



**MINUTES OF THE REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL  
HELD MONDAY, MAY 13, 2014, 6:00 P.M. AT THE LAKE LURE MUNICIPAL  
CENTER**

**PRESENT:** Mayor Bob Keith  
Commissioner John W. Moore  
Commissioner Mary Ann Silvey  
Commissioner Bob Cameron  
Commissioner Diane Barrett

Christopher Braund, Town Manager  
J. Christopher Callahan, Town Attorney

**ABSENT:** N/A

**CALL TO ORDER**

Mayor Bob Keith called the meeting to order at 6:00 p.m.

**INVOCATION**

Attorney Chris Callahan gave the invocation.

**PLEDGE OF ALLEGIANCE**

Council members led the pledge of allegiance.

**APPROVE THE AGENDA**

Commissioner Bob Cameron made a motion to approve the agenda as amended, adding discussion of a request from Garland Prewitt concerning lowering of the lake as item 14a. Commissioner Diane Barrett seconded the motion and the vote of approval was unanimous.

**PUBLIC HEARING - PROPOSED ORDINANCE NO. 14-05-13: AN ORDINANCE  
AMENDING THE ZONING REGULATIONS CONCERNING NOTICES OF  
VIOLATION; MODIFYING THE PROCEDURES FOR ISSUING AND APPEALING A  
NOTICE OF VIOLATION**

Mayor Bob Keith opened the public hearing regarding proposed Ordinance No. 14-05-13 and invited citizens to speak during the public hearing. No one requested to speak.

Council agreed to close the public hearing.

**CONSIDER ADOPTION OF ORDINANCE NO. 14-05-13: AN ORDINANCE  
AMENDING THE ZONING REGULATIONS CONCERNING NOTICES OF  
VIOLATION; MODIFYING THE PROCEDURES FOR ISSUING AND APPEALING A  
NOTICE OF VIOLATION**

Public notices were duly given and published in the Forest City Daily Courier newspaper.

Zoning Administrator Sheila Spicer gave an overview of proposed Ordinance No. 14-05-13.

After discussion, Commissioner Bob Cameron made a motion to adopt Ordinance No. 14-05-13 as presented. Commissioner Mary Ann Silvey seconded the motion and the vote of approval was unanimous.

**ORDINANCE NUMBER 14-05-13**

**AN ORDINANCE CONCERNING NOTICES OF VIOLATION; MODIFYING THE  
PROCEDURES FOR ISSUING AND APPEALING A NOTICE OF VIOLATION**

**WHEREAS**, § 92.999 of the Zoning Regulations of the Town of Lake Lure requires the Zoning Administrator to issue a Notice of Violation for failure to take prompt corrective action of a violation of the regulations; and

**WHEREAS**, Session Law 2013-126 has modified the requirements and procedures for the issuance and appeal of a decision of the Zoning Administrator outlined in N.C.G.S. § 160A-388; and

**WHEREAS**, § 92.999 of the Zoning Regulations of the Town of Lake Lure is now in conflict with the requirements and procedures outlined in N.C.G.S. § 160A-388; and

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**WHEREAS**, Town Council finds that this Ordinance is neither consistent nor inconsistent with the 2007-2027 Town of Lake Lure Comprehensive Plan; and

**WHEREAS**, Town Council further finds that enactment of this Ordinance is reasonable and in the public interest in that it ensures the Zoning Regulations of the Town of Lake Lure are consistent with the North Carolina General Statutes as they pertain to the requirements and procedures for the issuance of a Decision by the Zoning Administrator and any subsequent appeal of that Decision to the Board of Adjustment; and

**WHEREAS**, the Lake Lure Town Council, after due notice, conducted a public hearing on the 13<sup>th</sup> day of May, 2014 upon the question of amending the Zoning Regulations in this respect.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKE LURE, NORTH CAROLINA, MEETING IN REGULAR SESSION AND WITH A MAJORITY OF THE COUNCIL MEMBERS VOTING IN THE AFFIRMATIVE:**

**SECTION ONE.** This ordinance is enacted pursuant to the grants of authority contained in Section 160A-381 of the North Carolina General Statutes and North Carolina Session Law 2013-126.

