



**VILLAGE COUNCIL
AGENDA FOR REGULAR MEETING OF OCTOBER 11, 2022
ASSEMBLY HALL
395 MAGNOLIA ROAD
PINEHURST, NORTH CAROLINA
4:30 PM**

1. Call to Order.

2. Reports:

Manager

Council

3. Motion to Approve Consent Agenda.

All items listed below are considered routine or have been discussed at length in previous meetings and will be enacted by one motion. No separate discussion will be held unless requested by a member of the Village Council.

- A. Approval of Village Council Meeting Minutes
September 27, 2022 Council Regular Meeting
September 27, 2022 Council Work Session
- B. Budget Amendments Report

End of Consent Agenda.

4. Mayoral Proclamation: National School Lunch Week

5. Discuss and Consider Ordinance #22-15 Amending the Pinehurst Development Ordinance to address Short-term Rentals, Homestays, and Permit revocation

6. Discuss and Consider Ordinance 22-19 Amending Chapter 110 of the Pinehurst Municipal Code: Peddling and Soliciting on Private Property

7. Other Business.

8. Comments from Attendees.

9. Motion to Adjourn.

Vision: The Village of Pinehurst is a charming, vibrant community which reflects our rich history and traditions.

Mission: Promote, enhance, and sustain the quality of life for residents, businesses, and visitors.

Values: Service, Initiative, Teamwork, and Improvement.



**COUNCIL
ADDITIONAL AGENDA DETAILS:**

ATTACHMENTS:

Description

- ▣ 2022 Village Council Key Partners & Collaborators



Council Member to Report	Partners & Collaborators
John Strickland	Convention and Visitors Bureau
	FirstHealth
	*Moore County, NC - Rotating
	Moore County Transportation Committee
	NCDOT/TARPO
	*Neighborhood Advisory Committee - Rotating
	*North Carolina - Rotating
	Partners in Progress
	Pinehurst Resort
Patrick Pizzella	*Moore County, NC - Rotating
	NCDOT/TARPO
	*Neighborhood Advisory Committee - Rotating
	*North Carolina - Rotating
	Partners in Progress
	Tri-Cities Work Group (Pinehurst, So. Pines, Aberdeen)
Jane Hogeman	Beautification Committee
	Chamber of Commerce
	*Moore County, NC - Rotating
	*Neighborhood Advisory Committee - Rotating
	*North Carolina - Rotating
	Pinehurst Business Partners
	Tri-Cities Work Group (Pinehurst, So. Pines, Aberdeen)
Lydia Boesch	Bicycle and Pedestrian Advisory Committee
	Convention and Visitors Bureau
	*Moore County, NC - Rotating
	*Neighborhood Advisory Committee - Rotating
	*North Carolina - Rotating
Jeff Morgan	FirstHealth
	*Moore County, NC - Rotating
	Moore County Schools
	*Neighborhood Advisory Committee - Rotating
	*North Carolina - Rotating
	Triangle J. COG



APPROVAL OF VILLAGE COUNCIL MEETING MINUTES
ADDITIONAL AGENDA DETAILS:

September 27, 2022 Council Regular Meeting
September 27, 2022 Council Work Session

FROM:

Kelly Chance

CC:

Jeff Sanborn

DATE OF MEMO:

10/4/2022

MEMO DETAILS:

Attached are the draft minutes from the September 27, 2022 Council Regular and Work Session meetings for Council consideration and approval.

ATTACHMENTS:

Description

- ☐ September 27, 2022 Regular Meeting Minutes (draft)
- ☐ September 27, 2022 Work Session Minutes (draft)



**VILLAGE COUNCIL
MINUTES FOR REGULAR MEETING OF SEPTEMBER 27, 2022
ASSEMBLY HALL
395 MAGNOLIA ROAD
PINEHURST, NORTH CAROLINA
4:30 PM**

The Pinehurst Village Council held a Regular Meeting at 4:30 p.m., Tuesday, September 27, 2022, in the Assembly Hall of Pinehurst Village Hall, 395 Magnolia Road, Pinehurst, North Carolina.

The following were in attendance in Assembly Hall:

Mr. John C. Strickland, Mayor
Mr. Patrick Pizzella, Mayor Pro Tem
Ms. Lydia Boesch, Councilmember
Mr. Jeff Morgan, Councilmember
Ms. Jane Hogeman, Councilmember
Mr. Jeffrey M. Sanborn, Village Manager
Ms. Kelly Chance, Village Clerk

And approximately 22 attendees, including 7 staff and 1 press

1. Call to Order.

Mayor Strickland called the Village Council meeting to order.

2. Invocation by Reverend John Kinyon, Redeemer Church and Pledge of Allegiance led by Mayor Strickland

3. Reports:

Village Manager

- Mr. Jeff Sanborn, Village Manager, reported that Hurricane Ian appears to be going to be more of a rain event, but there is a slight chance of tornadic weather over the weekend. Staff will continue to watch this situation and monitor the amount of rainfall.

Village Council

- Mayor Strickland reported he attended the Village Chapel dedication on September 18th. He and Mayor Pro Tem Pizzella and Councilmember Boesch attended the Pinecrest Marching Patriots Band Fest with 16 bands in attendance and it was a great event for the community, and he thanked Village Clerk Kelly Chance for the invitation.
- Councilmember Boesch reported the Pilot featured a story about a video that was done by a local group of musicians that wrote a song based on the traffic circle and encouraged the community to enjoy it.
- Mayor Pro Tem Pizzella reported he attended the Partners in Progress meeting where they discussed and reviewed the results of the 2022 Moore County employer survey results which was conducted by the national business research Institute. He stated he requested to be in a breakout session where he discussed Pinehurst businesses. He reported concerns noted were wage expectations and technical skill limitations as inhibitors to hiring. He stated supply Chain disruptions did not appear to be a big concern.

- Councilmember Hogeman reported she attended the Tri Cities meeting where affordable housing was discussed. She stated the Moore County Register of Deeds has a new program set up to report fraud alerts.
- Councilmember Morgan had nothing to report.

4. Motion to Approve Consent Agenda.

All items listed below are considered routine or have been discussed at length in previous meetings and will be enacted by one motion. No separate discussion will be held unless requested by a member of the Village Council.

A. Approval of Village Council Meeting Minutes

- September 13, 2022, Council Regular Meeting
- September 13, 2022, Council Work Session

End of Consent Agenda.

Upon a motion by Mayor Pro Tem Pizzella, seconded by Councilmember Boesch, Council unanimously approved the Consent agenda by a vote of 5-0.

5. Easement Request by Duke Energy.

Jeff Sanborn, Village Manager, stated the village received a request to allow an easement to extend a utility line from an existing line that's on the West Pine property owned by the village. He noted the easement would go across the road to serve as a residential development access point.

Mark Wagner, Parks, and Recreation Director introduced Kristen Gainey, Billy Stutz, and David McNeil, representatives of Duke Energy. He stated the request was to allow Duke Energy to install a guide wire on an existing pole that is on the property adjacent to the parking lot of West Pine Park, that would go directly across Chicken Plant Rd., to the homes that they would be serving. He reported the 30-foot easement would require the removal of a couple of pine trees and some scrub oaks. Mr. Wagner stated the guide wire should not impact in any way the future or existing facilities on the site.

Councilmember Jane Hogeman expressed some concern that the proposed contract was broad in scope and would allow Duke too many liberties. David McNeil, Duke Energy District Manager, stated the proposal only pertained to the easement noted and any future requests would be brought to the Village Council, just as this request was. Councilmember Hogeman inquired about the option to move the line underground to which Mr. McNeil reported that Duke Energy has no imminent plans in the village to move wires underground. Jeff Sanborn noted that Village Attorney, Mike Newman, had reviewed the contract and had no problem with it. Mayor Strickland stated he would like Duke Energy to supply a Schedule A with suggested changes narrowing the language.

