

# Non-Residents Can Use Lakes Without Boat License

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An order by Orange Osceola Circuit Court Judge Thomas Kirkland on May 11 prohibits the City of Winter Park from charging non-residents for boat licenses.

Kirkland's order said boat license fees are not user fees -- which municipalities can charge to both residents and non-residents -- but are charges that are restricted by state statute to residents alone. A boat is a non-resident boat and not subject to the fee if it is kept outside the city, Kirkland said.

The order reverses a case against an Altamonte Springs attorney

charged last summer by Winter Park Police with operating his boat in city lakes without a city license.

The order also will allow non-resident boat owners to operate their boats on Winter Park and Maitland lakes without purchasing a city boat license.

The city has 30 days to appeal the order. City officials agreed Monday to wait until after the city receives a copy of the order before deciding whether or not to appeal.

Both Winter Park and Maitland, which share the chain of lakes, have always charged non-residents a higher fee for boat licenses than residents.

But an appeal filed by Altamonte

Springs attorney Michael Jones earlier this year questioned the city's right to require non-residents to purchase any city boat license.

Jones was charged last summer with operating a boat on city lakes without a city license. After pleading nolo contendere in County Court, Jones appealed the case in circuit court, citing a state statute that allows cities to regulate boats that are resident in the city.

The city took the position that by "resident," the state statute means all boats used in city lakes, but Jones maintained it refers to his place of residence.

Maitland attorney Gil Bentley, who worked with Jones on the appeal after

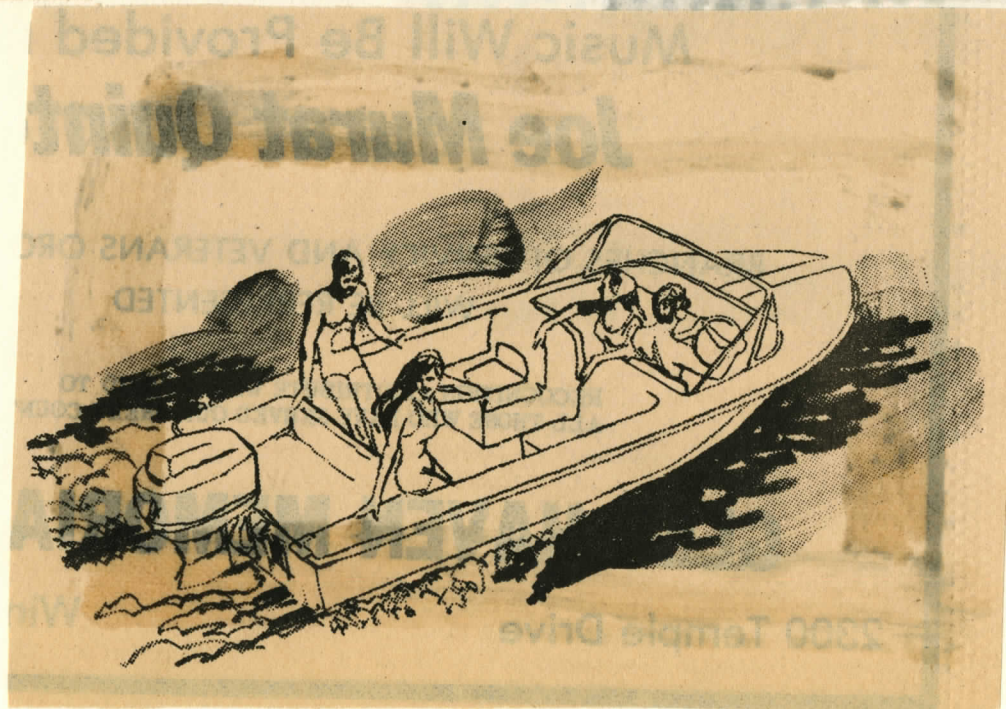
reading about the case in the Sun Herald in February, compared the boat license fee to automobile driver registration.

If an automobile driver had to pay a registration fee in each county or city he drove in, "you really wouldn't get very far," said Bentley, who said he became interested in the case because he lives on a lake.

Residents of a municipality control that government, he said, and "if they want to tax themselves, that's great." Bentley joined Jones in opposing the city's policy of charging non-residents for city licenses.

Bentley said a user charge for city-owned boat ramps "might be

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what they need to do." A user charge would be legal, he said, but may be hard for the city to do.

City Commissioners at a Monday work session discussed the possibility of charging for parking at boat ramps or charging user fees for the two city-owned boat ramps, one on Lake Baldwin and the other at Dinky Dock for the Winter Park chain of lakes.

Mayor James A. Driver, who commented he was glad the city did not own too many boat ramps, said the city would wait until after it received Kirkland's order before making a decision.

Both Winter Park and Maitland jointly raised their boat license fees recently -- charging non-residents twice as much as residents of the two cities. Fees for boats with 11 to 50 horsepower, for example, were raised from \$7.50 to \$10 for residents and from \$15 to \$20 for non-residents.

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