



Town of Lake Lure

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Incorporated 1927

MINUTES OF THE REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL HELD TUESDAY, OCTOBER 20, 1998, 7:00 P.M. AT THE LAKE LURE MUNICIPAL CENTER

PRESENT: Mayor Jack Powell
Commissioner Carolyn Cobb
Commissioner Gene Sheffield
Commissioner Jack Stanier

J. Christopher Callahan, Town Attorney
Sam A. Karr, Acting Town Manager
Chuck Place, Zoning Administrator

ABSENT: Commissioner Beth Rose

CALL TO ORDER

Mayor Powell called the meeting to order at 7:00 p.m.

INVOCATION

Commissioner Cobb gave the invocation.

Mayor Powell announced that Commissioner Rose was absent from the meeting tonight due to an allergic reaction to medicine which she had taken after a recent brain surgery to remove a tumor.

AGENDA ITEMS

Commissioner Stanier moved, seconded by Commissioner Sheffield, to add the following three items to the agenda for discussion under new business as requested by Mayor Powell. The vote of approval was unanimous.

1. Review a request from the Mountains Valleys Resource Conservation & Development (RC&D), Inc. asking the Town to share the costs (such as office space, support salary, & office supplies for a technical position for a two-year period) associated with a Lake Lure Watershed project;

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2. Review a request from Sharon Theiss, owner of the Red Barn & Bear Company, to suspend section 63.01 of the Town Code of Ordinances in order to hold a German Fest; and
3. Adopt an ordinance establishing a temporary moratorium on sexually oriented businesses in the Town of Lake Lure.

PROPOSAL TO PROVIDE FOR MARINAS (TO BE ADDED TO DRAFT LAKE STRUCTURES ORDINANCE)

Zoning Administrator Chuck Place, introduced the following proposal for Town Council to consider incorporating into the draft Lake Structures Ordinance.

**PROPOSAL TO PROVIDE FOR MARINAS
(To be added to draft Lake Structures Ordinance)
October 15, 1998**

Section 94.02 DEFINITIONS

"Marina." A facility which provides for rent or lease, uncovered temporary or permanent mooring for watercraft.

Section 94.14 MARINAS.

- (A) The Zoning Administrator shall review each lake structure permit application for a marina to confirm that the proposed facility conforms to this ordinance and submit a recommendation to Council based on this review. The Council shall approve or deny the request based on the report of the Administrator and a determination that the location will not be adverse to navigation and boating safety or to any nearby residential area.
- (B) A marina may have not more than five permanent or temporary mooring slips for each 100 feet of shoreline, provided this limitation shall not apply to any marina owned by the Town of Lake Lure.
- (C) Permanent mooring slips may be rented or leased for the mooring of any watercraft with a valid permit issued by the town.
- (D) Docks and piers at a marina may be either fixed or floating structures.
- (E) Sale of fuel, lubricants, boats, marine accessories, bait and fishing supplies and repair of boats shall be permitted at marinas, provided the upland property is zoned C-1.

[Note: Inclusion of this new section will require renumbering of the existing sections 14 and 15 to 15 and 16.]

After discussion, Commissioner Cobb moved, seconded by Commissioner Sheffield, to add the proposal to provide for Commercial Marinas to the draft Lake Structures Ordinance. The vote of approval was unanimous.

PUBLIC HEARINGS:

- 1. AMENDMENT TO THE ZONING MAP FOR THE PROPERTY KNOWN AS CHIMNEY ROCK PARK FROM R-1A AND R-3 TO S-1 (SCENIC NATURAL ATTRACTION DISTRICT)**
- 2. AMENDMENT TO THE LAKE STRUCTURES REGULATIONS IN CHAPTER 94 OF THE LAKE LURE CODE OF ORDINANCES**
- 3. GIVING CONSIDERATION TO THE CLOSING OF A PORTION OF BOTTOMLESS POOLS ROAD (AVENUE "A") BETWEEN FIRST STREET AND A POINT 180' SOUTH OF FIRST STREET, AND A 20' WIDE ALLEY ABOUNDING THE SOUTH WALL OF THE ARCADE BUILDING**

Notices of the Public Hearings were duly given within the legal classified section of the issue of the Forest City Daily Courier newspaper.

Commissioner Cobb moved, seconded by Commissioner Sheffield, to enter into three Public Hearings in the following order as requested by Mayor Powell. The vote of approval was unanimous.