Upon a motion by Mayor Pro Tem Pizzella, seconded by Councilmember Boesch, Council unanimously approved by mayor or his designee to enter into an agreement with Duke Energy Progress, LLC in the amount of \$1.00, granting Duke Energy a perpetual and non-exclusive easement on certain property described in the instrument recorded in Deed Book 2233, Page 113, Moore County Register of Deeds, as written, by a vote of 4-1, with Councilmember Hogeman casting a no vote.

6. Motion to Recess Regular Meeting and Enter Public Hearing No. 1.

Upon a motion by Mayor Pro Tem Pizzella, seconded by Councilmember Hogeman, Council unanimously approved to recess the regular meeting and enter Public Hearing No. 1 – Moratorium Extension in small area plan areas, by a vote of 5-0.

7. Public Hearing No. 1 – Moratorium Extension in Small Area Plan areas.

Darryn Burich, Planning and Inspections Director, stated the proposed moratorium currently in effect in the Small Area Plan areas (Village Place and Pinehurst South) is set to expire October 6th, 2022. He noted the Village Place Small Area Plan has been approved by both the Planning and Zoning Board and Council and the Pinehurst South Small Area Plan has been approved by the Planning and Zoning Board and has been under consideration by Council and taken up again at its September 27th meeting. He reported the Planning and Zoning Board has commenced work on the form-based code and zoning updates to implement the land use and development aspects of the Village Place Plan but has not yet taken up work on the form-based code and zoning updates on the Pinehurst South Plan because the Plan has not yet been approved by Council.

Mr. Burich stated this would be the fourth extension of the moratorium that if approved, would have the planning areas under moratorium since February 10th, 2021, and would be approaching 2 years if extended. He noted this process has taken considerably longer than staff anticipated when the original moratorium ordinance was adopted and while there are no statutory limitations on the length of a moratorium, any moratorium length must be justified in the context of moving forward to solve the problems necessitating establishment of the moratorium. He stated the initial reason for requesting the moratorium was to preserve the area from inappropriate development in the context of the 2019 Comprehensive Plan. He stated the Village Place Plan has been approved and Pinehurst South should be approved by the time the moratorium expires on October 6th. He also noted the PDO code amendments will not be adopted by time of expiration of the moratorium.

Mr. Burich reported the Planning and Zoning Board has scheduled special work sessions to consider the zoning updates and has made progress on the Village Place updates but work remains and will continue while also recognizing that the cumulative impact of all the extra meetings can be a strain on members of the Planning and Zoning Board. He noted much of the work being done on the Village Place form-based code and zoning updates will be used for corresponding zoning updates and form-based code for Pinehurst South so the time frame to develop Pinehurst South should theoretically be shorter. He stated staff anticipates the time frame to adopt any zoning code updates to implement the plans may take considerably longer once public hearings are scheduled and deliberations commence prior to adoption of any actual PDO amendments.

Mr. Burich stated the 2019 Comprehensive Plan goal of creating two small area plans should be accomplished by the time the moratorium expires. He noted the two plans envision creation of compact mixed-use areas based on development in and around the Village center. Existing zoning does not effectively implement that development pattern and should be an incentive for property owners wishing to develop (or redevelop) to support Village initiated zone changes or to initiate zone changes themselves.

Mr. Burich stated extending the moratorium for another 120 days as proposed will continue to move towards the goal of adopting the corresponding PDO updates to implement the small area plans. He stated staff will continue to work with the Planning and Zoning Board to develop such PDO updates. However, he noted staff cannot provide a reasonable estimation regarding how long that will take nor an estimate once the code updates are developed how long it will take to adopt any of the proposed updates. Mr. Burich stated should Council not want to extend the moratorium staff will continue to develop the code updates as expeditiously as possible

Mayor Pro Tem Pizzella inquired about whether Village Attorney Mike Newman had been consulted to which Mr. Burich stated he had, and it was reinforced that the Village can extend the moratorium. Councilmember Morgan asked how much of a delay has occurred because Council has not provided a final decision on the plan, to which Mr. Burich stated some of the delay is a result of Council delay and some because of staff shortage. Councilmember Morgan stated he does not support the extension of the moratorium, citing the property owner's rights that are affected. Mayor Pro Tem Pizzella stated he felt it was important to continue working toward securing the right decisions are made.

No residents signed up to speak during the public hearing period.

8. Motion to adjourn Public Hearing No. 1 and Re-Enter Regular Meeting.

Upon a motion by Councilmember Hogeman, seconded by Mayor Pro Tem Pizzella, Council approved to adjourn Public Hearing No. 1 and re-enter the regular meeting, by a vote of 5-0.

9. Discuss and Consider Ordinance 22-14 Extending a Moratorium (Small Area Plan)

Upon a motion by Councilmember Hogeman, seconded by Mayor Pro Tem Pizzella, Council approved Ordinance 22-14, extending the Moratorium on Real Estate Development in Specified Geographic Areas of Village Place and Pinehurst South for an additional one-hundred-twenty-day period from the date of expiration, thus, to expire on February 3, 2023, by a vote of 3-2, with Councilmember Morgan and Councilmember Boesch casting no votes.

10. Motion to Recess Regular Meeting and Enter into Public Hearing No. 2.

Upon a motion by Councilmember Hogeman, seconded by Mayor Pro Tem Pizzella, Council approved to recess the regular meeting and enter Public Hearing No. 2 – Amending the Pinehurst Development Ordinance, by a vote of 5-0.

11. Public Hearing No. 2 – Amendments to the Pinehurst Development Ordinance to Establish Regulations for Short-Term Rentals.

Darryn Burich, Planning and Inspections Director reported that on 09/01/22 a public hearing was held by the Planning and Zoning Board to take comments on the proposed PDO text amendments related to establishing regulations for short term rentals and permit revocation. He stated the public hearing was attended by approximately 329 persons, and after several hours of comments involving 50 speakers, both in favor and opposed, the Board took up initial discussion on the proposed amendments. He noted an initial motion was rejected (5-3) to not approve a recommendation of the proposed PDO amendments submitted for consideration. He further noted, for sake of time and being able to make a recommendation back to Council, the Planning and Zoning Board moved to not act on the Homestay aspects of the proposed amendments. He reported due to the length of the meeting, the meeting was continued by the Board to 09/06/22.

Mr. Burich reported P&Z approved the proposed amendments to Section 4.2.12 and 10.2 as part of one motion, and during the discussion adding a “cease and desist order” and removal of incomplete construction elements was discussed. He stated the Village’s development codes do provide the ability to issue stop work orders so adding a cease and desist is not necessary. He noted there is not however clear language in the PDO for site restoration or removal of incomplete building elements and this is situation that has occurred on a small number of properties and could potentially be addressed with a PDO amendment. He stated staff will have to continue to research ways to potentially address these situations.

Mr. Burich reported that in Section 10.2 Definitions, some concern was raised about the ability to enforce the proposed 14-day grace period and what type of tracking system might be established for such purposes. He stated staff would address the situation as a potential use violation and once made aware of the situation would open a compliance investigation like how other use violations are addressed.

Mr. Burich reported in reference to Section 8.5 Table 8.51a Table of Permitted and Special Uses and Special Requirements, P&Z discussed various aspects of not including STRs in single family neighborhoods as proposed by Council. He stated they also discussed including STR’s in other zoning districts that permitted mixed-use development and multiple family uses. He noted, ultimately P&Z approved a motion (5-3) to add STRs as permitted uses in all the single-family residential zoning districts as well as NC Neighborhood Commercial, OP Office and Professional, VCP Village Cottage Professional, and VR Village Residential. He stated staff’s assessment of the P&Z recommendation is that a majority felt that the regulations proposed with SR-9 along with the recent Municipal Code changes could address many of the issues raised by the public and represented a compromise between prohibition and reasonable land use regulation.