**SECTION TWO.** Section 92.999 of the Zoning Regulations of the Town of Lake Lure, concerning Enforcement and Penalties, is hereby amended as follows:

#### § 92.999 ENFORCEMENT AND PENALTIES

- (A) Enforcement Procedures. When the Administrator or his designee becomes aware of a violation of this Ordinance, it shall be his duty to notify the owner or occupant of the land, building, structure, sign, or use of the violation. The owner or occupant shall immediately remedy the violation.
- (B) Notice of Violation. If the owner or occupant of the land, building, structure, sign, or use in violation fails to take prompt corrective action, the Administrator or his designee shall give the owner or occupant written notice of violation (by ~~certified or registered mail to his last known address, by personal service~~ personal delivery, first class mail, and/or by posting notice conspicuously on the property) of the following:
  - (1) That the activity, land, building, structure, sign, or use is in violation of the Zoning Regulations;
  - (2) The nature of the violation, and citation of the Section(s) of this Chapter violated;

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- (3) The measures necessary to remedy the violation; and
- (4) Mechanisms available to appeal the decision of the Administrator.
- (5) Any commencement of land clearing or removal of vegetative growth in violation of § 92.119 of these Zoning Regulations without first receiving a land disturbance permit and providing an approved site plan, or in violation of § 92.120 of these regulations without first receiving a land disturbance authorization, as required by this chapter shall subject the property owner or the owner's agent to a civil fine not to exceed \$500.00 per day for each occurrence of such a violation. The fine shall be payable immediately upon notification and shall be assessed from the date of violation. Each day of a continuing violation shall constitute a separate violation. If, following the appropriate inspections, the illegal development is found to meet all requirements of this chapter, certificates of zoning compliance shall be issued upon payment of the fine and submittal of the appropriate documents including fees. If the development does not meet said requirements, the development shall either be returned as far as possible to its original state, or be brought into compliance prior to receipt of site plan approvals.

The removal of significant trees or native shrubbery with their stumps and roots, without an approved site plan, as required by this chapter, shall subject the property owner to fines of \$500.00 for each significant tree illegally removed and \$500.00 for each 100 sq. ft. of native shrubbery, with their stumps and roots, illegally removed. If the number of significant trees and/or extent of native shrubbery previously existing on the property is not known by means of an on-site inspection, fines shall be levied based on the canopy coverage observable from existing aerial photography of the area in question. In addition to these fines, illegally removed significant trees shall be replaced at the expense of the owner or the owner's agent as set forth in § 92.119.

- (C) Appeal. Any owner or occupant who has received a Notice of Violation may appeal in writing the decision of the Administrator or his designee to the Board of Adjustment ~~within fifteen days following the date of the Notice of Violation. The Board of Adjustment (hereafter, "BOA") shall hear an appeal within a reasonable time, and it may affirm, modify, or revoke the Notice of Violation in accordance with §92.086 and §92.087 of these Zoning Regulations.~~ In the absence of an appeal, the decision of the Administrator shall be final.
- ~~(D) Notice of Decision. The decision of the BOA may be delivered to the aggrieved party either by personal service or by registered mail, certified mail return receipt requested, and by posting notice conspicuously on the property. Such Notice of Decision shall~~

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~~inform the recipient of the time frame within which compliance shall be required, and the remedies available to the Town as provided by State Law or by Section 92.998.~~

(~~E~~ D) Failure to comply with Notice of Violation or Decision of the Board of Adjustment. If the owner or occupant of a property fails to comply with a Notice of Violation from which no appeal has been taken, or a final decision by the BOA following an appeal, the owner or occupant shall be subject to such remedies and penalties as may be provided for by State law or by Section 92.998, above.

(~~F~~ E) Civil Penalties. Any person who violates any provision of this Chapter shall be subject to the assessment of a civil penalty in accordance with the provisions set forth herein.

(1) Responsible Parties. The owner or occupant of any land, building, structure, sign, use of land, or part thereof, and any architect, builder, contractor, agent, or other person, who participates or acts in concert, assists, directs, creates, or maintains any condition that is in violation of this Chapter may be held responsible for the violation and subject to the civil penalties and remedies provided herein and in Section 92.998.

