

MINUTES OF THE REGULAR MEETING OF THE LAKE LURE MARINE COMMISSION HELD TUESDAY, MARCH 13, 2018, 5:00 P.M. AT THE LAKE LURE MUNICIPAL CENTER

PRESENT: Mayor Kevin Cooley
Mayor Pro Tem John W. Moore
Commissioner Bob Cameron
Commissioner John Kilby
Commissioner Stephen Webber
Ron Nalley, Town Manager

ABSENT: N/A

CALL TO ORDER

Mayor Kevin Cooley called the meeting to order at 5:00 p.m.

INVOCATION

Mayor Kevin Cooley gave the invocation.

APPROVAL OF THE AGENDA

Commissioner Bob Cameron made a motion to approve the Agenda as presented. Commissioner John Kilby seconded and the motion carried 4-0.

PUBLIC FORUM

Mayor Kevin Cooley invited the audience to speak during public forum. No one from the public requested to speak at this time.

A. PUBLIC HEARING – RESOLUTION NO. 18-03-13 AMENDING THE LAKE USE REGULATIONS

Mayor Kevin Cooley opened the Public Hearing and invited the audience to speak regarding Resolution 18-03-13. No one from the public requested to speak at this time.

Commissioner Bob Cameron made a motion to close the public hearing. Mayor Pro Tem John Moore seconded and the motion carried 4-0.

CONSENT AGENDA

Mayor Kevin Cooley presented the Consent Agenda and asked if any items should be removed before calling for action.

Commissioner Bob Cameron made a motion to approve the Consent Agenda as presented. Mayor Pro Tem John Moore seconded and the motion carried 4-0. Therefore, the Consent Agenda incorporating the following item was unanimously approved:

- A. Adopt the December 12, 2017 Regular Meeting Minutes

NEW BUSINESS

A. ADOPTION OF RESOLUTION NO. 18-03-13 AMENDING THE LAKE USE REGULATIONS

Commissioner Stephen Webber stated that the proposed amendment to Section 4.01(K) of the Lake Structure Regulations requires all applicants who apply for a commercial license to purchase the commercial permit(s) before the Marine Commission approves the license. He questioned Council's authority in requiring applicants to pay for boat permits before approval of their lake commercial license. Lake Operations Director Givens felt that it would be a matter to discuss with the Town Attorney. Mr. Givens explained that in requiring this, it would more accurately reflect the number of permits in the Commercial Model. He further explained that the proposed amendment to Section 4.01(K) was added as a result of applicants requesting more commercial permits than were needed, mentioning that it takes up space in the Commercial Model. Commissioner Stephen Webber did not feel that the Town could legally require applicants to purchase commercial permits for boats that they may not use. Commissioner John Kilby suggested adding a deadline for the purchase of commercial permits, stating that if the deadline is not met, those boats would be removed from the Commercial Model.

Commissioner Stephen Webber made a motion to defer this item to the next quarterly meeting for further research.

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Following discussion, Commissioner Stephen Webber amended the original motion and moved to approve Resolution No. 18-03-13 as presented, with the exception of Section 4.01(K). Commissioner Bob Cameron seconded and the motion carried 4-0.

Commissioner Bob Cameron suggested adding a deadline of April 15th for the purchase of commercial boat permits. Council asked that the Lake Advisory Board study this matter further at their next meeting and bring a recommendation back to the Marine Commission.

RESOLUTION NO. 18-03-13

**OF THE TOWN OF LAKE LURE MARINE COMMISSION
AMENDING THE LAKE USE REGULATIONS CONCERNING
DEFINITIONS, PERMIT FEES, BOATING PERMIT REQUIRED, AND
ENFORCMENT PENALTIES**

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

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

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

WHEREAS, it is a goal of the Lake Use Regulations to provide definitions for applicable terms; accountability of commercial boats permitted; and, updated penalties for enforcement.

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

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

SECTION ONE. Amend Section 1.02 as follows:

§ 1.02 DEFINITIONS.