- 1. Amendment to the zoning map for the property known as Chimney Rock Park from R-1A and R-3 to S-1 (Scenic Natural Attraction District);**
- 2. Amendment to the Lake Structures Regulations in Chapter 94 of the Lake Lure Code of Ordinances; and**
- 3. Giving consideration to the Closing of a portion of Bottomless Pools Road (Avenue "A") between First Street and a point 180' South of First Street, and a 20' wide alley abounding the South wall of the Arcade Building.**

Zoning Administrator Chuck Place, read into the record the proposed Ordinance No. 98-10-20 (amending the zoning map).

Mayor Powell invited citizens to speak during public hearing #1. No one requested to speak.

Next, Mayor Powell invited citizens to speak during public hearing #2. The following persons requested to speak:

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1. Edward R. Dittmer, a Lake Lure resident, thanked the Town Council for listening to residents/property owners in Lake Lure who expressed their desire to allow accessory structures primarily for shade on top of boathouse decks. He said that it had been a long nine months addressing the issue of gazebos being built on boathouses. Mr. Dittmer requested that Council reconsider the phrasing in the draft Lake Structures Regulations addressing how these gazebo structures should look. He asked Council to reconsider again, that his lattice work would not obstruct any of his neighbor's view.
2. Fred Noble, a resident of Hawthorne Drive, suggested that Council consider adding three words ("reasonable", "design", and "latitude") in the Lake Structures Regulations. Mr. Noble asked for a clarification on the meaning of the word "stationary" used in defining lake structure.
3. Dr. Steve Stewart, a resident of Snug Harbor Circle, said that if properly constructed, a structure on a boathouse can enhance the beauty of the lake. He said the current ordinance limits a structure on the boathouse deck to a ten foot height, which allows only two feet for a roof. Dr. Stewart explained that this limitation would in turn give a structure a look similar to a wood shed. He asked that Council reconsider the height limitation.
4. Jack Donovan, a former Council member, questioned why the board spent nine months on the Lake Structures Ordinance to accommodate one gazebo.
5. Dick Lorenzen, a resident of Quail Cove Road and a committee member of the Lake Structures Appeals Board, said that one of the problems is we have no ground rules to work with on his committee. Mr. Lorenzen stated the new code finally gives more direction to the appeals board. Lorenzen explained that Mr. Dittmer was turned down for two reasons. Mr. Dittmer went ahead and built his gazebo without the town's permission and knowingly continued building after being notified by the Town he was in violation. Mr. Lorenzen asked Council to find some way of stopping these structures in an incipient stage before these structures in violation of the Town's ordinances go any further.
6. Bob Washburn, Chairman of the Lake Advisory Committee, complimented Zoning Administrator Chuck Place, Town Attorney

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Chris Callahan, and the boards/committees for their work in rewording the draft Lake Structures Regulations. Mr. Washburn said the wording of the draft ordinance being presented today does not include the same wording recommended by his committee. He reviewed key points recommended by the Lake Advisory Committee.

Town Attorney Chris Callahan responded to Mr. Donovan's comments explaining that the basis for revising the Town's Lake Structures Ordinance was based on two issues: (1) the projected lot lines for determining setbacks lines were worded strangely they made it difficult to interpret/enforce; and (2) individuals felt that there needed to be an appeal process in the ordinance.

No one requested to speak during Public Hearing #3. There being no further comments and/or questions forthcoming, the Mayor closed the public comment session.

With no further items for discussion, Commissioner Cobb moved, seconded by Commissioner Sheffield to come out of the public hearings and re-enter the regular session of the meeting. The vote of approval was unanimous.

**ADOPTION OF ORDINANCE NO. 98-10-20
AMENDMENT TO THE ZONING MAP FOR THE PROPERTY
KNOWN AS CHIMNEY ROCK PARK FROM R-1A AND R-3 TO S-1
(SCENIC NATURAL ATTRACTION DISTRICT)**

Commissioner Stanier moved, seconded by Commissioner Sheffield, to adopt the following ordinance no. 98-10-20 as presented. The vote of approval was unanimous.