(2) Issuance of Citations. No civil penalty shall be assessed under this Section until the person alleged to be in violation has been notified in accordance with paragraph (B), above. If after receiving a notice of violation the owner or other violator fails to correct the violation, a civil penalty shall be imposed in the form of a citation. Such citation shall substantially conform to the following:

(a) It shall be in writing;

(b) It shall be delivered by certified or registered mail to the last known address of the owner or occupant or such other person or by personal service or by posting conspicuously on the property;

(c) It shall state the civil penalty which is imposed upon the violator; and

(d) It shall direct the violator to pay the civil penalty within ten business days of the date of service of the citation.

(3) Payment of Civil Penalties. The schedule for civil penalties shall be set forth in a fee schedule maintained by the Town Clerk. For each day the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalties. If the offender fails to pay any civil penalties within 30 days of service of a citation, the Town may recover such penalties in a

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civil action in the nature of debt. Assessment of civil penalties shall be stayed pending appeals taken to the Board of Adjustment.

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

**SECTION THREE.** In administering this Ordinance, the Town shall have all the remedies and enforcement powers contained in Article 13 of the Zoning Regulations, as supplemented herein, and as provided by the General Statutes.

**SECTION FOUR.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

**SECTION FIVE.** If any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof

**SECTION FIVE.** The enactment of this ordinance shall in no way affect the running of any amortization provisions or enforcement actions, or otherwise cure any existing zoning violations.

**SECTION SIX.** This ordinance shall be in full force and effect from and after its enactment.

Adopted this 13<sup>th</sup> day of May, 2014.

**PUBLIC HEARING - PROPOSED ORDINANCE NO. 14-05-13A: AN ORDINANCE  
AMENDING THE ZONING REGULATIONS CONCERNING SIGNS OF A  
GOVERNMENTAL BODY**

Mayor Bob Keith opened the public hearing regarding proposed Ordinance No.14-05-13A and invited citizens to speak during the public hearing. No one requested to speak.

Council agreed to close the public hearing.

**CONSIDER ADOPTION OF ORDINANCE NO. 14-05-13A: AN ORDINANCE  
AMENDING THE ZONING REGULATIONS CONCERNING SIGNS OF A  
GOVERNMENTAL BODY**

Public notices were duly given and published in the Forest City Daily Courier newspaper.

Community Development Director Shannon Baldwin gave an overview of proposed Ordinance No.14-05-13A.

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After discussion, Commissioner Diane Barrett made a motion to adopt Ordinance No. 14-05-13A as presented. Commissioner Bob Cameron seconded the motion and the vote of approval was unanimous.

**ORDINANCE NUMBER 14-05-13A**

**AN ORDINANCE AMENDING THE ZONING REGULATIONS CONCERNING SIGNS OF A GOVERNMENTAL BODY**

**WHEREAS**, the Zoning and Planning Board has recommended modifications to the Zoning Regulations of the Town of Lake Lure as noted in the title of this ordinance; and

**WHEREAS**, Town Council finds that this Ordinance is neither consistent nor inconsistent with the 2007-2027 Town of Lake Lure Comprehensive Plan; and

**WHEREAS**, the Lake Lure Town Council, after due notice, conducted a public hearing on the 13<sup>th</sup> day of May, 2014, upon the question of amending the Zoning Regulations in this respect.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKE LURE, NORTH CAROLINA, MEETING IN REGULAR SESSION AND WITH A MAJORITY OF THE COUNCIL MEMBERS VOTING IN THE AFFIRMATIVE:**

**SECTION ONE.** Section 92.154 of the Zoning Regulations of the Town of Lake Lure, entitled "Signs Exempt from Regulations", is hereby amended in subsection (B) as follows:

- (B) Signs of a governmental body, including traffic warning or regulatory signs and devices. These signs shall also include other governmental signs including building identification, directional, information, and welcome signs. Signs of a governmental body other than the Town of Lake Lure require Town Council approval unless otherwise exempted by federal or state law.

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

**SECTION TWO.** Any person violating the provisions of this ordinance shall be subject to the penalties set forth in Section 92.999 of the Zoning Regulations.