Mr. Burich reported that in reference to Section 8.6 Special Requirements (SR) to the Table of Permitted and Special Uses and Special Requirements – SR-9 Short Term Rental, P&Z unanimously approved creation of proposed SR-9 that creates special development requirements for short term rentals. He stated during discussion P&Z proposed various minor edits to the SR as well as adding Item 16 requiring conspicuous posting within the STR of the contact information and rules. He noted P&Z also recommended for Item 13 removing “large gatherings” and capitalizing Special Events to be consistent with PDO definition. Concern was raised that there was not a definition of what constitutes a large gathering and therefore issues with enforceability.

Mr. Burich reported P&Z approved (6-2) that the proposed amendments are consistent with the 2019 Comprehensive Plan. He stated since there are some significant differences between the Council proposed text amendments forwarded to P&Z for review and what ultimately P&Z recommended to Council, staff has created and included in Novus Exhibit B. Exhibit B, incorporates the Planning and Zoning Boards recommendations to indicate how the proposed amendments would be structured should Council adopt the P&Z recommendation, which major changes are the permitted use table and minor edits to SR-9 Short Term Rental along with removal of “Homestays” at this time. He stated P&Z would certainly be willing to take up further discussion about Homestays and provide a recommendation to Council in that regard.

The public Hearing was opened to the community for public comments with 33 participants addressing council. The participants were as follows: Collette Kolinsk, Alan Hall, Alan Torppa, Greg Bryant, Tom Pashley, Linda Guerra, Marianne Wydra, Jason Aslanian, Branden Goodman, Teresa Johnes, William Hughes, Donna Outen, Rose Heintz, Cathy Elsea, Paul Dillon, Kim Wagoner, Isobel Worthy, Carol Coates, Cortni Jones, Matt Kenny, Jeff Heintz, Bob Coates, Barbara Longeway, John Webster, Tom Congoran, Kevin Drum, Jennifer Stoddard, Phil Sounia, and Debbie Lalor. Comments made are available on the village website under Meeting Videos.

12. Motion to Adjourn Public Hearing No. 2 and Reenter the Regular Meeting

Upon a motion by Councilmember Boesch, seconded by Councilmember Morgan, Council approved to adjourn Public Hearing No. 2 and re-enter the regular meeting, by a vote of 5-0.

13. Discuss and Consider Ordinance 22-15 Amending the Pinehurst Development Ordinance.

Councilmember Boesch stated she is sympathetic for both sides and she would love to find a way to work this out. She stated she feels we haven't given the residents a legal framework about what we are able to do. She noted that upon reading the preamble to the proposed changes she is not certain there is some that she does not feel we have provided evidence for. She stated this has caused a lot of hardship on friendships and so she would like to find a way to work this out. She stated she feels a lawsuit will be even more divisive.

Mayor Strickland stated he does not feel we will create anything that would lead to a lawsuit, and he thought that all of Council's goal is to work this out. Mayor Pro Tem Pizzella stated he found the comments tonight had some nuggets of information that we have maybe not talked about. He stated he observed that it is important we consider that the people on one side of this issue and the ones on the other side both love Pinehurst; they just have different visions for Pinehurst. He stated that he would like to put to rest the concept that we are either a resort community or a retirement community. He stated we have not always been a str community. When the town first started people traveled here and were seasonal guests and now, we have progressed to groups of str's, but now rental platforms such as Airbnb have made the system work well and this has led to the exponential growth in Pinehurst.

Mayor Pro Tem Pizzella stated Council has progressively been working through this issue and we are limited by NC statutes, so faced with a lot of input, we need to work to preserve the character of the Village and put something together that help the residents be able to rest from this topic for a while.

Councilmember Hogeman stated she is grateful to have heard from those tonight and she knows people are deeply concerned about this issue. She stated it is now up to council to work together as a team to come up with something that will fit into that small ring of what the state allows us to do, while getting to the heart of the matter.

Councilmember Morgan states he wants to advocate for voluntary compliance and then use the powers the village has been granted by NC state statutes to punish owners for violations. He supports going for a good solution – solve problem in the first go around. He stated we need to address behavioral issues – speeders do not mean you ban cars, so he wants to see voluntary compliance with behavioral ordinances – He stated he does not find a ban in the single-family residents is the answer. He is concerned about the litigation, He does not think council has gone as far as they should to address this, except for looking at a ban.

Council will begin to work on solutions.

14. Discuss and Consider a Resolution Authorizing the Sale of Surplus Capital Assets.

Brooke Hunter, Finance Director, presented Council with a resolution authorizing the Village Manager to sell surplus assets with an estimated market value of less than \$10,000. She noted the item is a 2002 KME Predator Fire Engine, which could potentially bring over \$10,000 at auction. She stated staff is requesting the Council adopt Resolution 22-23, authorizing the sale of the listed asset, which will be listed on the Village's GovDeals electronic auction website.

Upon a motion by Councilmember Morgan, seconded by Mayor Pro Tem Pizzella, Council unanimously approved Resolution 22-23, authorizing the Village Manager to dispose of certain surplus capital assets, as presented, by a vote of 5-0.

15. Consider Budget Amendment to Upgrade Traffic Signals at Two Intersections on Hwy 15-501 to Decorative green metal posts and mast arms.

Jeff Sanborn, Village Manager, and Jeff Batton, Assistant Village Manager sought approval from Council to pursue enhanced traffic signals consistent with the Council's goal of "Promoting High Quality Development and Appearance." Mr. Batton stated NCDOT has informed the Village that it is pursuing two intersection improvement projects along Hwy 15-501 that are of interest to the Village. He noted one project is the realignment of Hwy 15-501 and Page Road, which includes a new traffic signal. He stated the second is the addition of a southbound right turn lane at Hwy 15-501 and Memorial Drive which includes a revision to the existing traffic signals. He noted currently, both intersections are designed for standard wood poles and crosswire traffic signals.

Mr. Batton reported the Village can enhance these signals to green metal poles and mast arms by paying the cost difference between the standard signal specifications and the enhanced signal specifications. He stated this enhanced traffic signal specification would be consistent with most of the other traffic signals in the Village. Participating in this would also be consistent with Village practice of taking advantage of the opportunity to enhance traffic signals when DOT is doing major intersection work. Mr. Batton reported the Village cost-share to upgrade is \$216,200. He noted since this opportunity was unforeseen during FY2023 Strategic Operating Plan preparation, it is not included in the FY2023 budget.

Upon a motion by Mayor Pro Tem Pizzella, seconded by Councilmember Morgan, Council unanimously approved Ordinance 22-16, amending the ordinance appropriating funds for operations of the Village of Pinehurst for Fiscal Year 2023, regarding revenues and expenditures of the general fund, by a vote of 5-0.

16. Consider dedication of Winged Foot Road and associated right-of-way in Villas at Forest Hills to the Village of Pinehurst.

Jeff Batton, Assistant Village Manager, and Mike Apke, Public Services Director, presented Council with a request from Windjam 7, developer of Villas at Forest Hills, to accept the road and right-of-way of Winged Foot Road as originally intended when the development was approved. He reported Winged Foot Road is the final road to be dedicated to the Village within this development and is completely built out with most, if not all, homes sold and occupied.

Mr. Batton reported the road, sidewalk and associated infrastructure has been inspected and a punch list of items remains to be completed. He stated the Village currently holds a cash financial guarantee in the amount of \$37,875 from Windjam 7 and Windjam 7 wishes to forfeit the guarantee in favor of the Village so that punch list items may be expeditiously completed. He noted Windjam 7 has further committed to cover cost over runs up to a grand total of \$45,000.

Mr. Batton reported Village staff have reviewed costs to complete punch list items and is confident the needed repairs can be accomplished within the existing \$37,875 financial guarantee. He stated the primary costs associated with the punch list is road repairs. He noted, based on unit pricing quotes received for the FY23 Village-wide Road resurfacing project, this road will be brought up to standard for a cost of \$18,000. He stated there are a few concrete sidewalk repairs, curb and gutter repairs, and some minor shoulder rehabilitation that should easily fall within the balance of \$19,875.

Mr. Batton reported, being the development is complete and the residents living on this road will have punch list items addressed more quickly by the Village and staff recommends we accept the forfeiture of the financial guarantee along with the road dedication and proceed with the punch list items. He noted if Council concurs with the staff's recommendation, adoption of the accompanying ordinance will be necessary.

