

**MINUTES OF THE REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL
HELD TUESDAY, OCTOBER 13, 2009, 7:00 P.M. AT THE LAKE LURE MUNICIPAL
CENTER**

PRESENT: Mayor Jim Proctor
Commissioner Bill Beason
Commissioner Wayne Hyatt
Commissioner Russ Pitts
Commissioner Linda Turner

Christopher Braund, Town Manager
J. Christopher Callahan, Town Attorney
Mike Egan, Community Development Attorney

ABSENT: N/A

CALL TO ORDER

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

INVOCATION

Attorney Callahan gave the invocation.

APPROVE THE AGENDA

After discussion, Commissioner Turner made a motion to approve the agenda as presented. Commissioner Hyatt seconded the motion and the vote of approval was unanimous.

PUBLIC HEARING - PROPOSED ORDINANCE NO. 09-10-13 AMENDING THE TOWN OF LAKE LURE LAKE STRUCTURE REGULATIONS, TITLE IX, CHAPTER 94, SECTIONS 94.02 DEFINITIONS, 94.03 PERMIT TO CONSTRUCT, AND 94.05 DESIGN AND CONSTRUCTION STANDARDS OF THE LAKE STRUCTURE REGULATIONS OF THE TOWN OF LAKE LURE
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Erosion Control Officer Clint Calhoun gave a brief overview and answered questions pertaining to proposed Ordinance No. 09-10-13 amending the Lake Structure Regulations.

Mayor Proctor opened the public hearing regarding proposed Ordinance No. 09-10-13 amending the Lake Structure Regulations. He invited citizens to speak during the public hearing and no one requested to speak.

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After discussion, Commissioner Turner made a motion to close the public hearing. Commissioner Hyatt seconded the motion and the vote of approval was unanimous.

CONSIDER ADOPTION OF ORDINANCE NO. 09-10-13 AMENDING THE TOWN OF LAKE LURE LAKE STRUCTURE REGULATIONS, TITLE IX, CHAPTER 94, SECTIONS 94.02 DEFINITIONS, 94.03 PERMIT TO CONSTRUCT, AND 94.05 DESIGN AND CONSTRUCTION STANDARDS OF THE LAKE STRUCTURE REGULATIONS OF THE TOWN OF LAKE LURE

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

After discussion, Commissioner Hyatt made a motion to adopt Ordinance No. 09-10-13 as presented. Commissioner Turner seconded the motion and the vote of approval was unanimous.

ORDINANCE NUMBER 09-10-13

AN ORDINANCE AMENDING SECTION 94.02 DEFINITIONS, 94.03 PERMIT TO CONSTRUCT, AND 94.05 DESIGN AND CONSTRUCTION STANDARDS OF THE LAKE STRUCTURE REGULATIONS OF THE TOWN OF LAKE LURE

WHEREAS, the Town of Lake Lure Lake Advisory Board has recommended modifications to Chapter 94, concerning the definitions, permit to construct, and design and construction standards of the Lake Structure Regulations of the Town of Lake Lure; and

WHEREAS, the Lake Lure Town Council, after due notice, conducted a public hearing on the 13th day of October, 2009, upon the question of amending the Lake Structure 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 TOWN COUNCIL VOTING IN THE AFFIRMATIVE.

SECTION ONE. Section 94.02 of the Lake Structure Regulations of the Town of Lake Lure is hereby amended as follows:

§ 94.02 DEFINITIONS

"Covered Slip." Any roofed structure not enclosed with walls and containing one or more slips designed principally for permanent or temporary storage and/or housing of watercraft.

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

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SECTION TWO. Section 94.03 of the Lake Structure Regulations of the Town of Lake Lure is hereby amended as follows:

§ 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 Lake Structure Administrator, a lake structure permit. A building permit must be obtained from the County Building Inspector except for structures installed rather than built (such as umbrellas, awnings, canopies, or moored inflatable platforms), so long as these structures do not exceed 150 pounds in total weight. Upon application for a lake structure permit, the applicant shall present to the Lake Structure Administrator the following information and materials. The application and all plans shall be signed and dated by the property owner. Additional restrictions and regulations apply to commercial lake structures, cluster mooring facilities and marinas. Please see sections 94.12, 94.13, and 94.14 for information regarding the permit to construct these types of lake structures.

(3) Plans certified by a licensed architect or engineer in accordance with North Carolina code, drawn to scale, showing the height, length, width and configuration of the proposed installation. Excluded from this requirement are structures installed rather than built (such as umbrellas, awnings, canopies, or moored inflatable platforms) so long as these structures do not exceed 150 pounds in total weight.

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

SECTION THREE. Section 94.05 of the Lake Structure Regulations of the Town of Lake Lure is hereby amended as follows:

(L) Moored Floating Platforms.

(6) Any moored floating platform, whether permanent or temporary, shall be identified with the owner's name, local address, and local telephone number so that the platform can be identified and returned if it breaks loose from its mooring. This identification may be accomplished by attaching a metal or plastic tag to the platform or by printing the information directly onto the device using paint or ink.

(P) As a condition of issuance of a permit, all structures built above the roof of a boathouse or covered slip, including decks and deck top accessory structures, shall require certification by a licensed architect or engineer that the boathouse structure is capable of supporting

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the dead and live load of the rooftop structure. Excluded from this requirement are structures installed rather than built (such as umbrellas, awnings, canopies, or moored inflatable platforms) so long as these structures do not exceed 150 pounds in total weight.

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

SECTION FOUR. Any person violating the provisions of this ordinance shall be subject to the penalties set forth in Section 94.99 of the Lake Structure Regulations.

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

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

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

Adopted this 13th day of October, 2009.

ATTEST:

Mary A. Flack, MMC
Town Clerk

Mayor Jim Proctor

Approved as to form:

J. Christopher Callahan
Town Attorney

PUBLIC HEARING - PROPOSED ORDINANCE NO. 09-10-13A AMENDING THE TOWN OF LAKE LURE ZONING REGULATIONS TITLE IX, CHAPTER 92, AND THE FABRIC STRUCTURES REGULATIONS TITLE IX, CHAPTER 97, PERTAINING TO STANDARDS FOR FABRIC STRUCTURES

Zoning Administrator Sheila Spicer gave a brief overview and answered questions regarding proposed Ordinance No. 09-10-13A amending the Zoning Regulations and Fabric Structures Regulations pertaining to standards for fabric structures. She also read into the record the following staff report pertaining to Ordinance No. 09-10-13A.

The Zoning and Planning Board began studying possible amendments to the regulations pertaining to fabric structures in April of this year. They initially outlined various areas of concern including the use of the structure, setbacks, duration of stay, land disturbance, and the application process. The Zoning and Planning Board feels the proposed amendments address these concerns.

Section one of the ordinance, the only amendments proposed to the Zoning Regulations, removes the exception for canopies and awnings as these types of fabric structures are currently being regulated. By leaving the remainder of this section in the Zoning Regulations, it clarifies that fabric structures are in fact regulated but differentiates them from other types of structures.