**SECTION THREE.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

**SECTION FOUR.** If any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent

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jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

**SECTION FIVE.** The enactment of this ordinance shall in no way affect the running of any amortization provisions or enforcement actions, or otherwise cure any existing zoning violations.

**SECTION SIX.** This ordinance shall be in full force and effect from and after the date of its adoption.

Enacted this 13<sup>th</sup> day of May, 2014.

### **PUBLIC FORUM**

Mayor Bob Keith invited the audience to speak on any non-agenda items and/or consent agenda topics.

No one requested to speak.

### **STAFF REPORTS**

Town Manager Chris Braund presented the town manager's report dated May 13, 2014. (Copy of the town manager's report is attached.)

### **COUNCIL LIAISON REPORTS & COMMENTS**

Commissioner Diane Barrett reported the activities of the Parks and Recreation Board and announced that the Lake Lure Classical Academy will be holding their 5K Toga Run in Morse Park on Saturday, May 17.

Commissioner John Moore reported the activities of the Zoning and Planning Board

Commissioner Mary Ann Silvey reported the activities of the Lake Lure Classical Academy School Board, Lake Lure ABC Board and the Lake Advisory Board.

Commissioner Bob Cameron reported the activities of the Lake Lure Board of Adjustment/Lake Structures Appeal Board and announced that the next Lake Structure Appeals meeting will be held at noon on May 27, 2014 due to the large number of cases.

### **CONSENT AGENDA**



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Mayor Bob Keith presented the consent agenda and asked if any items should be removed before calling for action.

Commissioner Diane Barrett made a motion to approve the consent agenda as presented. Commissioner John Moore seconded the motion and the vote of approval was unanimous. Therefore, the consent agenda incorporating the following items was unanimously approved:

- a. minutes of the April 8, 2014 Meeting; and
- b. a request submitted by Rose Ann Gant to suspend the alcohol ordinance for a brunch being held in the community hall June 7, 2014 between 11:00 a.m. and 2:30 p.m. to allow serving of beer and wine at the event.

### **End of Consent Agenda.**

#### **UNFINISHED BUSINESS:**

##### **a. OTHER UNFINISHED BUSINESS**

There was no other unfinished business.

#### **NEW BUSINESS:**

##### **a. CONSIDER A REQUEST FROM GARLAND PREWITT CONCERNING LOWERING OF THE LAKE**

Garland Prewitt, owner of property at 179 Tryon Bay Circle, introduced himself and commended creators of the Flowering Bridge stating that there were about 60 people at the bridge when he drove into town.

Mr. Prewitt explained that he presented a request to the Lake Advisory Board at their last meeting asking them to recommend that the lake to be lowered early this year to allow his contractor to do work on his property that was affected by a land slide last year and he has been trying to get the project completed for months, but has been delayed multiple times. However, Mr. Prewitt has since been informed that the work can be completed while the lake is up at an increased cost of approximately \$3,000 to \$5,000. Mr. Prewitt suggested that the town consider contributing funds toward the increased cost since he has been trying to get the project completed for months, including off-peak lake season when the lake potentially could have been lowered.

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Council members asked Mr. Prewitt to explain what caused the delays and asked if he has been delayed because of inaction of the town.

Town Attorney Chris Callahan stated that he doesn't think that the town can use public funds to solve private shoreline problems.

Since Mr. Prewitt was reluctant to name specific problems during public forum, Mayor Bob Keith asked him to create a report for council to review so that if there was a problem in the town's our system, the report could assist in preventing it from happening again.

**NEW BUSINESS:**

**a. CONSIDER APPROVAL OF AN UPDATE TO THE TOWN'S PARKS, RECREATION, TRAILS, AND OPEN SPACE PLAN AS RECOMMENDED BY THE PARKS & RECREATION BOARD**

Council members reviewed potential changes to the town's Parks, Recreation, Trails, and Open Space Plan recommended by the Parks & Recreation Board. Commissioner Diane made a motion to approve the changes as presented. Commissioner Bob Cameron seconded the motion and the vote of approval was unanimous. (Copy of the updated Parks, Recreation, Trails, and Open Space Plan attached.)