ORDINANCE NO. 98-10-20

**AN ORDINANCE AMENDING THE ZONING ORDINANCE
OF THE TOWN OF LAKE LURE**

WHEREAS, the Town of Lake Lure Zoning and Planning Board, after due consideration, has recommended an amendment to the zoning map *for the property known as Chimney Rock Park; and,*

WHEREAS, *the Lake Lure Town Council, after due public notice, conducted a public hearing on the 20th day of October, 1998, upon the question of amending the zoning map 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 COUNCILMEN VOTING IN THE AFFIRMATIVE:

SECTION ONE: To amend the zoning map referenced in Chapter 92 of the Lake Lure Code of Ordinances by changing the zoning classification *of the property commonly known as Chimney Rock Park from R-1A and R-3 to S-1. This*

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property is described as Tax Parcels 523-1-3, 4C and 5 on the official tax maps of Rutherford County, North Carolina, and encompasses 269.1 acres, more or less.

SECTION TWO: The Zoning Administrator shall make all the necessary corrections to the zoning map so as to implement the provisions of this ordinance and shall henceforth enforce the ordinance as hereby amended.

SECTION THREE: This ordinance shall be effective upon its adoption.

Adopted this 20th day of October, 1998.

Mayor Jack Powell

ATTEST:

Mary A. Flack, CMC/AAE
Town Clerk

APPROVED AS TO FORM:

J. Christopher Callahan
Town Attorney

**ADOPTION OF ORDINANCE NO. 98-10-20B
AMENDMENT TO THE LAKE STRUCTURES REGULATIONS IN
CHAPTER 94 OF THE LAKE LURE CODE OF ORDINANCES**

Commissioner Sheffield moved, seconded by Commissioner Cobb, to adopt the following ordinance no. 98-10-20B as amended. The vote of approval was unanimous.

ORDINANCE NO. 98-10-20B

**AN ORDINANCE AMENDING CHAPTER 94 (THE LAKE STRUCTURES REGULATIONS) OF THE
CODE OF ORDINANCES FOR TOWN OF LAKE LURE**

WHEREAS, the Town of Lake Lure Lake Advisory Committee, Lake Structures Appeals Board and Zoning and Planning Board, after due consideration, have jointly recommended an amendment to the Chapter 94 of the Code of Ordinances, commonly known as the Lake Structures Regulations; *and,*

WHEREAS, *the Lake Lure Town Council, after due public notice, conducted a public hearing on the 20th day of October, 1998, upon the question of amending said chapter;*

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

SECTION ONE: To amend Chapter 94 of the Lake Lure Code of Ordinances to read as follows:

§ 94.01 USE OF LAKE LURE

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No structure shall hereafter be erected or maintained within the lake boundary of Lake Lure within the corporate limits of the town 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 chapter, or amendments thereto. Issuance of a permit or certificate for a lake structure does not confer any rights to ownership of land or water owned by the town. (Ord., passed 12-15-92; Am. Ord., passed 10-20-98) Penalty, see § 94.99

§ 94.02 DEFINITIONS

For the purpose of this chapter, the following definitions shall apply.

“Boathouse.” Any roofed structure enclosed with walls containing one or more slips designed principally for permanent or temporary storage and/or housing of water-craft.

“Boardwalk.” A structure running parallel to the shoreline and used for pedestrian access along the shoreline of one or more properties.

“Cluster Mooring Facility.” Fixed or floating pier(s) with more than 3 three slips to provide dock space to owners of condominiums and other dwellings or customers of marinas.

“Distance from the shoreline.” Measured from the contour elevation of 990 feet MSL.

“Dock.” A platform generally parallel to the shoreline for the reception, loading, and unloading and mooring of boats.

“Float, swimming.” A floating platform anchored near the shoreline for the use of swimmers or boats.

“Lake Boundary.” The contour elevation 995 feet MSL. “Lake Boundary” is not synonymous with lake “Shoreline.”

“Lake Structure.” Anything constructed or erected within the lake boundary including any pier, dock, boathouse, slip, ramp, swimming float, sea wall, or similar facility whether fixed or floating or a combination thereof, used primarily as a stationary facility.

“Lake Structure Certificate.” The document that is issued to property owners following approval by the Zoning Administrator that the lake structure adjacent to their property conforms to this chapter.

“Lake Structure Tag.” A metal tag, to be affixed to a lake structure, which indicates that a lake structure certificate has been issued.

“Marina.” A facility which provides for rent or lease, covered or uncovered temporary or permanent mooring for watercraft.

“Markers.” Floating buoys or fixed signs that give navigational or warning information.

“MSL.” The elevation above mean sea level, United States Geological Survey datum.

“Permit.” Documents that are required prior to any construction of a structure on land or in the lake within the “Lake Boundary.”

“Pier.” A structure extending from land out into the lake for the mooring of boats and to afford convenient passage of passengers and cargo to and from boats.