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

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

“COMMERCIAL CRAFT.” Water vessels used in connection with any type of business, trade or

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commerce, for profit or non-profit, including but not limited to: boat rentals, marinas, real estate agents, resorts, inns, lodging establishments, camps, ski schools, fishing guides, tour boats, contractors, boat repair companies or house rentals (that are required to pay occupancy tax) with boats, real estate development companies or property owner's associations. **Amended 11-9-04, 4-8-08, 6-13-17**

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

- (1) Liveries - Boat rentals or boat use privileges with no operator provided that may be associated with (but not limited to) marinas, resorts, inns, lodging establishments, house rentals (that are required to pay occupancy taxes) with boats or real estate agents that rent boats. **Amended 2-13-07**
- (2) Resorts - Boating operations available to patrons at resorts, inns, or lodging establishments ~~that are staff operated.~~
- (3) Camps - Boating operations at camp facilities ~~that are staff operated.~~
- (4) Ski Schools - All commercial operations ~~utilizing tow boats for~~ providing water sports activities, ~~which may include instruction that are~~ not associated with a specific camp, resort, inn or lodging facility.
- (5) Tour Boats - Boating operations that are used to provide piloted tours of the lake. Boats in this class require a concession agreement with the Town regardless of the number permitted. **Amended 6-13-17**
- (6) Fishing Guides - Boating operations that are not associated with a specific camp, resort, inn or lodging facility and are used to provide a piloted fishing excursion.
- (7) Services - Boating operations utilized by building contractors and boat repair companies. **Amended 6-13-17**

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

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

"LAKE, also LAKE LURE" The body of water known as Lake Lure formed by the creation of the dam at Tumbling Shoals over the Broad River in Rutherford County, NC and including that portion of the Broad River above the lake extending below the elevation of 992 feet above mean sea level. **Amended 11-9-04, 6-13-17**

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

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

"LAUNCH SITE." Any location on the land adjacent to the shoreline of Lake Lure that may be used for launching water vessel(s), provided that this term does not include lake structures as defined in the Lake Structures Regulations. **Amended 11-9-04, 6-13-17**

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

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§ 4.01 PERMIT FEE; BOATING PERMIT REQUIRED.

- (A) Except as hereinafter provided, all persons, firms, or corporations shall secure a permit from the Marine Commission or its designated agents before placing, operating, or allowing any water vessel to be placed or operated on Lake Lure.
- (B) All commercial operations must apply for a lake commercial license in accordance with section 4.08 and 4.09 of these regulations. **Amended 4-11-06, 6-13-17**
- (C) All town employees and any member on the active roster of the Lake Lure, Bill's Creek, Chimney Rock, or Fairfield Volunteer Fire Departments shall be entitled to receive one complimentary annual water vessel permit. A member on the active roster of the Bat Cave, Gerton or Sunny View Volunteer Fire Departments may purchase one annual water vessel permit at the resident rate. A member on the active roster of the Hickory Nut Gorge Emergency Medical Service shall be entitled to one complimentary annual water vessel permit. **Amended 7-12-11, 6-13-17**
- (D)
 - (1) Federal, State and Local governmental agencies are exempt from this Section provided they are operating in an official capacity, including but not limited to training, research, data collection, emergency response, or other service related duties. Complimentary permits will be provided for the dates and times needed to perform their official duties, and will only require a valid registration. Vessel length restrictions shall not be imposed. Vessels permitted under this policy shall not be used for recreational activities. **Adopted 12-13-16**
 - (2) Contractors that are providing a lake-related service to the Town of Lake Lure under a Town sponsored project, without a boat permit will receive a complimentary boat permit. Permits granted under this section are only valid for the duration of the project. Valid registration and insurance will be required. Vessel length restrictions shall not be imposed. Vessels permitted under this policy shall not be used for recreational activities. **Adopted 12-13-16**
- (E) All water vessel permit fees shall be assessed according to a schedule of permit fees adopted annually by the Marine Commission. **Amended 4-11-06 6-13-17**
- (F)
 - (1) Water vessel permit fees for "non-residents" may be set at a greater amount than water vessel permit fees for residents. **Amended 4-11-06**
 - (2) Corporations owning real property in the Town of Lake Lure may purchase an annual water vessel permit at resident rates, provided the proper registration papers can be presented showing the boat is registered to the corporation.
 - (3) Residents or their spouses who own a developed lot (a lot with a dwelling or commercial structure) qualify for up to three resident annual motorized over 10 HP boat permits, provided that the maximum number of permits for motorized over 10 HP boats have not been issued. **Amended 4-11-06, 2-13-07, 6-13-17**
 - (4) Property owners or their spouses owning an undeveloped lot qualify for one annual motorized boat permit or one peak season weekday only permit. **Amended 4-11-06, 2-13-07, 9-09-14, 6-13-17**
- (G) The valid and current state registration of the water vessel must be presented to the designated issuing agent when purchasing a Lake Lure water vessel (boat) permit. A resident's or property owner's registration must match the name on the town's tax records for the permit to be issued as a resident permit. Commercial operators must present tax records if their water vessel is registered with a leasing agency.