Section two of the ordinance proposes amendments to Chapter 97 of the Town Code which regulates fabric structures. This section outlines what fabric structures are regulated and addresses the application requirements. The Zoning and Planning Board has recommended that all fabric structures erected for more than 30 days be required to have a permit regardless of the size of the structure if it is visible from a street or the lake. There are also proposed amendments in this section clarifying the requirements for a site plan with the application for a permit. This is a requirement that has been stated on the application in the past, but would now be stipulated in the regulations.

Section three of the ordinance reorganizes the reviews required for each permit and clarifies the requirements for each review. This also adds new standards for land disturbance performed in conjunction with the placement of a fabric structure.

Mayor Proctor opened the public hearing regarding proposed Ordinance No. 09-10-13A amending the Zoning Regulations and the Fabric Structures Regulations pertaining to standards for fabric structures. He invited citizens to speak during the public hearing and no one requested to speak.

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After discussion, Commissioner Beason made a motion to close the public hearing. Commissioner Turner seconded the motion and the vote of approval was unanimous.

<p>CONSIDER ADOPTION OF ORDINANCE NO. 09-10-13A AMENDING THE TOWN OF LAKE LURE ZONING REGULATIONS TITLE IX, CHAPTER 92, AND THE FABRIC STRUCTURES REGULATIONS TITLE IX, CHAPTER 97, PERTAINING TO STANDARDS FOR FABRIC STRUCTURES</p>
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Public notices were duly given and published in the Forest City Daily Courier newspaper.

After discussion, Commissioner Pitts made a motion to adopt Ordinance No. 09-10-13A as presented. Commissioner Turner seconded the motion and the vote of approval was unanimous.

ORDINANCE NUMBER 09-10-13A

AN ORDINANCE TO AMEND CHAPTER 92 ZONING REGULATIONS AND CHAPTER 97 FABRIC STRUCTURES REGULATIONS OF THE TOWN OF LAKE LURE MODIFYING THE REQUIREMENTS FOR FABRIC STRUCTURES

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

WHEREAS, the Lake Lure Town Council, after due notice, conducted a public hearing on the 13th day of October, 2009, upon the question of amending the Zoning Regulations and the Fabric Structures 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 92.118 of the Zoning Regulations of the Town of Lake Lure, entitled "Fabric and Metal Structures", is hereby amended as follows:

- (A) Fabric Structures. To protect the character and appearance of Lake Lure, no fabric structures, including tents and similar fabric covered shelters, ~~other than canopies and awnings~~ shall be erected in the Town of Lake Lure in any zoning district except in accordance with Chapter 97.

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

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SECTION TWO. Section 97.01 of the Fabric Structures Regulations of the Town of Lake Lure, entitled "Permit Required; Applications" is hereby amended as follows:

§ 97.01 PERMIT REQUIRED; APPLICATIONS

A permit shall be required for all structures constructed of fabric, including tents, erected within the Town of Lake Lure which exceed 500 square feet in area. All fabric structures, regardless of size, erected longer than 30 days and visible from any street as defined by Town regulations and/or the waters of Lake Lure also require a permit. The Town Manager may issue permits for such structures erected for 30 days or less in any one calendar year and having an area of less than 2000 square feet. Fabric structures erected for longer than 30 days in any one calendar year and/or having an area of 2000 square feet or more must be approved by the Town Council. Applications for a permit shall be submitted on a form obtainable from Town Hall. A site plan shall accompany the application detailing the dimensions of the lot and the location of the structure in relation to all property boundaries and existing structures. The site plan shall also include a description of any proposed land clearing and grading as well as proposed restoration of the site upon removal of the structure.

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

SECTION THREE. Section 97.02 of the Fabric Structures Regulations of the Town of Lake Lure, entitled "Standards and Review" is hereby amended as follows:

Applications for ~~all~~ fabric structure permits shall demonstrate compliance with the minimum standards set forth below in North Carolina General Statutes, the Building and Fire Codes, and the Lake Lure zoning regulations, and shall be reviewed by the Lake Lure Fire Coordinator prior to approval:

- (A) Fire Safety. The Fire Chief or his designee shall review all applications for compliance with the standards for fabric structures set forth in the North Carolina State Fire Code.
- (B) Zoning Compliance. The Zoning Administrator shall review all applications for compliance with the use requirements in the district for which the structure will be located as set forth in the Town of Lake Lure Zoning Regulations.
- (C) Land Clearing and Grading. Land clearing for fabric structures shall be limited to the removal of non-significant trees and the removal of shrubbery without grubbing as defined by the Zoning Regulations. Grading shall be limited to minimal leveling within the footprint of the structure and the driveway, if required. Upon removal of the structure, the site shall be returned as closely as possible to its condition prior to approval.

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

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

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

Adopted this 13th day of October, 2009.

ATTEST:

Mary A. Flack, MMC
Town Clerk

Jim Proctor
Mayor

Approved as to content and form:

J. Christopher Callahan
Town Attorney

PUBLIC HEARING - PROPOSED ORDINANCE NO. 09-10-13B AMENDING THE TOWN OF LAKE LURE ZONING REGULATIONS TITLE IX, CHAPTER 92, PERTAINING TO SIGNS IN COMMERCIAL SUBDIVISIONS AND THE GU-GOVERNMENT USE ZONING DISTRICT

Zoning Administrator Sheila Spicer gave a brief overview and answered questions regarding proposed Ordinance No. 09-10-13B amending the Zoning Regulations pertaining to signs in commercial subdivisions and the GU-Government Use Zoning District. She also read into the record the following staff report pertaining to Ordinance No. 09-10-13B.

The Zoning and Planning Board began studying possible amendments to the regulations pertaining to signs in commercial subdivisions in July of this year

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following the preliminary plat review for the Lake Lure Professional Park subdivision. It became apparent during that review that signs allowed for residential subdivisions are not allowed for commercial subdivisions. At that time, the Zoning and Planning Board also began discussing the addition of provisions for signs in the Government Use District due to plans to develop town property along Highway 9 and Island Creek Road. The proposed ordinance being reviewed today is the result of the Zoning & Planning Board's discussions. Section one of the ordinance adds provisions for signs in commercial subdivision developments. This language, while outlined differently for added clarity, was lifted from the current regulations for subdivision and planned unit development signs in residential districts. This section also adds a provision for signs in the Government Use district, specifying Town Council as having the final approval on development criteria.

Mayor Proctor opened the public hearing regarding proposed Ordinance No. 09-10-13B amending the Zoning Regulations pertaining to signs in commercial subdivisions and the GU-Government Use Zoning District. He invited citizens to speak during the public hearing and no one requested to speak.

After discussion, Commissioner Turner made a motion to close the public hearing. Commissioner Beason seconded the motion and the vote of approval was unanimous.