**NEW BUSINESS:**

**b. CONSIDER A REQUEST FOR ADOPTION OF ORDINANCE NO. 14-05-13B TO DEMOLISH AND REMOVE THE DILAPIDATED DWELLING AND STRUCTURE AT 289 MARINA DRIVE (RUTHERFORD COUNTY TAX PIN: 1649205 AND 1649851), CASE # ASUD-2012001**

Zoning Administrator Sheila Spicer gave an overview of proposed Ordinance No. 14-05-13B and Attorney Chris Callahan explained the process outlined by the proposed ordinance.

Council members discussed the presented Ordinance and Commissioner Bob Cameron made a motion to adopt Ordinance No. 14-05-13B as presented. Commissioner John Moore seconded the motion and the vote of approval was unanimous.

**ORDINANCE NO. 14-05-13B DIRECTING THE CODE ENFORCEMENT OFFICER TO REMOVE OR DEMOLISH THE PROPERTY HEREIN DESCRIBED AS UNFIT FOR HUMAN**

**HABITATION AND DIRECTING THAT A NOTICE BE PLACED  
THEREON THAT THE SAME MAY NOT BE OCCUPIED  
FILE NO. ASUD-2012001**

**WHEREAS**, the Town Council of the Town of Lake Lure finds that the structures described herein are unfit for human habitation under the Town Abandoned Structures/Unfit Dwellings Regulations and that all of the procedures of the Abandoned Structures Code have been complied with; and

**WHEREAS**, these structures should be removed or demolished as directed by the Code Enforcement Officer and should be placarded by placing thereon a notice prohibiting use for human habitation; and

**WHEREAS**, the owner of these structures has been given a reasonable opportunity to bring the structure up to the standards of the Abandoned Structures/Unfit Dwellings Regulations in accordance with NCGS 160A-443(5) pursuant to an order issued by the Code Enforcement Officer on April 1, 2013, and the owner has failed to comply with the Order; and,

**WHEREAS**, the owner of these structures has failed to comply with an agreement signed by the owner and the Town that extended the compliance deadline stipulated in the Order to December 1, 2013.

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Lake Lure, that:

Section 1. The owner of such building(s), dwelling(s) and premises is hereby ordered to vacate any occupants and/or personal property therein on or before June 13, 2014.

Section 2. The Code Enforcement Officer is hereby authorized and directed to place placards containing the legend:

"This building is unfit for human habitation. The use or occupation of this building for human habitation is prohibited and unlawful."

on the structures located at the following address:

**289 Marina Drive (Rutherford County Tax ID #: 1649205 and 1649851)**

Section 3. The Code Enforcement Officer is hereby authorized and directed to proceed to remove or demolish the above described structures in accordance with the order to the owner thereof dated the 1<sup>st</sup> day of April 2013, and in accordance with the Abandoned Structures/Unfit Dwellings Regulations and NCGS 160A-443.

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- Section 4. (a) The cost of removal or demolition shall constitute a lien against the real property upon which the cost was incurred. The lien shall be filed in the office of the County Tax Collector, and shall have the same priority and be collected in the same manner as the lien for special assessments in Article 10 of N.C.G.S. Chapter 160A.
- (b) Upon completion of the required removal or demolition, the Code Enforcement Officer shall sell the materials of the dwelling and credit the proceeds against the cost of removal or demolition. The Code Enforcement Officer shall certify the remaining balance to the Tax Collector. If a surplus remains after the sale of the materials and satisfaction of the cost of removal or demolition, the Code Enforcement Officer shall deposit the surplus in the Superior Court where it shall be secured and disbursed in the manner provided by N.C.G.S. 160A-443(6).

Section 5. It shall be unlawful for any person to remove or cause to be removed the placard from any building to which it is affixed. It shall likewise be unlawful for any person to occupy or to permit the occupancy of any building therein declared to be unfit for human habitation.

Section 6. This Ordinance shall become effective upon its adoption.

ADOPTED this 13<sup>th</sup> day of May, 2014.

<b>ADJOURN THE MEETING</b>
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With no further items of discussion, Commissioner Bob Cameron made a motion to adjourn the meeting at 8:35 p.m. Commissioner John Moore seconded the motion and the vote of approval was unanimous.

ATTEST:

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Andrea H. Calvert  
Town Clerk

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Mayor Bob Keith