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- (H) Owners of timeshare properties within the Town of Lake Lure may purchase one motorized boat permit at the resident rate for the week(s) for which they have a timeshare contract. Verification of the contract is required. **Amended 4-11-06**

- (I) The Marine Commission has adopted the following limits on motorized boat permits:
 - (1) A maximum of 1,000 resident annual unlimited use permits for boats with more than 10 HP.
 - (2) A maximum of 250 resident annual peak season weekday (no use on holidays), unlimited off-peak season permits for boats with more than 10 HP.
 - (3) A maximum of 75 non-resident annual unlimited use permits.
 - (4) A maximum of 75 non-resident annual peak season weekday (no use on holidays), unlimited off-peak season permits for boats with more than 10 HP. **Amended 12-11-12, 6-13-17**

- (J) Owners of lakefront lots having structures thereon shall have the E911 designated address assigned to the property posted in accordance with §42.6 of the Code of Ordinances of the Town of Lake Lure titled Boat House Numbering. Said signs shall be ordered through the Town office before any annual water vessel permit may be obtained from the Town. **Amended 4-11-06, 6-13-17**

SECTION TWO. Amend Section 5.01 as follows:

§ 5.01 ENFORCEMENT; PENALTIES.

- (A) All law enforcement officers with territorial jurisdiction as to any part of the waters of Lake Lure or its shoreline area within the limitations of their subject matter jurisdiction, have the authority of peace officers in enforcing the laws over all of the waters of Lake Lure and its shoreline area. A certificate of training issued by the North Carolina Criminal Justice Education and Training Standards Commission or the North Carolina Sheriffs' Education and Training Standards Commission will suffice for certification for the purposes of the Lake Use Regulations. **Amended 6-13-17**

- (B) Any person, firm, or corporation violating any provision of the Lake Use Regulations for which no specific penalty is otherwise provided, shall upon conviction be guilty of a misdemeanor as provided in NCGS § 14-4; however, violations of § 4.04 shall be as provided in NCGS § 75A-18. **Amended 6-13-17**

- (C) Any person, firm, or corporation violating any provisions of the Lake Use Regulations, upon conviction thereof, may be suspended from further use of Lake Lure, at the discretion of the Marine Commission. **Amended 6-13-17**

- (D) The Marine Commission may also provide for enforcement of the Lake Use Regulations by other remedies, as authorized in NCGS § 160A-175, including the imposition of those civil fines defined in the schedule of fines, the ordering of specific equitable relief, including injunctions, or a combination of remedies. In addition the Marine Commission may seek an appropriate equitable remedy issuing from a court of competent jurisdiction. (Res. Passed 3-9-04) **Amended 4-11-06, 6-13-17**

- (E) A schedule of fees for violations of Class A, Class B, Class C (Non-motorized), Class C (Motorized), and Class D shall be adopted by the Marine Commission annually. Said schedule may be amended by Resolution of the Commission as required. (Res. Passed 4-11-06) **Amended 6-13-17**

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Schedule of Civil Fines for Lake Regulation Violations

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

1 - General Lake Use

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

2 - Swimming

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

3 - Fishing

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

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

5- Boating (Operation)

Operation of boat at a speed greater than "no wake" speed within 75 feet of shoreline	5.2	C
Operation of boat at a speed greater than "no wake" speed during "no wake" hours	5.4	C
Boat tied to town public dock for longer than 2.5 hours	5.5	A
Boat tied to town buoy or marker	5.6	A
(a) resulting in damage to property	5.8a	B
(b) resulting in personal injury	5.8b	C

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Schedule of Civil Fines for Lake Regulation Violations

