilities, sewage lagoons and treatment plants, septic tanks, drain fields, and effluent discharge lines of solid waste or fill and liquid waste, the diversion of waters of Lake Lure.
- [d] Disposal of any trash, brush, leaves, or scrap building materials into the lake.
- [e] Allowing any livestock or commercially raised animals to have access to the lake or its shoreline
- [f] To intentionally or accidentally sink a boat and leave it on the lake bottom. * **Amended 8/9/94**
- [g] To use the waters of the lake for commercial irrigation purposes.
- [h] To moor a boat or any other floating object alongside a lake structure in such a way that it may temporarily or permanently extend beyond the boundaries established in **SECTION 5** and restrict the passage of boats.

SECTION 14. REQUEST FOR A VARIANCE

Any exception to this ordinance should consider the health, safety, and welfare of the general public, and all exceptions must be approved by the Lake Structures Appeals Board.

SECTION 15. PENALTIES

- [a] Unless otherwise specifically provided, violation of any provisions of this ordinance or any other ordinance shall be a misdemeanor or an infraction as the case may be, as provided by section 14-4 of the General Statutes of North Carolina, and punishable as provided therein.
- [b] Violation of any provision of this ordinance shall subject the offender to a civil penalty which would be determined, assessed and recovered by the Town of Lake Lure in a civil action in the nature of debt if the offender does not pay the penalty within a reasonable period of time prescribed by an administrative officer of the Town after such offender has been cited for such violation.
- [c] Any provision of this ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement, and the General Court of Justice shall have jurisdiction to issue such orders. When a violation of such a provision occurs, the Town may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular. In addition to an injunction, the court may enter an order of abatement as a part of the

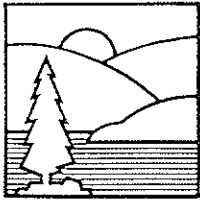
judgement in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished or removed; the fixtures, furniture or other movable property be removed from the building on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this policy or such ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, such defendant may be cited for contempt, and the Town may execute the order of abatement. The Town shall have a lien on the property for the cost of executing an order of abatement in the nature of mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

- [e] The provisions of this ordinance may be enforced by any one, all, or any combination of the remedies authorized and prescribed by this section.
- [f] Except as otherwise specifically provided, each day's continuing violation of any provision of this ordinance shall be a separate and distinct offense.

This Ordinance and any amendments thereto shall become effective upon adoption.

Adopted the 15th day of December, 1992.

Amended the 9th day of August, 1994.



Incorporated 1927

Town of Lake Lure

P. O. Box 255 • Lake Lure, NC 28746-0255 • 704/625-9983 • FAX 704/625-8371

MEMORANDUM

TO: Mayor Max Lehner
Commissioner Bill Bush
Commissioner Bill Church
Commissioner Jack Donovan
Commissioner Bud Schichtel

FROM: Zoning Staff

SUBJECT: Proposed Amendments to the Ordinance Regulating the Construction and Use of Structures on Lake Lure

DATE: July 29, 1994

Prompted by the concerns of the Lake Structures Appeals Board and the zoning staff, the Lake Advisory Committee undertook a review and revision of the lake structures ordinance in order to make the ordinance easier to interpret and to enforce. With input from both the Board and the staff, the Committee drafted the attached revision of the ordinance.

This revision is now submitted for your approval and adoption. Please contact Bob Washburn or Mary Lynne Ray if you need further information on any of the proposed changes.

ORDINANCE REGULATING THE CONSTRUCTION AND USE OF STRUCTURES ON LAKE LURE

WHEREAS , the land covered by the waters of the lake known as "Lake Lure" and any land within the "Lake Boundary" is owned by the Town of Lake Lure: and

WHEREAS, the Town Council desired to establish regulations governing structures to be erected and maintained within the boundaries of the lake known as Lake Lure for the purpose of enhancing the health, safety, and welfare of the general public and to preserve the property of the Town and the properties of the land owners;

The Town Council of the Town of Lake Lure, North Carolina hereby rules this ordinance to be effective December 15, 1992.

Second Draft of Amended Ordinance

Proposed Amendments are in the shaded blocks and/or are italicized and underlined.

SECTION 2. DEFINITIONS continued

[j]"MSL" refers to the elevation above mean sea level.

[k]"Permit" refers to the documents that are required prior to any construction of a structure on land or in the lake on or below the "Lake Boundary" of 995 feet MSL.