Upon a motion by Mayor Pro Tem Pizzella, seconded by Councilmember Morgan, Council unanimously approved Ordinance 22-17, accepting a petition for dedication of streets within the Village of Pinehurst and amending Chapter 7, Schedule II, and Schedule IV of the Pinehurst Municipal Code as it pertains to regulating traffic on the streets presented, by a vote of 5-0.

17. Discuss and Consider Budget Amendment and Awarding FY23 Resurfacing Contract to Fred Smith Company.

Mike Apke, Public Services Director, presented Council with an item is to consider, awarding the Village's annual road resurfacing contract to Fred Smith Company from Raleigh, North Carolina. He stated that Fred Smith Company acquired Riley Paving in October 2020 and continues to maintain an office and asphalt plant in Carthage. He noted they also completed the Village's resurfacing project in FY21.

Mr. Apke reported four (4) contractors submitted unit pricing on an initial list of approximately four (4) miles of roads to resurface on August 30, 2022. He stated a street listing and map showing the roads included in the bid package are attached for reference. He noted utilizing the Village's estimated quantities of items within the project, Fred Smith Company's total bid amount to complete the project is \$1,352,951.00.

Mr. Apke reported this bid is approximately 21% higher than the low bid received by the Village to resurface four (4) miles of roadways in FY22, but it is also significantly less than the other three (3) bids received for the FY23 project. He stated a Bid Tabulation summary showing all bids received is attached for reference.

Mr. Apke reported the Village's Powell Bill budget for FY23 is \$1.3 million; therefore, the low bid exceeds the current funds available. He stated the Village could reduce the scope of work and resurface less than four (4) miles or approve a budget amendment to complete the full project. He noted, in addition to the road resurfacing, the Powell Bill budget includes road shoulder rehabilitation performed by a separate contractor after the resurfacing work has been completed. He stated, at this time, staff estimates the total FY23 Powell Bill project cost, including road resurfacing and shoulder rehabilitation, to be \$1,472,875.00.

Mr. Apke reported, to achieve our annual goal of resurfacing at least four (4) miles of roadways, staff recommends a budget amendment to complete the full scope of work. He stated this would require an additional \$172,875.00 of funding, which is summarized as follows: \$37,875.00 from the forfeiture of the Windjam Development performance bond; \$135,000.00 of fund balance appropriation

Mr. Apke reported if the amendment is approved, our plan would be to award an original contract to Fred Smith Company in the amount of \$1,352,951.00 via motion and request that the motion include that the Village Manager is authorized to execute change orders to add additional quantities at the original unit pricing with the overall amount not to exceed \$1,472,875.00.

Upon a motion by Mayor Pro Tem Pizzella, seconded by Councilmember Boesch, Council unanimously approved Ordinance 22-18, amending the ordinance appropriating funds for operations of the Village of Pinehurst for Fiscal Year 2023, regarding revenues and expenditures of the general fund, by a vote of 5-0.

Upon a motion by Councilmember Morgan, seconded by Councilmember Hogeman, Council unanimously approved to authorize the mayor or his designee to execute a contract with Fred Smith Company for the Fiscal Year 2023 annual road-resurfacing project in the amount of \$1,352,951 and authorize the Village Manager to execute change orders to add additional miles at the original unit pricing with the overall annual amount not to exceed \$1,472,875 in sum total, by a vote of 5-0.

18. Discuss and Consider Pinehurst South Small Area Plan.

Darryn Burich, Planning and Inspection Director reported, at its September 13, 2022, meeting, Council asked if staff could develop a preferred land use scenario that incorporated the high intensity land uses proposed on the west side of NC-5 with that of the low intensity land use scenario on the east side of NC-5 south of Blake Boulevard. He stated staff has made those adjustments and created a new map titled "Preferred Build Out-Plan" for Council consideration. He noted the map is added as a separate exhibit in Novus Agenda and has not yet been incorporated into the Small Area Plan and won't until there is consensus on the map.

Mr. Burich reported that approving the plan with this new map does not establish any new regulatory control within the area because approving the Plan doesn't change existing zoning. He stated what the map does is provide a guide to developing zoning code updates to implement the Plan like the work underway for the Village Place Plan and in particular the Regulating Plan that will control building form, type, and land use.

Mr. Burich stated questions also came up at the last meeting regarding potential trip generation with the various land use scenarios which staff has done some follow-up research on. He noted, at this point in the planning process only trip generation generalities can be provided based on the types of land uses proposed in the area because there are so many different variables that impact trip generation. He stated differing land uses have different trip generation rates in general and different sized developments will generate differing amounts of trips. He noted different types of commercial and retail operations that have differing trip generation rates. He stated, for example, a fast-food restaurant generates more trips than does a fast casual than does a quality restaurant, and the same concept applies to various other use categories as well. He noted the size of these operations also impact trip generation.

Mr. Burich reported not knowing specifically, the exact type and size of the land use type make it very hard to provide a very accurate trip generation number given that the land uses, and development pattern shown on the maps are all illustrative and subject to change. He stated, yes, the boxes on the plan that show types of nonresidential development but what is not known exactly is the type of commercial or retail use or if the building is only one story. He noted that is why when we have a development proposal, we can run trip generation numbers and even potentially require a traffic impact analysis. He stated, however, those too are estimates based on models and studies and can be inaccurate.

Mr. Burich reported, in general, retail produces the most peak trips per hour followed by office, single family, industrial, apartments/condos/townhouses according to the Institute of Transportation Engineers (ITE) Trip Generation Report 10th Edition. He stated he hoped the new map and traffic information provided is helpful and Council will be able to approve the Plan. He stated staff and P&Z could then commence work on the code updates along with the Village Plan Small Area Plan.

Upon a motion by Councilmember Morgan, seconded by Councilmember Boesch, Council unanimously approved to adopt the Pinehurst South Small Area Plan as presented, by a vote of 5-0.

19. Other Business.

No other business was discussed.

20. Comments from Attendees.

No public comments were received.

21. Motion to Adjourn.

Upon a motion by Mayor Pro Tem Pizzella, seconded by Councilmember Hogeman, Council unanimously approved to adjourn the regular meeting by a vote of 5-0 at 9:05 p.m.

Respectfully Submitted,

Kelly Chance,
Village Clerk

A videotape of this meeting is located on the Village website: www.vopnc.org

Vision: The Village of Pinehurst is a charming, vibrant community, which reflects our rich history and traditions.

Mission: Promote, enhance, and sustain the quality of life for residents, businesses, and visitors.

Values: Service, Initiative, Teamwork, and Improvement



**VILLAGE COUNCIL
MINUTES FOR WORK SESSION OF SEPTEMBER 27, 2022
ASSEMBLY HALL
395 MAGNOLIA ROAD
PINEHURST, NORTH CAROLINA
4:30 PM**

The Pinehurst Village Council held a Regular Meeting at 9:10 p.m., Tuesday, September 27, 2022, in the Assembly Hall of Pinehurst Village Hall, 395 Magnolia Road, Pinehurst, North Carolina.

The following were in attendance in Assembly Hall:

Mr. John C. Strickland, Mayor
Mr. Patrick Pizzella, Mayor Pro Tem
Ms. Lydia Boesch, Councilmember
Mr. Jeff Morgan, Councilmember
Ms. Jane Hogeman, Councilmember
Mr. Jeffrey M. Sanborn, Village Manager
Ms. Kelly Chance, Village Clerk
Mr. Mike Newman, Village Attorney

And approximately 13 attendees, including 6 staff and 1 press

1. Call to Order.

Mayor Strickland called the Village Council meeting to order.

2. Other Work Session Items.

No other items were discussed.

3. Potential Future Agenda Items

No future agenda items were discussed.

4. Motion to Recess the Work Session and Enter Closed Session.

Upon a motion by Mayor Pro Tem Pizzella, seconded by Councilmember Hogeman, Council unanimously approved to recess the Work Session and Enter Closed Session, by a vote of 5-0.