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

Schedule of Civil Fines for Lake Regulation Violations	Fine Number	Violation Category
(c) resulting in death	5.8c	D
Motorized water vessel racing	5.10	C
Insufficient exhaust muffling for town sound requirements	5.11	A
6- Water Sports		
Engaging in water sports in prohibited cove	6.2	B
7- Commercial Operations Only		
Use of boat for commercial purposes without a valid lake commercial license and boat permit	7.1	D
Operation of commercial craft greater than 100hp without boat-to-shore communications capability	7.2	B
Failure to report violation of state or local regulations or observed accidents	7.3	A
Failure to render assistance to disabled vessel	7.4	A
Uncertified operator	7.5	B
Engaging in water sports (towing) without Class 4 Ski School License (or permission of such)	7.6	C
Operation of boat during lightning threat	7.7	C
Permanent mooring of any commercial boats at a lake structure out of compliance with zoning requirements of upland lots	7.8	D
Launching of motorized water vessels from unapproved launch site (one without valid permit)		
Operation of general launch site without display of launch permit		
Operation of general launch site during Marine Commission restriction		

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**Schedule of Civil
Fines for Lake
Regulation
Violations**

**Fine
Number Violation Category**

~~Failure to obtain permit for private launch
site~~

Violation Category

A = nuisance, little impact on others

B = minor impact on lake operations and safety

C = significant impact on lake operations and safety

D = major impact on lake operations and safety

Adopted 6-13-17

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

Adopted this 13th day of March, 2018.

<p>NEW BUSINESS</p>

<p>B. REVISION TO THE BOAT PERMIT MODEL</p>
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Lake Operations Director Dean Givens provided an update on the boat permit model stating that the Commercial Model only allows for 0.7 hours in the “Livery Greater than 10hp” category. He explained that moving two percent of the unused hours from “Livery Less than 10hp” to “Livery Greater than 10hp” would allow room for two additional boats in the Commercial Model. He stated that this should not have an impact on the “Livery Less than 10hp” category, noting that there has not been a demand for those types of permits in the past.

Following review and discussion, Commissioner Bob Cameron made a motion to amend the 2018 Commercial Boat Permit Model, moving two percent unused hours from “Livery Less than 10hp” to “Livery Greater than 10hp,” to allow for two additional boats in the “Livery Greater than 10hp” category. Mayor Pro Tem John Moore seconded and the motion carried 4-0.

NEW BUSINESS

C. REQUEST FOR A LAKE COMMERCIAL LICENSE

Following a brief discussion, Commissioner Stephen Webber made a motion to approve a 2018 Lake Commercial License for Dan Breneman for one motorized rental livery boat. Commissioner John Kilby seconded and the motion carried 4-0.

NEW BUSINESS

D. REQUEST FOR A LAKE COMMERCIAL LICENSE

Following a brief discussion, Commissioner Bob Cameron made a motion to approve a 2018 Lake Commercial License for Byron Marsh, with Lake Dog Properties, for one motorized rental livery boat. Commissioner John Kilby seconded and the motion carried 4-0.

Commissioner Stephen Webber noted that the Lake Commercial License Forms were out-of-date and should be updated.

NEW BUSINESS

E. TOWN MARINA SLIPS PRIORITY POLICY

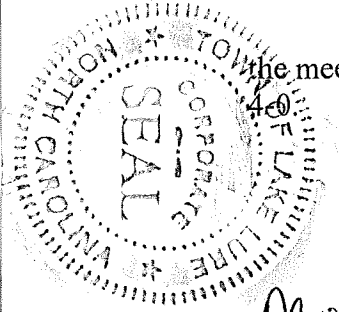
Commissioner John Kilby pointed out that the current policy for marina slip rentals are based on a first-come, first-serve basis and felt that tax paying residents of Lake Lure should have priority over non-residents. He mentioned that there are currently 24 Lake Lure tax paying citizens on the waiting list and 23 non-residents currently renting marina slips.

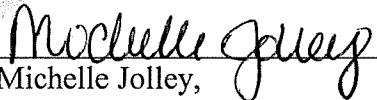
Commissioner Stephen Webber made a motion to task the Lake Advisory Board to review and discuss the Marina Slip Priority Policy and report back to the Marine Commission at their next meeting. Commissioner Bob Cameron seconded and the motion carried 4-0.

Mayor Pro Tem John Moore suggested the Marine Commission discuss and consider the meeting time change, as noted on the Agenda for Town Council. The Board had no objections to changing the time of the meeting.

ADJOURNMENT

With no further business, Commissioner Bob Cameron made a motion to adjourn the meeting at 5:36 p.m. Commissioner Stephen Webber seconded and the motion carried




Michelle Jolley,
Lake Lure Marine Commission Clerk