[l]"Pier" means a structure extending from solid land out into the lake to afford convenient passage of passengers and cargo to and from boats.

[m]"Ramp" means a short slope extending from the shoreline into the lake for the purpose of launching a boat.

[n]"Sea wall" means a structure built along the shoreline to resist the erosion of the land caused by the lake and can be also used as a structure to receive and discharge a boat's passengers and cargo

[o]"Slip" is an area within or alongside a lake structure that is confined by at least two sides of the structure and that is designed for the temporary or permanent mooring of boats.

[p]"Shoreline" is the line where the land and water meet most of the year which is at the elevation of 990 ft. MSL.

[q]"Structures" shall include any pier, wharf, dock, boathouse, slip, ramp, float, sea wall or similar facility on Lake Lure whether fixed or floating or a combination thereof, used primarily as stationary facility.

[r]"Temporary Slip" is a mooring facility for boats that can only be occupied during the hours between 6:00 am and 12:00 midnight.

[s]"Wharf" means a structure built along the shoreline of the lake so that boats may come alongside to receive or discharge passengers and cargo.

[t]"Water Depth" shall be measured at the average lake level of 990 feet above mean sea level, USGS datum.

SECTION 3. PERMIT TO CONSTRUCT continued

[n] A Deposit of Compliance that is refundable if the structure receives a "Lake Structure Certificate". The Deposit of Compliance shall be a certified check for \$500.00 for any structure or alteration costing more than \$1000.00 and less than \$5000.00 or \$1000.00 for any structure or alteration costing more than \$5000.00. *An irrevocable letter of credit may be accepted instead of a Deposit of Compliance when a builder that is approved by the Town of Lake Lure is acting as an agent for the property owner.*

Dimensional and structural guidelines are in SECTION 5 of this policy "Provisions for Construction". Because of great differences in lot sizes, property topographies, location of adjacent homes, shoreline and road contours, location of ledges and other variables, the Lake Structures Board of Appeals may grant a variance in special situations if the Board of Appeals believes equity so demands and no neighbor (adjoining property owner or other land owner whose projected boundary lines are affected) will have their view of the lake from their house obstructed or the ability to construct or alter lake structures within their projected boundaries impaired.

Should construction be started before a permit is issued, or non-approved alterations be made during construction, legal action may be taken against the owner to stop construction and, if the Town Council elects, to force a return of the site to its original condition.

Said Lake Structure Permit will remain valid for a period of six (6) months from the date of issuance for construction to commence. If the construction begins and then ceases for a period of twelve (12) months the Lake Structure Permit becomes invalid.

The final approval of the construction shall require an inspection and certification by the Zoning Administrator that the structure was built substantially in accordance with the approved plans. All approved structures, upon final inspection, shall have a Lake Structure Certificate attached to the structure to indicate it is an approved structure.

SECTION 4. LIABILITY INSURANCE

Liability insurance covering structures on the lake must be carried by the property owners during construction and upon their completion.

SECTION 5. PROVISIONS FOR CONSTRUCTION continued

c] Three (3) boat slips of eleven (11) feet in width will be the maximum for any structure or combination of structures built. (Refer to Section 12 for Cluster Mooring Facilities.)

[d] Hand rails should be constructed in such a way so as not to interfere with boaters' visibility.

[e] Lake Structures shall not exceed fifteen (15) feet in height above the "shoreline". This does not include the additional height of railings (no greater than 42") around a rooftop deck. Establishing the "shoreline" elevation of 990 feet MSL can be achieved by using a surveyor's level to shoot an elevation from the top of one or more of the sewer manholes which are all at 995 feet MSL or by calling the Town Office for the lake level reading at the dam on that particular day.

[f] Materials of construction for pilings shall include reinforced concrete, hot dipped galvanized steel, aluminum, or pressure treated wood. Floating structures shall be constructed of hot dipped galvanized steel and polystyrene floatation. Steel drums are prohibited. Anchorage for floating structures shall be of galvanized steel cables secured to reinforced concrete anchorage and/or to steel anchor piles in firm ground on shore. Alternate materials of construction may be approved if found structurally satisfactory and do not pose a threat to the environment.

[g] The Town of Lake Lure exercises no jurisdiction or control over the design of structures to be built over the lake, but strongly urges that the design be compatible with that of the residence(s) that the lake structure will adjoin.

[h] Any sewage or waste water systems installed in/on lake structures must meet State Health Department requirements.

[i] No lake structure will serve as a temporary or permanent living quarters.