5. Closed Session

Council held a closed session pursuant to NCGS §143-318.11(a)(3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged, and pursuant to NCGS §143-318.11(a)(5) to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease.

6. Motion to Adjourn the Closed Session and Re-Enter the Work Session.

Upon a motion by Mayor Pro Tem Pizzella, seconded by Councilmember Boesch, Council unanimously approved to adjourn the closed session and re-enter the work session, by a vote of 5-0.

7. Adjournment.

The meeting was adjourned at 10:33 p.m.

Respectfully Submitted,

Kelly Chance,
Village Clerk

A videotape of this meeting is located on the Village website: www.vopnc.org

Vision: The Village of Pinehurst is a charming, vibrant community, which reflects our rich history and traditions.

Mission: Promote, enhance, and sustain the quality of life for residents, businesses, and visitors.

Values: Service, Initiative, Teamwork, and Improvement



**BUDGET AMENDMENTS REPORT
ADDITIONAL AGENDA DETAILS:**

FROM:

Brooke Hunter

CC:

Jeff Sanborn & Doug Willardson

DATE OF MEMO:

10/5/2022

MEMO DETAILS:

Attached is the report of budget amendments approved by the Budget Officer as required for the current period.

ATTACHMENTS:

Description

- Budget Amendments Report - FY 2023



**VILLAGE OF PINEHURST
BUDGET AMENDMENTS APPROVED BY BUDGET OFFICER
FOR THE PERIOD SEPTEMBER 21 - OCTOBER 4, 2022**

Under Village of Pinehurst Ordinance #22-05, the Village Council grants the Budget Officer, or Village Manager, the ability to transfer appropriations under specific conditions. These conditions allow transfers between departments (including contingency) of the same fund to increase an appropriation up to \$25,000 in a single budget amendment for the FY 2023 Budget. The Budget Officer may not transfer monies between funds at any time.

According to Section 159-15 of The Local Government Budget and Fiscal Control Act, "any such transfers shall be reported to the governing board at its next regular meeting and shall be entered in the minutes." Listed below are the amendments authorized by the Budget Officer for the period specified above.

Note: Since appropriations are made at the department level, line item adjustments within the same department may be made without limit and do not require a report since they do not actually amend the adopted budget ordinance.

	<u>ACCOUNT NUMBER</u>	<u>DESCRIPTION</u>	<u>DEBIT</u>	<u>CREDIT</u>	<u>APPROVED DATE</u>
1	10-60-910-8082	Principal: Right to Use Asset	\$ 12,200		9/21/2022
	10-60-910-8083	Interest: Right to Use Asset	\$ 300		
	10-00-980-5300	Contracted Services		\$ 9,300	
	10-00-980-3560	Charges to Other Departments	\$ 9,300		
	10-00-220-5911	Admin - IT Charges		\$ 3,100	
	10-00-230-5911	Finance - IT Charges		\$ 1,800	
	10-10-310-5911	Police - IT Charges		\$ 1,000	
	10-80-610-5911	Recreation - IT Charges		\$ 900	
	10-80-615-5911	Library - IT Charges		\$ 2,500	
	10-00-220-6000	Admin - Rentals		\$ 3,200	

At the time the FY 2023 budget was developed, the process to identify GASB 87 leases had not been finalized. Thus, all lease expenditures were budgeted in IT's contracted services account and Administration's rental account, as in the past. The Village currently has seven GASB 87 leases for copiers and a postage meter. This amendment moved the budgeted funds from contracted services and rentals to debt service principal and interest. This entry is only for our existing portfolio of leases. If other contracts are signed in FY 2023, an additional budget amendment will be required at that time.



**MAYORAL PROCLAMATION: NATIONAL SCHOOL LUNCH WEEK
ADDITIONAL AGENDA DETAILS:**

FROM:

Kelly Chance

CC:

Jeff Sanborn and Village Council

DATE OF MEMO:

10/6/2022

MEMO DETAILS:

This item is a proclamation in recognition of National School Lunch Week, October 10-14, 2022.

ATTACHMENTS:

Description

- ▣ National School Lunch Week Proclamation

MAYORAL PROCLAMATION

VILLAGE OF PINEHURST

WHEREAS, the National School Lunch Program has served our nation admirably for 75 years through advanced practices and nutrition education; and

WHEREAS, the National School Lunch Program is dedicated to the health and academic achievement of our nation's children; and

WHEREAS, recent research shows students are receiving their healthiest meals at school; and there is evidence of continued need for nutrition education and awareness of the value of school nutrition programs.

NOW THEREFORE, I, John C. Strickland, Mayor of the Village of Pinehurst, do hereby proclaim October 10-14, 2022, as NATIONAL SCHOOL LUNCH WEEK, and I encourage all residents to become aware of the benefits of the National School Lunch Program and support good nutrition habits for their children, in hope of achieving a more healthful citizenry for today and the future.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the official seal of the Village of Pinehurst, this the 11th day of October 2022.

John C. Strickland, Mayor





**DISCUSS AND CONSIDER ORDINANCE #22-15 AMENDING THE
PINEHURST DEVELOPMENT ORDINANCE TO ADDRESS SHORT-TERM
RENTALS, HOMESTAYS, AND PERMIT REVOCATION
ADDITIONAL AGENDA DETAILS:**

FROM:

Darryn Burich & Alex Cameron

CC:

Jeff Sanborn

DATE OF MEMO:

9/21/2022

MEMO DETAILS:

The purpose of this agenda item is to consider Ordinance #22-15 which would amend the Pinehurst Development Ordinance to address permit revocation, short term rentals and homestays.

The ordinance language attached represents the Council recommendation sent to the Planning and Zoning Board. Recommendations from the Planning and Zoning Board may be incorporated in full or in part dependent on Council deliberations.

For additional material related to this agenda item, please see the Public Hearing agenda item.

ATTACHMENTS:

Description

- ▣ Staff Memo 10.11.2022
- ▣ Updated STR Related Amendments 10.06.2022
- ▣ Draft Ordinance #22-15
- ▣ Staff Memo - 9.27.2022 Meeting
- ▣ Staff Report for P&Z Board
- ▣ Exhibit A - Proposed Draft PDO Amendments
- ▣ Signed STR Amendments Comp Plan Consistency Statement
- ▣ Exhibit B - Draft PDO Amendments based on P&Z Recommendation



PLANNING AND INSPECTIONS DEPARTMENT COUNCIL STAFF MEMO

To: Mayor Strickland and Village Council
From: Darryn Burich, Director of Planning and Inspections
Alex Cameron, Planning Supervisor
Date: October 7, 2022
Subject: Proposed PDO Amendments to Address Short Term Rentals and Permit Revocation

Based on public hearing comments and Council discussion received at the public hearing staff is proposing several updates to the proposed PDO amendments related to addressing short term rentals and permit revocation which includes additional nonconforming use provisions that have not been previously discussed relative to amendments to Chapter 2 of the PDO. Please see the attached exhibit in Novus identified as “**Updated STR Related Amendments 10/06/22**”. Please note, no changes have been made to draft Ordinance #22-15 that was on the Council’s last meeting on 09/27/22.

In general, the proposed updates would accomplish the following:

- First, the ordinance would prevent the creation and operation of any **new** STRs in any district zoned single-family residential as originally proposed by Council. Going forward, STRs would no longer be a permitted use in single family zoning districts which addresses the stated concerns of an explosion of new STRs in the single family districts in an effort to preserve quality of life and prevent the transition of these predominantly single family neighborhoods to transient lodging neighborhoods. Also as initially proposed by Council, **new** STRs would only be permitted in areas zoned as: Village Mixed Use (VMU), Village Commercial (VC), Residential Multi-Family (R-MF). Additionally staff is recommending that **new** STRs also be permitted in the Hotel (H) and the Village Cottage Professional District.
- Second, the ordinance allows **all existing STRs** located in single-family zoning districts to continue to be operated as lawful nonconforming uses subject to the Village’s nonconforming use definitions and requirements. All nonconforming uses generally run with the land, and cannot be enlarged, expanded, or intensified. The ordinance does **not** include amortization for any type of nonconforming use, including STRs. The ordinance does **not** contain any requirement that owners of existing STRs obtain permission to rent from the Village, or a permit to rent from the Village, or require that current STR owners register their STR with the Village, to continue their lawful operation as a nonconforming use. Lastly, the proposed amendment to the **Cessation of Use** provisions in 2.3.2 (G) would cessate the STR use to a permitted use if a nonconforming STR is not used in a 365 day period.