<p>CONSIDER ADOPTION OF ORDINANCE NO. 09-10-13B AMENDING THE TOWN OF LAKE LURE ZONING REGULATIONS TITLE IX, CHAPTER 92, PERTAINING TO SIGNS IN COMMERCIAL SUBDIVISIONS AND THE GU-GOVERNMENT USE ZONING DISTRICT</p>

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

After discussion, Commissioner Pitts made a motion to adopt Ordinance No. 09-10-13B as presented. Commissioner Turner seconded the motion and the vote of approval was unanimous.

ORDINANCE NUMBER 09-10-13B

AN ORDINANCE TO AMEND THE ZONING REGULATIONS OF THE TOWN OF LAKE LURE PERTAINING TO SIGNS PERMITTED AND REGULATED IN BUSINESS, COMMERCIAL, AND RESIDENTIAL DISTRICTS, SPECIFICALLY TO ALLOW SIGNS FOR COMMERCIAL SUBDIVISIONS AND TO ADDRESS SIGNS IN THE GU-GOVERNMENT USE DISTRICT

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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, the Zoning and Planning Board finds that the proposed ordinance is consistent with the 2007-2027 Town of Lake Lure Comprehensive Plan, particularly with regard to the guidance to “attract new businesses to...service commercial nodes” contained in Economic Development Policy ED-1-3.1 as well as the guidance to “concentrate commercial development in designated nodes” contained in Land Use Policy LU-1-1.4; and

WHEREAS, the Lake Lure Town Council, after due notice, conducted a public hearing on the 13th day of October, 2009, 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 92.157 of the Zoning Regulations of the Town of Lake Lure, entitled “Signs Permitted and Regulated”, is hereby amended as follows:

(B) Business, commercial and industrial districts.

(1) As this subsection is applied to commercial centers, the commercial center owner shall be responsible for securing permits and maintaining the following signs:

(a) Freestanding Detached Signs. Each commercial center, as defined herein, shall be allowed one freestanding, double faced, detached sign, identifying the center. Such sign may contain the names of individual businesses located in the commercial center and may be illuminated. Said sign, including the aggregate sign face area of the individual business signs, shall not exceed 50 square feet per sign face, provided, any commercial center with an aggregate building footprint area greater than 50,000 square feet is permitted one freestanding detached sign not to exceed 100 square feet per sign face. Signs listed in Section 92.154, 92.155 and 92.158 shall not be included in the allowable area calculated.

(b) Principal Flat Signs. In addition, each individual business in the commercial center having a separate individual outside entrance serving the general public shall be permitted one principal flat sign, as defined herein, to identify the

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principal use of that business. Principal flat signs shall be positioned on the wall on which the main entrance of said business is located. The total aggregate area of the principal flat signs shall not exceed 3 percent of the gross area of the frontage wall, nor shall any single sign exceed 240 square feet. The signs may be illuminated. Signs listed in Section 92.154, 92.155 and 92.158 shall not be included in the allowable area calculated.

- (c) Incidental Flat Signs. Incidental flat signs affixed to the exterior side of the building wall on which the main entrance of the business is located, indicating an incidental use such as a pharmacy, garden center, deli or similar accessory use in a commercial center, shall be permitted. In no case shall the total aggregate area of incidental flat signs exceed 2 percent of the gross area of the frontage wall face, as defined herein, nor shall any single sign exceed 160 square feet.
- (2) Any business establishment not operating in a commercial center shall be allowed a maximum of 50 square feet of sign area as defined in § 92.148. Said sign area may be divided between a maximum of two signs. Signs may be illuminated. Signs listed in §§ 92.154, 92.155 and 92.158 shall not be included in these calculations.
- (3) Commercial subdivision developments shall be permitted one double-faced sign or two single-faced signs per entrance identifying the development, and shall be subject to the following:
 - (a) Said sign(s) may be illuminated.
 - (b) Said sign(s) shall not exceed 50 square feet per sign face. Signs listed in § 92.154, 92.155 and 92.158 shall not be included in the allowable area calculated.
 - (c) Any additional directional signs abutting public thoroughfares in the development shall not exceed 30 square feet per sign face.
 - (d) Each entrance identification sign shall require a separate permit fee and is classified as a business designation sign. Additional signs along public thoroughfares shall be classified as "additional" signs and the permit fees will be in accordance with § 92.161.

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- (3 4) Any signs permitted in business, commercial or industrial districts may contain a commercial sponsor name or motif provided that the total commercial name or motif shall not exceed 25% of the total allowable sign face area and shall be included in the total of sign face area.
- (4 5) No sign in this division (B) shall have more than 50% of its sign face area devoted to changeable copy.
- (5 6) The maximum height of the sign shall be 16 feet.
- (6 7) Signs in this division (B) may be located within required front yards so long as no portion of any sign encroaches into any right-of-way and further provided that signs within 50 feet of any property zoned residential shall be no closer than ten feet to the right-of-way.
- (7 8) Up to two decorative flags, of not more than three feet by five feet in size, shall be permitted for each 50 feet of street frontage as accessory to any business. Said flags may include art work depicting the products and services available from the business and shall be exempt from the permit requirements of this chapter. Penalty, see § 92.999

(C) Government districts.

- (1) As determined by Town Council in compliance with all town regulations during its review of a proposed development project or on a case by case basis.

(E D) *Resort Signs.* These standards govern signage located within resorts containing 75 acres or more as that term is defined in §92.147. If any resort sign regulated pursuant to this paragraph is illuminated, it shall only be illuminated by an external bulb.

- (1) *Resort Private Road Sign:* A sign communicating limits on speed and/or messages of warning, caution, and prohibitions for regulating vehicular or pedestrian traffic for safety. These signs shall neither exceed six (6) feet height nor be greater than nine (9) square feet in area per sign face. Said sign may display the insignia or logo of the entity which owns and maintains the private road, so long as not more than 20% of the sign face is used to display the logo or insignia. Signs shall be placed in a manner so as to neither obstruct visibility nor sight distance of motorists.

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- (2) *Resort Direction Sign:* A sign within a resort designed and erected solely for the purpose of vehicular or pedestrian traffic direction. These signs shall neither exceed ten (10) feet in height nor be greater than forty (40) square feet in area per sign face. Such signs may display the insignia or logo of the resort, so long as not more than 20% of the sign face is used to display the logo or insignia. Signs shall be placed in a manner so as to neither obstruct/impair visibility nor sight distance of motorists.

- (3) *Resort Information Sign:* A single face announcement sign within a resort designed and erected solely for the purpose of conveying information relative to rules of conduct, resort protocol, directives, warnings, or caution. These signs shall neither exceed seven (7) feet in height nor be greater than forty (40) square feet in area per sign face. Such signs may display the insignia or logo of the resort, so long as not more than 20% of the sign face is used to display the logo or insignia. Signs shall be placed in a manner so as to neither obstruct/impair visibility nor sight distance of motorists.