[j] No antennas are to be installed on lake structures.

[k] "Floats" shall be no greater than sixty four (64) square feet in size and have white reflectors affixed to each corner.

SECTION 8. MAINTENANCE OF STRUCTURES

The property owner will be responsible for maintaining all lake structures covered by this policy in good repair. All owners of existing structures deemed in compliance with SECTIONS 7, 9, 10, 11, 13 and provisions [d],[f],[h],[j] and [k] of SECTION 5. of this policy, will be issued a Lake Structure Certificate after the Zoning Administrator receives the Lake Structure Certificate fee and approves the property owner's Lake Structure Certificate Application. The Certificate must be attached to the lake structure so it is visible from the water before December 1, 1994 and be renewed every three years. Therefore any structure not having a Lake Structure Certificate attached by December 1, 1994 shall be considered in violation of this policy. The Town of Lake Lure shall have the authority to condemn any lake structure due to decay, disrepair or any hazardous condition. The Property Owner will be given a written notice and ninety (90) days to comply with the Town Council's determination. If the owner fails to appeal to come before the Town Council for a hearing or comply with their determination, Council may revoke their Lake Structure Certificate (if one had been issued) and remove the structure at the property owners expense.

SECTION 9. MARKERS

No markers or signs, other than navigational aids that comply with the Uniform Waterway Marking System and the North Carolina Wildlife Resources Commission's regulations shall be placed within the lake bed. Placement of these markers will be reviewed and approved by the Lake Advisory Committee.

SECTION 10. LIGHTING & WIRING

All electrical wiring and fixtures must be inspected and approved by the Rutherford County Building Inspector. Lighting, whether public or private, which offers navigational aid on the lake shall comply with the North Carolina Wildlife Resources Commission's regulations. Non-navigational lighting must be non-flashing white or yellow, with the exception of bug lights, and shall be of such a low intensity as to not cause blindness of boat operators on the lake - or inhibit their vision in any way.

SECTION 13. PROHIBITED USES

The following uses or activities shall be prohibited unless written approval is given by the Lake Structures Appeals Board.

[a] Any activity such as dredging or filling which alters the "shoreline".

[b] The cutting of standing trees at or below the "lake boundary".

[c] Any use of the lake bed requiring disposal of any interest in land or involving occupancy, possession or control by the user. Examples of such uses include but are not limited to the following: Construction of causeways, roads, bridges, fences, retaining walls, utility transmission and distribution lines, pipelines, water diversion facilities, sewage lagoons and treatment plants, septic tanks, drain fields, and effluent discharge lines of solid waste or fill and liquid waste, the diversion of waters of Lake Lure.

[d] Disposal of any trash, brush, leaves, or scrap building materials into the lake.

[e] Allowing any livestock or commercially raised animals to have access to the lake or its shoreline.

~~[f] To intentionally or accidentally sink a boat and leave it on the lake bottom.~~

[g] To use the waters of the lake for commercial irrigation purposes.

[h] To moor a boat or any other floating object alongside a lake structure in such a way that it may temporarily or permanently extend beyond the boundaries established in SECTION 5 and restrict the passage of boats.

SECTION 14. REQUEST FOR A VARIANCE

Any exception to this ordinance should consider the health, safety, and welfare of the general public, and all exceptions must be approved by the Lake Structures Appeals Board.

[e] The provisions of ordinance may be enforced by any one (1), all or any combination of the remedies authorized and prescribed by this section.

[f] Except as otherwise specifically provided, each day's continuing violation of any provision of this ordinance shall be a separate and distinct offense.

This Ordinance shall become effective upon its adoption.

Adopted this ~~15th day of December, 1992.~~

Mayor

Attest:

Town Clerk

Approved as to form:

Town Attorney

NORTH CAROLINA)
RUTHERFORD COUNTY)
TOWN OF LAKE LURE)

A G R E E M E N T

THIS AGREEMENT, made and entered into as of the 1st day of July, 1994, by and between the TOWN OF LAKE LURE, hereinafter referred to as the Town, and the FAIRFIELD MOUNTAIN VOLUNTEER FIRE DEPARTMENT, INC., hereinafter referred to as the Fire Department;

WITNESSETH:

WHEREAS, North Carolina General Statute 160A-20.1 provides that Municipalities may provide for fire protection in a fire protection district by contracting with any incorporated nonprofit volunteer or community fire department; and

WHEREAS, the Fire Department is a nonprofit corporation organized to furnish fire protection to the citizens of its district; and

WHEREAS, the Town and the Fire Department desire to enter into this agreement for the Fire Department to furnish fire protection for and within the District;

NOW, THEREFORE, in consideration of the premises and of other good and valuable considerations, the parties hereto contract and agree as follows:

1. Town of Lake Lure agrees that it will provide a portion of the funds, each fiscal year, estimated on the needs projected in a budget estimate submitted by the Fire Department to the Town Manager and a recommendation for funds submitted by the Town Manager to the Town Council for furnishing fire protection with the Town.