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"Ramp." A short slope extending from the shoreline into the lake for the purpose of launching or retrieving a boat.

"Sea Wall." A structure built along the shoreline to resist the erosion of the land caused by the lake and which can also be used to moor boats and as a structure to receive and discharge a boat's passengers and cargo.

"Slip." 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)

"Shoreline." The line where the land and water meet most of the year which is at the elevation of 990 feet MSL.

"Temporary Mooring Slip." 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)

"Upland Lot." A lot having a boundary coexistent with the portion of the shoreline where a lake structure exists or is planned.

"Water Depth." Measured from the average lake level of 990 feet above mean sea level, United States Geological Survey datum.

(Ord., passed 12-15-92; Am. Ord., passed 8-9-94, 10-20-98) Penalty, see § 94.99

§ 94.03 PERMIT TO CONSTRUCT

- (A) 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, a lake structure permit. A building permit must be obtained from the County Building Inspector. Upon application for a lake structure permit, the applicant shall present to the Zoning Administrator the following information and materials. The application and all plans shall be signed and dated by the property owner.
- (1) Location of the proposed installation with respect to the shoreline and the boundaries of the upland lot to which it is adjacent.
 - (2) Length of shoreline of upland lot.
 - (3) Plans, drawn to scale, showing the height, length, width and configuration of the proposed installation.
 - (4) Whether covered or uncovered (enclosed or open).
 - (5) Specified materials for use in construction or installation.
 - (6) Water depth at the farthest point of projection.
 - (7) Distance from the farthest point of projection to the opposite shore.
 - (8) Proof of liability insurance (see § 94.04).
 - (10) Documents showing approval of fuel storage and dispensing systems from any appropriate federal, state and local agencies (if required).
 - (11) In the case of a boathouse, proof of ownership of a residence or residence under construction on the upland lot or an adjoining lot. (This is not required for any other lake structures).
 - (12) Plans for the construction of a sea wall (if required).

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- (13) The application fee, the amount of which shall be established by the Town Council.
 - (14) A deposit of compliance that is refundable if the structure receives a lake structure certificate. The deposit of compliance shall be a certified or cashier's check for \$500 for any structure or alteration costing more than \$1000 and less than \$5000 or \$1000 for any structure or alteration costing more than \$5000. An irrevocable letter of credit may be accepted instead of a deposit of compliance when a builder that is approved by the town is acting as an agent for the property owner. **(Amended 8-9-94)**
 - (B) Dimensional and structural guidelines are provided in § 94.05 of this chapter.
 - (C) Construction pursuant to the issuance of a lake structure permit must commence within six months of approval and may not, thereafter, cease for a period of twelve consecutive months or the permit shall become invalid. If the structure for which a permit was approved has not received a lake structure certificate within two years after the date of approval, the applicant shall be required to renew the permit and comply with all regulations in effect on the date of renewal.
 - (D) 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 be issued a lake structure certificate and tag. Upon issuance, the tag shall be attached to the structure to indicate it is an approved structure.
- (Ord., passed 12-15-92; Am. Ord., passed 8-9-94, 10-20-98) Penalty, see § 94.99

§ 94.04 LIABILITY INSURANCE

All property owners having structures other than seawalls 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 or renewal of a lake structure certificate, proof of this liability insurance must be provided the town pursuant to § 94.03 (A) (7).

(Ord., passed 12-15-92; Am. Ord., passed 6-28-94, 10-20-98) Penalty, see § 94.99

§ 94.05 DESIGN AND CONSTRUCTION STANDARDS

The following standards shall 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 § 94.03, 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) The minimum shoreline width required to construct any lake structure shall be 100 feet; provided that the minimum shoreline width required to construct any lake structure on lots of record that existed prior to December 15, 1992, shall be 80 feet; and further provided that seawalls and one pier not more than four feet in width may be constructed on any lot, regardless of width.
- (B) No structure shall be placed in the water more than 30 feet or one third the distance to the opposite shore, whichever is less, as measured to and from the shoreline. At least one third of the waterway must be left unobstructed.
- (C) No structure shall be located closer than 15 feet to any side lot line, as projected into the lake. The projection of the lot line shall be a straight line on the same bearing as the lot line. This provision does not apply to seawalls. See also paragraph (M) below regarding boardwalks.
- (D) The maximum width of any boat slip, whether covered or uncovered, shall be 11 feet and a maximum of three