- (4) *Resort Incidental Sign:* A single face, announcement sign within a resort containing information relative to direction, warning, emergencies, caution, rules, or other similar necessary accessory messages. These signs shall neither exceed five (5) feet in height nor be greater than five (5) square feet in sign area. The total number of resort incidental signs in a resort shall not exceed a number which is the product of three times the number of acres in the resort. For purposes of determining this number, acreage contained within a golf course shall not be counted, nor shall any resort incidental signs contained within such golf course.

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

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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.

Adopted this 13th day of October, 2009.

ATTEST:

Mary A. Flack, MMC
Town Clerk

Jim Proctor
Mayor

Approved as to content and form:

J. Christopher Callahan
Town Attorney

PUBLIC FORUM

Mayor Proctor invited the audience to speak on any non-agenda item and/or consent agenda topics and no one requested to speak.

STAFF REPORTS

Town Manager Christopher Braund read into the record the town manager's report dated October 13, 2009. (Copy of the town manager's report is attached).

COUNCIL LIAISON REPORTS & COMMENTS

Commissioner Hyatt reported on the activities of the Board of Adjustment/Lake Structures Appeals Board and the Lake Lure ABC Board.

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Commissioner Beason reported on the activities of the Golf Course Committee and Lake Advisory Board.

Commissioner Pitts reported on the activities of the Zoning/Planning Board. Mr. Pitts mentioned that the town manager was looking into ways to better communicate with the public including web broadcasting of town meetings.

Commissioner Turner reported on the activities of the Parks and Recreation Board.

Mayor Proctor mentioned that he had recently attended a meeting representing the Town of Lake Lure in the governor's office among with others from various agencies to talk about funding for land conservation acquisitions. He said this meeting went very well.

CONSENT AGENDA

Mayor Proctor presented the consent agenda and asked if any item should be removed before calling for action.

Commissioner Turner moved, seconded by Commissioner Beason, to approve the consent agenda items as presented. Therefore, the consent agenda, incorporating the following items were unanimously approved:

- a. minutes of the September 4, 2009 (special meeting) and September 8, 2009 (regular meeting and closed session)

End of Consent Agenda.

UNFINISHED BUSINESS

a. CONSIDER ADOPTION OF ORDINANCE NO. 09-10-13C AMENDING THE TOWN OF LAKE LURE ZONING REGULATIONS, TITLE IX, CHAPTER 92, CREATING A NEW SECTION 92.042 REQUIRING VACATION RENTAL OPERATING PERMITS AND OTHERWISE REGULATING THE USE OF SINGLE-FAMILY RESIDENCES AND DUPLEXES AS RESIDENTIAL VACATION RENTALS; DEFINING RESIDENTIAL VACATION RENTALS AS RENTALS FOR A PERIOD OF TIME LESS THAN 30 DAYS;

PROVIDING OTHER DEFINITIONS; DELETING BOARDING AND ROOMING HOUSES, NON-PROFIT RETREATS AND NON-PROFIT LODGES AS CONDITIONAL USES IN THE R-2 ZONING DISTRICT; MAKING RESIDENTIAL VACATION RENTALS A PERMITTED USE SUBJECT TO SPECIAL REQUIREMENTS IN THE R-1, R-1A, R-1B, R-1C, R-1D, R-2, M-1, R-3, R-4, C-1, CN, CTC, CG AND S-1 ZONING DISTRICTS; PROVIDING FOR FURTHER STUDY OF THE ISSUE OF THE IMPACTS OF RESIDENTIAL VACATION RENTALS. (SECOND READING)

A motion was made by Commissioner Pitts to adopt Ordinance No. 09-10-13C as presented. Commissioner Beason seconded the motion.

Commissioner Turner read into the record the following statement:

This ordinance has come a long way from where it started and Commissioner Hyatt and I applaud the efforts made by both sides in the search for a compromise, for it is only in a compromise that both sides of an issue are served. It is our hope that these regulations will set a standard for fairness and goodwill, the hallmark of a town where all work together for the greater good of the community. However, we still believe for this Council to advise a future Board of Commissioners to take a specific action on the phrase “negative impact” which has yet to be defined is ill-advised and illogical. We believe that the elimination of vacation rentals in single family residential districts would not be in the best interests of our town. We also recognize that a future Council will have many more facts in front of them on which to amend this ordinance, if, indeed, an amendment is necessary.

Commissioner Turner made a motion to amend the motion to change the last sentence of Section Two, Paragraph F of the proposed Ordinance No. 09-10-10-13C to read as follows. Commissioner Hyatt seconded the motion.

“Should those studies indicate that the objectives of this Ordinance are not being achieved, it is the desire of Council and the intent of this Ordinance that a future Council makes amendments to this Ordinance in whatever manner it deems appropriate in order to achieve these objectives.”

After discussion, Commissioner Pitts amended his original motion to adopt Ordinance No. 09-10-13C (SECOND READING) as amended per Community Development Attorney Mike Egan, revising Section Two, Paragraph F to read as follows. Commissioner Beason seconded the motion and the vote of approval was unanimous.

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F. Town Council is hopeful that a program of regulatory oversight will ultimately achieve the objectives stated herein. To determine whether that is the case, this Ordinance calls for ongoing study of the effects of the program and of the impacts of residential vacation rentals on single-family residential zoning districts. Should those studies indicate that the objectives of this Ordinance are not being achieved, it is the desire of Council and the intent of this Ordinance that future ordinance(s) be enacted to further regulate and, if necessary, prohibit residential vacation rentals in the R-1, R-1A, R-1B, R-1C, R-1D, R-2, and M-1 zoning districts and to amortize them in such districts for an appropriate period of time.

ORDINANCE NUMBER 09-10-13C

AN ORDINANCE AMENDING THE ZONING REGULATIONS OF THE TOWN OF LAKE LURE; CREATING A NEW §92.042 REQUIRING VACATION RENTAL OPERATING PERMITS AND OTHERWISE REGULATING THE USE OF RESIDENCES AS VACATION RENTALS; PROVIDING DEFINITIONS; DELETING BOARDING AND ROOMING HOUSES, NON-PROFIT RETREATS AND NON-PROFIT LODGES AS CONDITIONAL USES IN THE R-2 ZONING DISTRICT; MAKING RESIDENTIAL VACATION RENTALS A PERMITTED USE SUBJECT TO SPECIAL REQUIREMENTS IN THE R-1, R-1A, R-1B, R-1C, R-1D, R-2, M-1, R-3, R-4, C-1, CN, CTC, CG AND S-1 ZONING DISTRICTS; PROVIDING FOR FURTHER STUDY OF THE ISSUE OF THE IMPACTS OF RESIDENTIAL VACATION RENTALS

WHEREAS, N.C.G.S. 160A-381 authorizes municipalities to adopt zoning ordinances regulating, among other things, “the location and use of buildings, structures, and land”; and

WHEREAS, N.C.G.S. 160A-174 authorizes municipalities to define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the city; and

WHEREAS, the Town of Lake Lure appointed a Stakeholders’ Committee to study the impacts of residential vacation rentals and to make recommendations regarding the regulations of such uses; and

WHEREAS, after more than a year of study the Stakeholders’ Committee adopted a Summary Report including study and policy recommendations; and

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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 which are generally consistent with Summary Report of the Stakeholders' Committee; and

WHEREAS, the Lake Lure Town Council, after due notice, conducted a public hearing on the 1st day of October, 2009, 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. *Authority; Title.* This ordinance is enacted pursuant to the grants of authority contained in Sections 160A-174 and 160A-381 of the North Carolina General Statutes. It shall be known and may be referred to as the Residential Vacation Rental Ordinance.