- Third, [in order to “officially” recognize legal nonconforming use status, staff is proposing to create a “Nonconforming Use Certificate” which will certify to the owner and future owners of a property the right to continue such lawful nonconforming use within applicable limits of Village ordinances, and the statutory and common law of North Carolina. Owners of **all** nonconforming uses, including owners of existing STRs, will be required to apply for and will be issued a Nonconforming Use Certificate from the Village upon proof of its legal existence as a nonconforming use.]
- Fourth, the Village Council has separately updated its municipal code to enable the Village to more effectively and efficiently address complaints involving excessive noise, unruly behavior by residents and visitors, littering, and parking violations. These municipal code requirements will be uniformly enforced as to all residents, and all visitors, including visitors using STRs. Efficient and uniform enforcement of our municipal code will allow the Village to promptly address and remedy those behavioral issues which adversely affect our residents’ quality of life. The Village is confident that these tools will allow us to effectively address those STRs which are or have been creating problems for their neighbors.
- Fifth, owners of existing STRs, and their guests, will be subject to all municipal code requirements which apply to all residents. Owners of existing STRs are also required to comply with the development standards proposed with SR-9 as well as with all state building code requirements, fire code requirements, and similar requirements which apply uniformly to all guest lodging uses.

As previously stated the proposed edits or modifications discussed have not been incorporated into proposed Ordinance #22-15 and would require Council action to incorporate all or any of the changes.

Staff Commentary: Propose following amendments to Chapter 2 Nonconformities which would create a Nonconforming Use Certificate and changes to cessation in use which would include short term rentals. Such amendments would add two new subsections, B & C, and would re-letter existing sections. All new proposed language is identified in red underlined font.

2.3.2 Nonconforming Uses (would create a new (B) and (C) and re-letter existing subsections. Everything in Red underlined font is proposed as new language)

(A) Extension of Use: A nonconforming use of land shall not be enlarged, extended, or intensified in any way except as provided below;

(B) Within the Village there are some uses which may be nonconforming (the use was allowed when it was constructed and first used, but does not meet the current zoning regulations. These nonconforming uses may have a right to remain and continue to be used as they were originally constructed and used, provided the original use has not been discontinued for longer than the periods set forth in subsection (G) as to particular types of nonconforming uses.

(C) Nonconforming Use Certificate: A Nonconforming Use Certificate is an official declaration issued by the Village confirming the legal nonconforming use status that is attached to the property for the benefit of current and future property owners to be assured that the current and original use may lawfully continue and are afforded the benefits identified in this subsection. The Certificate shall describe the nature and extent of the nonconformity, and is an acknowledgement by the Village that the use was legal at the time of construction and original lawful use, and was lawful prior to the adoption of the new zoning ordinance, and is therefore allowed to lawfully remain so long as it is not discontinued under the provisions of subsection (G), or enlarged, extended, or intensified as proscribed by subsection (A).

(1) Issuance: Within 365 days of any use being made a nonconforming use as defined by Section 10.2 of this Ordinance, or within 365 of the after adoption of this Ordinance, whichever is later such nonconforming uses shall apply for a Nonconforming Use Certificate that shall be issued by the Village Planner upon the property owner providing documentation acceptable to the Village establishing the legal existence of the original nonconforming use, and documentation that the original use has not been discontinued for the applicable periods set forth in subsection (G). As to requests for Nonconforming Use Certificates from owners of short term rental dwelling units in existence and operated prior to effective date of this Ordinance (insert adoption date of Ordinance), proof sufficient to establish the lawful nonconforming status may include, among other forms of documentation, Moore County tax records, rental agreements and/or leases, occupancy tax records, and other similar types of documentation confirming and establishing the pre-existence of the nonconforming use for short term rental purposes. The Village issues Nonconforming Use Certificates in order for current and future owners to be assured that the current use may lawfully continue. As such, requests for Nonconforming Use Certificates shall be made within three hundred sixty-

~~five (365) days of adoption of any new zoning ordinance rendering the original lawful conforming use a lawful nonconforming use.~~

- (D) Continuation, Maintenance and Minor Repair: The continuation of a nonconforming use of land and the maintenance or minor repair of a structure containing a nonconforming use are permitted, provided that the continuation, maintenance, or minor repair does not extend, expand, or increase the intensity of the nonconforming use. For the purposes of its Section, maintenance or minor repair shall mean:
- a. Repairs that are necessary to maintain and to correct any damage or deterioration to the structural soundness or interior and exterior appearance of a building or structure without expanding or altering the building or structure;
 - b. Maintenance of land areas to protect against health hazards and promote the safety of surrounding land uses;
 - c. The addition of landscaping that increases the visual attractiveness of the property;
 - d. Repairs which are required to remedy unsafe conditions which cause a threat to public safety; and
- (E) Damage or Destruction: If a nonconforming use of land or a structure containing a nonconforming use is destroyed by any means other than Acts of God, to an extent greater than fifty percent (50%) of its replacement cost at the time of destruction, then such use shall not be reestablished in any way that does not conform to the requirements of this Ordinance. However, if the destruction is a result of acts of God the use and or structure can be reestablished to the previous extent;
- (F) Change of Use: Any nonconforming use of land may be changed to a conforming use by securing all approvals and permits that this Ordinance requires for the intended or resulting use, building, structure, or lot. No nonconforming use may be changed to another nonconforming use unless the Village Council determines, after a public hearing is held, it is a change in use of a nonconforming use to a different, less intensive nonconforming use or a use more compatible with the Village Comprehensive Long Range Plan and Section 1.2 , Statement of Intent of this Ordinance;
- ~~(E)~~(G) Cessation of Use: If a nonconforming use is discontinued for one hundred twenty (120) consecutive days or more, then the property shall thereafter be occupied and used only for a conforming use. If a nonconforming use of property is discontinued, but reestablished within one hundred twenty (120) days, then the nonconforming use may continue, provided that the nature and degree of the nonconformity will not be changed or increased from that which existed before the nonconforming use was discontinued. Nonconforming Banks, Credit Unions, Financial Services and Professional Services located within the VC (Village Commercial) Zoning District shall not be afforded the same one hundred twenty (120) days but rather a thirty (30) days cessation in use shall result in the discontinuation of that use and the space may only be re-occupied by a conforming use. If a dwelling unit is not used as a short term rental

for three hundred sixty-five (365) days or more, the use shall be deemed to have been discontinued and shall thereafter be used only for a conforming use.

Staff Commentary: No changes are proposed to Section 4.2.12.

4.2.12 Revocation of Development Permit

Pursuant to G.S. 160D-403(f), a Development Permit may be revoked by the Village Planner after notifying the permit holder in writing and stating the reason for the revocation. The permit revocation shall follow the same process required for issuance of the Development Permit, including any required notice or hearing, in the review and approval of any revocation of that approval.

Terms under which a Development Permit may be revoked include:

- (A) Any substantial departure from the approved application, plans, or specifications; or
- (B) Refusal or failure to comply with the requirements of this ordinance or any applicable local development regulation or any State law delegated to the Village for enforcement purposes in lieu of the State; or
- (C) False statements or misrepresentations made in securing the approval; or
- (D) Any development approval mistakenly issued in violation of an applicable State or local law.

Revocation of a development permit by the Village Planner may be appealed as provided in Chapter 5 and pursuant to G.S. 160D-405.