2. The funds shall be paid to the Fire Department within the fiscal year as agreed to by the Fire Department and the Town Manager. Payments shall not exceed the amount budgeted by the Town Council in the particular fiscal year for fire protection within the Town.

3. The Fire Department shall furnish adequate fire protection within the Town and shall provide the necessary equipment, personnel, water, and all things necessary for furnishing adequate fire protection in the Town. The services shall be in accordance with minimum standards set forth by the Rutherford County Fire Marshall and the North Carolina Insurance Services Office. The Fire Department shall provide workmen's compensation insurance coverage applicable to all Fire Department personnel, regardless of status, at least to the extent required by law. The Fire Department shall furnish said fire protection without charge to all persons and property located in the Town limits in an efficient and workmanlike manner. Upon the failure of the Fire Department to meet the standards set forth herein, no further funds shall be paid by the Town to said Fire Department until said minimum standards are re-established. The Fire Department shall discharge its obligations in a timely manner.

4. All funds paid to the Fire Department by the Town shall be used exclusively to provide fire protection within the Town of Lake Lure, AND IN ACCORDANCE WITH ANY COUNTY-WIDE MUTUAL AID AGREEMENT.

5. The Town may inspect all the books and records of the Fire Department at any time. The Fire Department shall further provide such additional information as the Town may reasonably request from time to time. The Fire Department agrees that it will supply such records, information or verification relating to expenditures of the funds or the operations of the Fire Department as may reasonably be requested by the Town. The Fire Department shall maintain a written accounting system which provides adequate documentation of all of its receipts and disbursements including those related to the funds subject to this agreement.

6. The Fire Department shall have available an audit report performed annually, ~~by a certified public accountant of all its funds~~, and as soon as such auditor's report becomes available to the Fire Department, a copy shall be submitted to the Town Manager. WRP

7. In the event the Fire Department fails to continue to render fire protection, no further funds shall be paid by the Town to the Fire Department, even though previously budgeted by the Town.

8. The Fire Department shall use the funds subject to this agreement in accordance with the annual Budget of the funds which is approved and adopted by the Town Council, which is incorporated automatically herein by reference each year. No change or alteration in the amount of money budgeted by the Town may be made without the express approval of the Town Council. The Budget detail may be amended with the approval of the Town Manager, within the funds made available by this agreement.

9. The Fire Department will maintain its current rating or better with the North Carolina Insurance Services Office as well as its present nonprofit corporation status pursuant to Chapter 55A of the North Carolina General Statutes and/or Section 501 (c) (3) of the Internal Revenue Code. The Fire Department shall continuously comply with all applicable laws, ordinances and regulations. The bylaws of the Fire Department shall have reasonable provisions enabling citizens of the Town to participate in the affairs of the Fire Department.

10. This Agreement shall become effective as of July 1, 1994, and subject to the continued legal existence of the Department shall continue from fiscal year to fiscal year in accordance with the annual Budget adopted by the Town Council for providing fire protection within the Town limits and to the extent of funds appropriated to continue this agreement.

11. This Agreement may not be transferred or assigned by the Fire Department without the written consent of the Town.

IN TESTIMONY WHEREOF, the Town has caused this instrument to be executed by the Mayor and Town Council and attested by the Town Clerk, and the Fire Department has caused this instrument to be signed in its name by its President, attested by its Secretary, and its corporate seal hereto affixed, all by authorization of its Board of Directors duly given, this the 8 day of August, 1994, but effective as of July 1, 1994.

TOWN OF LAKE LURE
FIRE DEPARTMENT CONTRACT

By: 
Mayor

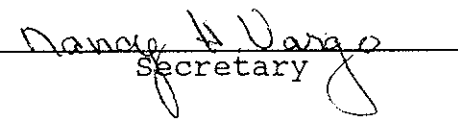
ATTEST:

Town Clerk

(Seal)

By: 
President

ATTEST:


Secretary