SECTION TWO. *Findings; Purpose.*

- A. Town Council finds that residential vacation rentals, as defined herein, can have a positive economic impact in the community and enhance tourism by providing lodging alternatives to hotels, motels, lodges or bed-and-breakfast facilities. At the same time, residential vacation rentals differ from other vacation rental properties due to the fact that, unlike hotels, motels, inns, lodges, boarding and rooming houses, or bed-and-breakfast facilities, there is typically no onsite management to supervise activities.
- B. Town Council further finds that residential vacation rentals, as defined herein, have not historically been recognized as a use under the Town's Zoning Regulations.
- C. Town Council further finds that residential vacation rentals are commercial uses, much like hotels or motels, that have potential to conflict with neighboring residential uses and may have an adverse impact on the appearance, tranquility, safety, health, and standard of living in surrounding residential neighborhoods. In this regard Town Council finds that the residential character of a neighborhood may be compromised when a significant number of homes are occupied not by permanent residents but by a stream of tenants staying for relatively short periods of time.
- D. It is the purpose of this Ordinance to regulate residential vacation rentals in order to help ensure that tourists have a good experience while staying in Lake Lure, thus contributing to

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the continued vitality of that industry and the economic well-being of the Town. It is further the purpose of this Ordinance to safeguard the health, peace, safety, harmony and general welfare of existing residential neighborhoods from impacts that tend to accompany the frequent, intensive use of residences by temporary populations in the Town.

- E. It is further the purpose of this Ordinance to provide an opportunity for the Town to study the effects of the regulatory provisions of this Ordinance with regard to the potential problems associated with residential vacation rentals.
- F. Town Council is hopeful that a program of regulatory oversight will ultimately achieve the objectives stated herein. To determine whether that is the case, this Ordinance calls for ongoing study of the effects of the program and of the impacts of residential vacation rentals on single-family residential zoning districts. Should those studies indicate that the objectives of this Ordinance are not being achieved, it is the desire of Council and the intent of this Ordinance that future ordinance(s) be enacted to further regulate and, if necessary, prohibit residential vacation rentals in the R-1, R-1A, R-1B, R-1C, R-1D, R-2, and M-1 zoning districts and to amortize them in such districts for an appropriate period of time.
- G. Town Council further finds that this Ordinance is consistent with the 2007-2027 Town of Lake Lure Comprehensive Plan, specifically with regard to the following:

Section 11.1 Land Use & Growth Management: Introduction.

“As the town has attracted more visitors, many have subsequently purchased homes in the area for vacation and/or investment purposes, while others have relocated permanently to Lake Lure. Similarly, continued tourism interest has increased the demand for seasonal housing and commercial services. Both of these factors have contributed to Lake Lure’s growth and have had an impact on land use. Through proper growth management and land use planning, development can maintain its course without jeopardizing the quality of the environment or the quality of life for residents and visitors.”

Goal LU-1: Land uses coincide with long-term vision.

Policy LU-1-2.3:

“Study the impacts (e.g. economic, quality of life, etc.) of vacation rentals,

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particularly those along the lakefront, to determine the need for controls (e.g. additional regulations) or other measures to ensure that the value and enjoyment of all lakefront properties are maintained and adopt controls for vacation rentals as determined by the study recommendations. Once regulatory controls have been put in place, the Town should then study the effects of those controls and of the impacts of residential vacation rentals on single-family residential zoning districts. Should those studies indicate that the controls are not proving effective in preserving the character of the Town's single-family residential neighborhoods, then the Town should proceed to prohibit vacation rentals in those zoning districts whose primary purpose is for single-family dwellings and should take the steps necessary to amortize vacation rentals within such districts.”

- H. Town Council further finds that the Stakeholders Committee appointed by Town Council spent more than a year studying the impacts of vacation rentals and that this Ordinance is generally consistent with the report and recommendations of that Committee with two significant exceptions: (1) this Ordinance calls for further study of the impacts of vacation rentals by means of a licensing and regulatory program that will collect data regarding the scale of residential vacation rentals and their impacts on the community; and (2) rather than prohibit (and amortize) residential vacation rentals in the single-family residential zoning districts, this Ordinance gives an opportunity for the regulatory program to be evaluated prior to any decision being made with regard to prohibiting such uses.

SECTION THREE. Section 92.005 of the Zoning Regulations of the Town of Lake Lure, entitled “Definitions”, is hereby amended to add the following definition:

Residential Vacation Rental. The rental of any single-family dwelling, or duplex, or any portion thereof, for occupancy, dwelling, lodging or sleeping purposes for any period of time less than 30 days. For purposes of this Ordinance, the term does not include multi-family dwellings nor does it apply to duplexes other than those situated within the R-1, R-1A, R-1B, R-1C, R-1D, R-2 and M-1 zoning districts.

Residential Vacation Rental Operator (Operator). The owner of a residential vacation rental or a responsible party designated by the owner to act for and on behalf of the owner in managing the property. If the operator is not the owner, the actions, undertakings and certifications of the operator shall be binding on the owner.

Residential Vacation Rental Property. Real property used or intended to be used for residential vacation rental purposes.

Vacation Rental Operating Permit. The permit needed to operate a residential vacation rental as defined herein.

SECTION FOUR. Section 92.042 of the Zoning Regulations of the Town of Lake Lure, entitled “Residential Vacation Rentals”, is hereby created to read as follows:

§92.042 Residential Vacation Rentals.

- (A) *Use Recognized; Vacation Rental Operating Permit Required.* Residential vacation rentals are hereby recognized as a use within the planning jurisdiction of the Town of Lake Lure. Except as provided herein, on and after 1 January 2010, it shall be a violation of these Zoning Regulations to operate a residential vacation rental without a vacation rental operating permit from the Town.
- (B) *Exceptions.* The following activities and / or uses shall not be deemed residential vacation rentals and the requirements of this section shall not apply to them.
 - (1) Incidental residential vacation rentals, defined to mean no more than two such rentals in any calendar year where the total annual rental period for both rentals does not exceed two weeks.
 - (2) Rentals of property in any hotel, lodge, motel, bed & breakfast establishment, or boarding & rooming house, with a valid certificate of zoning compliance.
 - (3) Rentals of a dwelling unit in a duplex only when the owner of the duplex resides in the other dwelling unit in that duplex.
- (C) *Vacation Rental Operating Permits.* Every residential vacation rental shall require a vacation rental operating permit issued pursuant to the regulations contained herein. The vacation rental operating permit may also function as a certificate of zoning compliance for a residential vacation rental.
 - (1) *Application.* In order to obtain a vacation rental operating permit the owner or the operator shall submit an application for each such residential vacation rental which complies with the requirements of §92.042(D), below, and shall pay all applicable fees in accordance with the Town’s adopted fee schedule.