Staff Commentary: Council's original recommendation of permitting in the R-MF, VMU, and VC districts remains. Staff is proposing to add Hotel (H) as a permitted use for potential cottage style developments. SR is proposed to be added to all districts where STRs are currently located or can locate based on Table 8.5.1a. Propose to remove the Homestay use from the Table of Permitted Uses for further discussion and ordinance development. If Homestay is not removed from the table, it would have the effect of prohibiting in all districts where not Permitted by Right.

8.5.1a Table of Permitted and Special Uses and Special Requirements

LODGING	PC	RD	R-210	R-30	R-20	R-15	R-10	R-8	R-5	R-MF	NC	H	HD	OP	VCP	VR	VMU	VC	SR
Bed and Breakfast Homes			X,SR									X,SR			X,SR	X,SR	X,SR		7
Boarding or Rooming House																			
Dormitory																			
Hotel												X	X				X,SR	X,SR	8
Recreational Vehicle Park																			
<u>Short Term Rental</u>			SR	SR	SR	SR	SR	SR	SR	X,SR	SR	X,SR			SR		X,SR	X,SR	9*
Accessory Use																			
<u>Homestay</u>																			

**Adding SR-9 will require current SR-9 to move to SR-21*

X Permitted by Right

SU Special Use Permit

SR Special Requirement

Staff Commentary: Have re-ordered some of the proposed special requirements proposed for SR-9. More significant changes and edits have been underlined or struck through. Removed the revocation provisions as redundant with newly created 4.2.12 Permit Revocation.

Section 8.6 Special Requirements (SR) to the Table of Permitted and Special Uses and Special Requirements

Principal Uses

~~SR-9 Banks, Credit Unions, Financial Services, Professional Services~~ (to be recodified as SR-21 below)

SR-21 Banks, Credit Unions, Financial Services, Professional Services

SR-9 Short Term Rental

- 1) After the effective date of this Ordinance, all applicants seeking to establish any new short term rentals shall be required to obtain a Development Permit from the Village. All short term rental dwelling units operated prior to the effective date of this Ordinance are not required to obtain any Development Permit or any other type of permit or permission as a condition to rent, and are not required to register their short term rental with the Village but are entitled to request issuance of a Nonconforming Use Certificate as set forth in subsection 2.3.2 of this Ordinance. All short term rentals, whether lawful nonconforming uses or new short term rentals established after the effective date of this Ordinance, shall comply with all applicable requirements of the North Carolina State Building Code and Fire Code, the North Carolina Vacation Rental Act, and the Village of Pinehurst Municipal Code, which includes, but is not limited to the following standards: Development Permits are non-transferable when a property is sold or transferred. Nonconforming short term rental units shall be regulated by subsections 14 and 15 below.
 - a. A minimum of one (1) operable smoke detector shall be provided per bedroom (North Carolina State Building Code and 42-A-31(6) Vacation Rental Act);
 - b. A minimum one (1) operable carbon monoxide detector shall be provided per level or floor of the dwelling unit. (42-A-31(6) Vacation Rental Act)
 - c. Bedrooms and other habitable rooms shall meet the minimum light and ventilation requirements of Section 153.18 of the Pinehurst Municipal Code.
 - d. Bedrooms shall meet the minimum size requirements of Section 153.19 of the Pinehurst Municipal Code.
 - e. Ceiling Height. At least one-half of the floor area of every bedroom shall have a ceiling height of not less than seven feet and six inches (Section 153.19 (B) Pinehurst Municipal Code).

- f. Egress. Every dwelling unit shall be provided with adequate means of egress as required by the applicable provisions of the North Carolina State Building Code.
 - g. To lessen congestion in the streets and to prevent the overcrowding of land as authorized by G.S 160D-701. A minimum of one (1) parking space per bedroom shall be provided on code-approved surfaces and locations.
 - h. Cooking facilities are not permitted in any bedroom. For the purposes of this regulation, cooking facilities include any refrigerator in excess of seven (7) cubic feet; any stovetop range that operates on 220-volt electric service, any appliance that operates on natural gas; or any cooktop, whether integrated into a countertop or a separate appliance which contains more than two cooking surfaces or burners. This regulation shall not apply to single dwelling unit room rentals with a sleeping area, living area, and kitchen/eating area consolidated into one room.
 - i. To ensure that the owners of short term rentals provide fit and habitable housing as required by G.S. 42A-17(b), and to prevent the overcrowding of land, the avoidance of undue concentrations of population, to lessen congestion in the streets, and to prevent overcrowding of the lodging premises, and as authorized by G.S. 160D-701, the maximum occupancy per unit shall be based on two (2) adult guests per bedroom.
 - j. Accessory Dwelling Units may be permitted for short term rental where Permitted by Right in Table 8.5.1a Table of Permitted and Special Uses and Special Requirements.
 - k. In residential zoning districts, short term rental units shall not be used for Special Events as defined by Section 10.2 of this Ordinance, or other commercial-type large gatherings.
 - l. Contact information along with these special requirement regulations shall be conspicuously posted and otherwise made available to tenants.
- 2) ~~Revocation. As to new short term rentals established after the date of this Ordinance, and after the issuance of a Development Permit to those new short term rentals, if it is determined that more than 3 verified violations occur within a 365-day period the Development Permit or may be revoked for a period of 365 days after which a new permit may be issued. For purposes of this Section any three or more verified violations of any combination of the following occurring at the short term rental premises shall apply:~~
- ~~a. Any Pinehurst Development Ordinance regulation as adopted as Chapter 152 of the Pinehurst Municipal Code; or~~
 - ~~b. Section 92.16 of the Pinehurst Municipal Code Regulating Unreasonably Loud, Disturbing Sound Levels; or~~
 - ~~c. Section 92.17 of the Pinehurst Municipal Code Regulating Unruly Gatherings~~
 - ~~d. Chapter 153 of the Pinehurst Municipal Code Establishing Minimum Housing Standards.~~
 - ~~e. A verified violation is a determination made by a code enforcement official, law enforcement officer, or a judge, following notice of a violation being~~

~~issued by the Village. Noticed violations of the Pinehurst Development Ordinance may be appealed as provided in Chapter 5 of this Ordinance pursuant to G.S. 160D-405.~~

~~3) Compliance Period with SR-9 Standards~~

~~a. Owners of existing short term rental units where Permitted by Right in Table 8.5.1a Table of Permitted and Special Uses and Special Requirements owners shall come into full compliance with SR-9 standards 2-12 no later than January 1, 2024. or cease operation as a short term rental on that date. For purposes of this Section a nonconforming short term rental unit is a dwelling unit used for short term rental purposes and is located in a General Use Zoning District where it is identified as being Permitted by Right in Table 8.5.1a and does not have a Development Permit approved for use as a Short Term Rental Unit as of the effective date of this ordinance.~~

~~4) Compliance Period; Existing Nonconforming Short Term Rental Units Permitted By Right~~

~~a. Owners of existing short term rental units where Permitted by Right in Table 8.5.1a Table of Permitted and Special Uses and Special Requirements owners shall apply for a development permit and come into full compliance with SR-9 no later than January 1, 2024 or cease operation as a short term rental on that date. For purposes of this Section a non-conforming short term rental unit is a dwelling unit used for short term rental purposes and is located in a General Use Zoning District where it is identified as being Permitted by Right in Table 8.5.1a and does not have a Development Permit approved for use as a Short Term Rental Unit as of the effective date of this ordinance.~~

~~5) Amortization Period; Existing Short Term Rental Units Not Permitted by Right~~

~~a. Owners of existing short term rental units where not Permitted by Right in Table 8.5.1a are prohibited and shall cease operation as a short term rental by October 1, 2025. For purposes of this Section a short term rental unit not permitted by right is a dwelling unit used for short term rental purposes where it is not identified as being Permitted by Right in Table 8.5.1a.~~

Section 10.2 Definitions

Short Term Rental: a whole house lodging occupancy where a dwelling unit is offered or made available by short-term lease or other financial consideration for a time period or lease term of less than 30 consecutive days for a cumulative total of more than 14 days in any calendar year. Short term rentals do not include other lodging uses as identified on Table 8.5.1a of the Table of Permitted and Special Uses and Special Requirements.