- (2) *Decision of the Zoning Administrator.* The Zoning Administrator shall review the application along with the report of the permit inspection, if any, and other pertinent information. The Administrator shall issue a permit upon determining that the application and supporting information demonstrate compliance with the requirements of this section and other applicable provisions of these Zoning Regulations and the Town Code of Ordinances and all other applicable regulations. If compliance with such provisions is not demonstrated, the Administrator shall deny the application in writing, stating therein the grounds for denial. The decision of the Administrator may be appealed to the Board of Adjustment pursuant to § 92.086 of these Zoning Regulations by any party with standing.
- (3) *Administration of Vacation Rental Operating Permits.* In administering this section, the Zoning Administrator shall have all the remedies and enforcement provisions contained in Article 13 of these Zoning Regulations, and, in addition thereto, shall have the power to suspend vacation rental operating permits.

If a neighboring property owner has filed a formal, written complaint with the Zoning Administrator alleging a substantive violation of the regulations contained in this section, the Zoning Administrator shall serve a copy of his or her written decision on such neighboring property owner in the same manner as is done to the operator of the residential vacation rental. The operator and any such property owner(s) shall have standing to appeal the Zoning Administrator's decision to the Board of Adjustment pursuant to §92.086 of these Zoning Regulations.

- (4) *Appeals.* The Zoning Administrator shall provide notice of the hearing at which the Board of Adjustment will take up an administrative appeal to the residential vacation rental operator and to anyone else who has requested such in writing. Appeals shall be conducted in accordance with the provisions contained in §92.086 of the Zoning Regulations with the proviso that the residential vacation rental operator may elect to offer evidence of remedial steps taken or proposed to be taken to provide assurance of future compliance with this section. If the operator demonstrates that the cause(s) for any regulatory violations have been satisfactorily addressed and are not likely to reoccur, the Board of Adjustment may fashion an appropriate remedy and in doing so shall evaluate the impacts of the residential vacation rental on the particular neighborhood in which it is located and shall have full power to impose conditions on the operation of such residential vacation rental.

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(D) ***Contents of Application.*** The application for a vacation rental operating permit shall contain the following information. The application shall be signed and sworn to by the operator.

- (1) The address of the property.
- (2) Name and contact information for the owner of the property.
- (3) Name and contact information for the operator if other than the owner.
- (4) A site plan showing the off-street parking area(s) for the property.
- (5) The number of bedrooms on the property intended to be used for occupancy.
- (6) If the property is served by a septic system, a statement attesting to the adequacy of the system to accommodate the number of bedrooms intended for occupancy pursuant to these regulations. This shall be satisfied by providing a copy of the septic permit issued by County Health Department for the property. In such event, the number of bedrooms listed on the County Health Department permit shall determine the occupancy limits established by Paragraph (I)(1), below. If no such permit exists, the applicant shall provide a statement from a qualified licensed professional attesting to the adequacy of the system to accommodate the maximum number of guests permissible under these regulations or provide evidence that the septic system has been pumped out within one year prior to the date of application.
- (7) If the property is served by the Town's sewer system, a certificate from a qualified licensed professional that the connection to the Town's system is operational and free of detectable leaks.
- (8) If the residential vacation rental includes the use of a boat on Lake Lure, proof of a valid Town commercial boat license.
- (9) Proof that the property is registered with the Rutherford County Tourism Development Authority, or, for a new business, that an application has been submitted, and that all room occupancy and tourism development taxes for the

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prior year have been paid.

- (10) Certification that the property complies with the Fire Code as adopted by Rutherford County.
 - (11) A copy of the standard rental agreement used for the residential vacation rental which contains information required by this section.
 - (12) Such other information reasonably needed for the Town to make an informed decision on the application.
 - (13) An acknowledgment that the applicant is aware of the occupancy restrictions on the use of the property as a residential vacation rental and the applicant's agreement to abide thereby.
- (E) ***Inspections.*** In conjunction with an application for a vacation rental operating permit, the Town shall conduct an initial inspection to confirm compliance with the requirements of this section.
- (F) ***Operational Requirements.*** The following operational requirements shall apply to all residential vacation rentals.
- (1) ***Occupancy Limits.*** Occupancy in a residential vacation rental property shall not exceed two persons per bedroom plus two additional persons; provided, however, in the R-1, R-1A, R-1B, R-1C, R-1D, and M-1 Zoning Districts, occupancy shall be the lesser of the total determined by the foregoing formula or twelve persons. Occupancy shall refer to the number of persons on the premises between the hours of 12:00 midnight and 6:00 a.m. Bedrooms used in calculating occupancy limits shall include only those that meet the definitions and standards for habitable bedrooms in the State Building Code.
 - (2) ***Signs.*** In the R-1, R-1A, R-1B, R-1C, R-1D and M-1 zoning districts, residential vacation rental properties shall not have any signs visible from the exterior of the premises which advertise the use of the property as a residential vacation rental, other than as required by this section. In the remaining zoning districts, residential vacation rental properties may have signage as authorized by Article 10 of these regulations.

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- (3) *Posting Permit.* Each operator shall affix and maintain a copy of its vacation rental operating permit on the inside of the main entry door of the property to which it applies.
- (4) *Display of Contact Information.* Residential vacation rental operators shall prominently display on the exterior of the residential vacation rental property the name and 24-hour per day, 365 days-per-year telephone number for the residential vacation rental operator who will take and resolve complaints regarding operation of the residential vacation rental property and its occupants and guests. The Town will prescribe the form of this display which shall also include a telephone number to report violations of this section to the Zoning Administrator.
- (5) *Parking.* Occupants or guests of any residential vacation rental property shall not park vehicles on the property other than within parking area(s) designated on the application for the residential vacation rental.
- (6) *Trash Disposal.* Household trash must be bagged and disposed of in trash receptacles. Trash receptacles shall be the size and number authorized by existing refuse contracts, shall be animal-proof, and placed in an enclosed area.
- (7) *Conduct of Occupants & Guests.* Occupants and guests shall conduct themselves in accordance with provisions of this section, the Town Code or any other applicable federal, state, or county statute, ordinance, rule or regulation pertaining to nuisance, noise, disorderly conduct, trespass, illegal consumption of alcohol, or use of illegal drugs.
- (G) *Contract Addendum.* Every residential vacation rental contract shall contain an addendum, in a form prepared by the Town, setting forth the requirements of this section and other applicable provisions of law. The operator shall obtain a signed acknowledgment from the renter(s) that they have received such addendum prior to delivering possession of the residential vacation rental property.
- (H) *Duties of the Operator to Respond to Complaints.* To assure prompt response to complaints and issues concerning a residential vacation rental, the operator shall comply with the following:

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- (1) Maintain a call center that is staffed by a live person and fully responsive 24 hours per day, 365 days per year.
- (2) Cause a responsible party with decision-making authority to be on-site at the residential vacation rental property within one hour after receipt of a complaint requiring the operator's on-site presence.
- (3) Continuously maintain on file with the Town the operator's current address, telephone number, and facsimile number and/or email address.
- (4) Ensure that the occupants and guests of its residential vacation rental property do not violate provisions of this Section, the Town Code or any other applicable federal, state, or county statute, ordinance, rule or regulation pertaining to noise, disorderly conduct, trespass, illegal consumption of alcohol, or use of illegal drugs. An operator shall be deemed to have satisfied this standard if it (1) clearly advises its occupants and guests of such requirements before they take occupancy of the property, (2) promptly and appropriately responds to complaints concerning the behavior of its occupants and guests, and (3) promptly evicts from the residential vacation rental property any who have failed to comply with any such applicable laws on two or more occasions during their period of occupancy.

SECTION FIVE. Paragraph (B) of Section 92.026 of the Zoning Regulations of the Town of Lake Lure, concerning permitted uses in the R-1 Residential District, is hereby amended to add the following permitted use:

- (4) Residential vacation rentals subject to special requirements contained in §92.042, below.

SECTION SIX. Paragraph (B) of Section 92.028 of the Zoning Regulations of the Town of Lake Lure, concerning permitted uses in the R-1D Residential District, is hereby amended to add the following permitted use:

- (4) Residential vacation rentals subject to special requirements contained in §92.042, below.

SECTION SEVEN. Paragraph (B) of Section 92.029 of the Zoning Regulations of the Town of Lake Lure, concerning permitted uses in the R-2 Residential District, is hereby amended to

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add the following permitted use:

- (4) Residential vacation rentals subject to special requirements contained in §92.042, below.

SECTION EIGHT. Paragraph (B) of Section 92.030 of the Zoning Regulations of the Town of Lake Lure, concerning permitted uses in the R-3 Resort Residential District, is amended to add the following permitted use:

- (6) Residential vacation rentals subject to special requirements contained in §92.042, below.

SECTION NINE. Paragraph (B) of Section 92.030A of the Zoning Regulations of the Town of Lake Lure, concerning permitted uses in the R-4 Residential / Office District, is amended to add the following permitted use:

- (5) Residential vacation rentals subject to special requirements contained in §92.042, below.

SECTION TEN. Paragraph (B) of Section 92.031 of the Zoning Regulations of the Town of Lake Lure, concerning permitted uses in the C-1 General Commercial District, is amended to add the following permitted use:

- (8) Residential vacation rentals subject to special requirements contained in §92.042, below.

SECTION ELEVEN. Paragraph (B) of Section 92.031A of the Zoning Regulations of the Town of Lake Lure, concerning permitted uses in the CN Commercial Neighborhood District, is amended to add the following permitted use:

- (7) Residential vacation rentals subject to special requirements contained in §92.042, below.

SECTION TWELVE. Paragraph (B) of Section 92.031B of the Zoning Regulations of the Town of Lake Lure, concerning permitted uses in the CTC Commercial Town Center District,

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is amended to add the following permitted use:

- (11) Residential vacation rentals subject to special requirements contained in §92.042, below.

SECTION THIRTEEN. Paragraph (B) of Section 92.031C of the Zoning Regulations of the Town of Lake Lure, concerning permitted uses in the CG Commercial General District, is amended to add the following permitted use:

- (9) Residential vacation rentals subject to special requirements contained in §92.042, below.

SECTION FOURTEEN. Paragraph (B) of Section 92.034 of the Zoning Regulations of the Town of Lake Lure, concerning permitted uses in the S-1 Scenic Natural Attraction District, is amended to add the following permitted use:

- (5) Residential vacation rentals subject to special requirements contained in §92.042, below.

SECTION FIFTEEN. Paragraph (C) of Section 92.029 of the Zoning Regulations of the Town of Lake Lure, concerning conditional uses in the R-2 General Residential District, is amended to strike the following conditional use:

- ~~(1) Boarding and rooming houses, non-profit retreats and non-profit lodges with eating facilities for clientele only.~~

SECTION SIXTEEN. Paragraph (B) of Section 92.033 of the Zoning Regulations of the Town of Lake Lure, concerning permitted uses in the M-1 Reserved Mountainous District, is amended to add the following permitted use:

- (3) Residential vacation rentals subject to special requirements contained in §92.042, below.

SECTION SEVENTEEN. The Community Development Director shall conduct ongoing studies of the effects of the regulatory program contained in this Ordinance and the impacts of

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residential vacation rentals on the residential zoning districts. These formal studies shall include, at a minimum, the following: (1) a comparative analysis of the number of complaints registered with the Town for residences used as residential vacation rentals and those not being so used; and (2) an analysis of the number of complaints against residential vacation rentals as a function of the total number of residential vacation rentals operating in the Town.

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

SECTION TWENTY. 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 TWENTY-ONE. 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 TWENTY-TWO. This ordinance shall be in full force and effect from and after 1 January, 2010.

Adopted this 13th day of October, 2009.

ATTEST:

Mary A. Flack, MMC

Town Clerk

Approved as to content and form:

J. Christopher Callahan

Town Attorney

Jim Proctor

Mayor

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Commissioner Pitts read into the record the following comments written by him regarding the residential vacation rental ordinance.

This ordinance represents a collaborative effort of many hours of work performed by multiple committees, boards, public forums, and workshops. More importantly this ordinance represents a compromise between those who call Lake Lure their home, and those who see Lake Lure as a business opportunity or an investment.

Specifically this ordinance does the following:

- (1) Makes vacation rentals a permitted use with special conditions in all zoning districts.
- (2) Provides protection for both the property owner neighboring a vacation rental property, and equally protects the property owner who is using his or her property for vacation rental purposes.
- (3) Protects the general health and safety for the vacation renter, as well as the general health and safety of the neighboring community (e.g. sewer, parking, etc.).
- (4) The ordinance also provides an appeals process for both sides that begins with property owners and property managers attempting to resolve things in civil manner between themselves, and then provides another option of using the town zoning administrator for resolution, and yet another option to appeal decisions to the Board of Adjustment, and lastly an option to appeal to the Superior court, if it makes it that far. The ordinance does not allow one complaint to disallow RVR's next to a neighboring property as some seem to believe.
- (5) The ordinance puts property owners of R-1 and R-2 properties on notice that it was the desire of this council passing the resolution that the original permitted use (residents residing in single family homes) should always take precedence over vacation rental commercial use in these residential districts, since vacation rentals in R-1 and R-2 districts is an expansion of a commercial use within a single family, low density district, and therefore will always be secondary to the primary use for which the districts were originally created to protect. It should be noted that the text communicating this intent to future councils, zoning boards, and property owners does not bind future councils in any way to take particular action, but instead makes it clear what the original intent and desire of the stakeholder committee, Z&P Board, and the town council who worked on this issue for multiple years.

Stated in very simple terms this ordinance does four basic things:

- (1) Allows vacation rentals to become a permitted use where they were not originally permitted.
- (2) Asks people performing vacation rentals to do what they said they have been doing already, which in turn protects both the vacation renter, and the neighboring

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properties...A win-win situation for our community and tourists.

- (3) Highlights the importance of constant, ongoing monitoring of whether the regulations are truly working from year to year.
- (4) Rewards good vacation rental property managers, and holds accountable those who are not so good.

Commissioner Beason read into the record the following comments written by him regarding the residential vacation rental ordinance.

What we have before us tonight represents over three years of effort on behalf of the town and the community. I had the honor of serving on the stakeholder committee, which was made up of representation from many different aspects of this community. There were Realtors, vacation rental property managers, hotel owners, B & B owners, and residents who served on this committee. After two years of study, multiple workshops, and public forums, a majority backed recommendation was presented to the town council, to amortize and prohibit vacation rentals in R-1 and R-2 districts. This decision was felt to be in the community's long-term interest, because it did not pit neighbor against neighbor in the R-1 and R-2 districts. The recommendation recognized and protected the primary intended use that the R-1 and R-2 districts, for which they were originally created, to create residential safe-havens where families could be raised.

The stakeholder committee's recommendation did not eliminate vacation rentals but instead re-focused them to the districts which were originally established for resort type property uses. The town council received this recommendation and decided not to execute this recommendation, they instead chose the complex and difficult path of allowing vacation rentals to be permitted in all zoning districts, which required lots of work on everyone's part to craft a solution that allowed vacation rentals to continue to exist and grow throughout the community while still respecting the nature of each zoning district. I support what we have before us, because I feel it represents a community balanced compromise, which will most certainly evolve with actual implementation experience.

It should be noted that my vote on this item comes only after much consideration. To the best of my knowledge, I am the only commissioner, and maybe town resident with Mayor Proctor, and the Community Development Director Shannon Baldwin that took two full work days to visit North Carolina resort/residential towns that had addressed this issue. I felt something of this importance to our community warranted further investigation beyond the hundreds if not thousands of hours invested by the community and other entities within our town.

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I also want to point out that I am not against vacation rentals, as being reported by some individuals. In fact, Pam and I have had Real Estate Broker's licenses for over 30 years, which includes ownership and operation of rental properties. What I represent is someone who has hands-on experience on both sides of this issue.

I am a very strong proponent of property rights for property owners. I also feel that a property owner's property rights stop at their property line, and impacts resulting from a property owner's use of their property that goes beyond an owner's property line is no longer a person's property rights, but instead community rights. What we have before us is an attempt to balance both property rights and community rights while also respecting the original intent and integrity of each respective zoning district.

In conclusion, I fully support this regulation in its present state, and as I have stated before, all newly created things are typically not perfect. However, we must start somewhere, and what we have before us is as good as it gets, until we get some actual hands-on experiences with the regulations to base further refinements upon.

Mayor Proctor and Commissioner Hyatt thanked everyone for their hard work on the ordinance regulating vacation rentals.

UNFINISHED BUSINESS

b. OTHER UNFINISHED BUSINESS

There was no other unfinished business.

NEW BUSINESS:

a. CONSIDER APPROVAL OF THE LAKE LURE MEADOWS RENTAL POLICY AND FEE SCHEDULE

Town Manager Chris Braund reviewed and answered questions pertaining to his memorandum dated October 5, 2009 regarding the Lake Lure Meadows Rental Report and Policy. (Copy of memorandum dated October 5, 2009 from the Chris Braund is attached.)

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Martyn Watts, President of the Hickory Nut Gorge Chamber of Commerce also responded to questions relating to the proposed rental policy and fee schedule.

After discussion, Commissioner Beason made a motion to approve the Lake Lure Meadows rental policy and fee schedule as outlined in the town manager's memorandum dated October 5, 2009. Commissioner Hyatt seconded the motion and the vote of approval was unanimous.

NEW BUSINESS:

b. CONSIDER AUTHORIZING THE TOWN MANAGER TO EXECUTE THE REC PURCHASE AND SALE AGREEMENT WITH DUKE ENERGY AND THE BROKER SERVICES AGREEMENT WITH CARDINAL ENERGY SERVICE, INC.

Town Manager Braund briefed council members about the town participating in the North Carolina renewable energy certificate (REC) program. He asked council members to authorize the town manager to execute the REC Purchase and Sale Agreement with Duke Energy and the Broker Services Agreement with Cardinal Energy Service, Inc.

After discussion, Commissioner Pitts made a motion to authorize the town manager to execute the REC Purchase and Sale Agreement with Duke Energy and the Broker Services Agreement with Cardinal Energy Service, Inc. Commissioner Turner seconded the motion and the vote of approval was unanimous.

NEW BUSINESS:

c. SET THE DATE OF THE LOWERING OF THE LAKE LEVEL AND RETURNING THE LAKE LEVEL TO FULL POND

Town Manager Braund recommended that town council set the date for the lowering of the lake level to begin on December 1, 2009 and set the date to start raising the lake level back to full pond to begin on March 1, 2010.

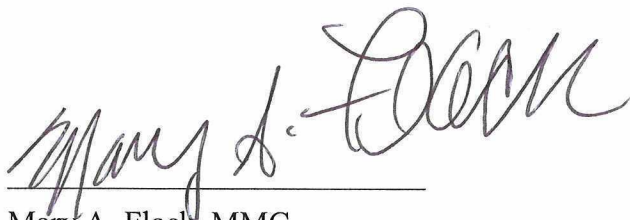
After discussion, Commissioner Turner made a motion to set the date for the lowering of the lake level to begin on December 1, 2009 and set the date to start raising the lake level back to full pond to begin on March 1, 2010. Commissioner Pitts seconded the motion and the vote of approval was unanimous.

Council members talked about having a boat parade held next year around Thanksgiving.

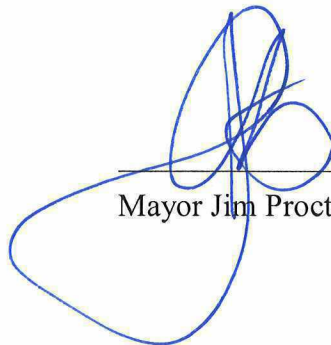
ADJOURN THE MEETING

With no further items of discussion, Commissioner Beason made a motion to adjourn the meeting 9:15 p.m. Commissioner Turner seconded the motion and the vote of approval was unanimous.

ATTEST:

A handwritten signature in black ink, appearing to read "Mary A. Flack", written over a horizontal line.

Mary A. Flack, MMC
Town Clerk

A handwritten signature in blue ink, appearing to read "Jim Proctor", written over a horizontal line.

Mayor Jim Proctor