Homestay is a rental of a habitable room or rooms within a dwelling unit or attached accessory dwelling unit made available by short-term lease or other financial consideration for a period of less than 30 consecutive days while the full-time resident resides on-site during the duration of the rental period.

ORDINANCE #22-15

AN ORDINANCE AMENDING THE VILLAGE OF PINEHURST DEVELOPMENT ORDINANCE TO ADDRESS SHORT TERM RENTALS, HOMESTAYS AND PERMIT REVOCATION

WHEREAS, Section 160A-174 of the North Carolina General Statutes empowers local government to, by ordinance, define, prohibit, regulate, or abate acts, omissions, or conditions detrimental to health, safety or welfare of its citizens and the peace and dignity of community, and may define and abate nuisances; and

WHEREAS, Section 160D-701 of the North Carolina General Statutes provides: “Zoning regulation shall be made [by local governments] in accordance with a comprehensive plan and shall be designed to promote the public health, safety, and general welfare. To that end, the regulations may address, among other things, the following public purposes: to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; to facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and to promote the health, safety, morals, or general welfare of the community. The regulations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the local government's planning and development regulation jurisdiction; and

WHEREAS, the Village of Pinehurst finds that the growth of the tourism industry in North Carolina has led to a greatly expanded market of privately owned residences that are rented to tourists for vacations, leisure, and recreational purposes. Use of properties for short term rental located in single family neighborhoods is conducted by the owners of these residences or licensed real estate brokers acting on their behalf located presents unique situations not normally found in the rental of primary residences for long terms, and therefore make it necessary for the Village Council, through its grant of zoning authority by G.S. 160D-701 to encourage the most appropriate uses of land within the Village and to regulate the competing interests of landlords of short term rentals and residents owning property and living long term and/or full-time in the Village’s single family residential zoning districts; and

WHEREAS, pursuant to the foregoing, the Village Council of the Village of Pinehurst adopted a new Pinehurst Development Ordinance (PDO) on the 8th day of October, 2014, for the purpose of regulating planning and development in the Village of Pinehurst and the extraterritorial area over which it has jurisdiction; and

WHEREAS, Section 1.2 of the PDO states that the regulations contained in the PDO have been adopted in order to accomplish the following goals as related to this proposed Ordinance:

- a) Preserve and enhance Pinehurst's residential neighborhoods while addressing the housing needs of current and future residents; and
- b) Promote the health, wellness, and safety of Pinehurst's residents; and

WHEREAS, on October 22, 2019 the Village Council adopted the 2019 Comprehensive Plan that included seven (7) guiding principles to help preserve and enhance the high quality of life in the Village; and

WHEREAS, Implementation Strategy 3.9 states that the Village should "continue to monitor the legislative authority of the Village to regulate short term rentals and evaluate options to address the impacts of short term rentals on single-family neighborhoods."; and

WHEREAS, a "short term rental" (STR) is a transient lodging use of a residential dwelling unit whereby the dwelling unit is rented for a period of less than thirty (30) days for financial or other consideration and is not currently defined by the PDO as a separate land use; and

WHEREAS, an STR as an undefined land use does not currently have adopted regulatory development and use standards similar in nature to how other transient land uses are regulated within the Village, including into which zoning districts such land uses may be permitted through placement on the Table 8.51a Table of Permitted and Special Uses and Special Requirements and whether any Special Requirements apply to the land use; and

WHEREAS, the use of dwelling units for short term rental land use has increased significantly within the Village according to data provided by Host Compliance (a short term rental monitoring company) that showed a 21% growth of listings from 2021 to 2022; and

WHEREAS, approximately 43% of short term rental units are located within areas planned and zoned for single family use; and

WHEREAS, the growth and concentration of short term rental land uses within areas zoned for single family use disrupt and adversely affect the residential fabric of the neighborhood by replacing more permanent residents with transient users that do not have the same sense of attachment and affiliation to the neighborhood as ~~than~~ do longer term residents; and

WHEREAS, continued unregulated growth of transient lodging short term rental uses within single family residential neighborhoods threatens to alter and diminish the long term residential character of these neighborhoods; and

WHEREAS, the areas zoned for single family land use (R-5, R-10, R-15, R-20, R-30, and R-210) are primarily comprised of single family uses. The lower density residential development and full-time residents of these neighborhoods contribute to their economic stability and neighborhood character. Restricting short term rentals maintains and promotes housing opportunities for full-time residents, reduces nuisances to full-time residents, and preserves the overall neighborhood character of single family residential districts; and

WHEREAS, short term rentals are more appropriate in Village Commercial (VC) and Village Mixed Use (VMU) zoning districts that are closer to the Village's center that provide greater guest amenities to transitory tourists/visitors such as shopping and restaurants; and

WHEREAS, areas zoned multiple family (R-MF) traditionally have had more transient populations, and historically have been the location for short term rental properties and second homes (e.g. Diamondhead condominium developments), and their location in areas zoned for multiple family use (R-MF) are therefore more appropriate for short term rental use; and

WHEREAS, on September 1, 2022 the Pinehurst Planning and Zoning Board held a public hearing and received public comments on the proposed amendments; and

WHEREAS, on September 6, 2022 the Pinehurst Planning and Zoning Board recommended the Village Council amend Sections 4 and 10.2 of the Pinehurst Development Ordinance as drafted; and

WHEREAS, on September 6, 2022 the Pinehurst Planning and Zoning Board recommended the Village Council amend Sections 8.5 and 8.6 of the Pinehurst Development Ordinance with the following revisions:

Section 8.5 Table of Permitted and Special Uses and Special Requirements

- Add all residential districts, NC, OP, VCP, and VR as permitted by right with "SR"

Section 8.6 Special Requirements (SR) to the Table of Permitted and Special Uses and Special Requirements

- Item 4: Add "and one fully operational fire extinguisher."
- Item 12: Capitalize "Special Events" and remove "large gatherings"
- Item 13 E: Modify first sentence to "verified violation is a determination made by a code enforcement officer or a judge. Following such determination, notice of violation shall be issued by the Village."
- Item 16: To read "Contact information and these special requirements shall be conspicuously posted or otherwise made available to tenants."

WHEREAS, the Pinehurst Planning and Zoning Board adopted a statement that the proposed amendments, as recommended by the Planning and Zoning Board, are consistent with the 2019 Comprehensive Plan; and

WHEREAS, a public hearing was held on September 27, 2022, in the Assembly Hall of the Pinehurst Village Hall, Pinehurst, North Carolina after due notice in the Pilot, a newspaper in Southern Pines, North Carolina, with general circulation in the Village of Pinehurst, and its extraterritorial jurisdiction, for the purpose of considering proposed amendments to the Pinehurst Development Ordinance and the recommendations made by the advisory Pinehurst Planning and Zoning Board, at which time all interested citizens, residents and property owners in the Village

of Pinehurst and its extraterritorial jurisdiction were given an opportunity to be heard as to the contents of any proposed text amendments to be made by the Village Council; and

WHEREAS, Section 6 of the PDO and Article 6 of North Carolina General Statute Chapter 160D, zoning ordinances or development regulations may be adopted, amended or repealed. The purpose of initiating changes to the text of the zoning ordinances are to make adjustments to the text of the development regulations that are necessary in light of changed conditions, adopted plans or changes in public policy, or that are necessary to advance the general welfare of the Village and are in furtherance of Section 1.2 of the PDO; and

WHEREAS, the use of properties for short term rentals located in single family neighborhoods present unique situations not normally found in the rental of primary residences for long terms, and therefore make it necessary for the Village Council to amend the PDO to regulate short term rental use of land within the Village and its extraterritorial jurisdiction; and

WHEREAS, the Village Council, after carefully considering all of the facts and circumstances surrounding the proposed amendments to the text of the Pinehurst Development Ordinance, have determined that it is reasonable and is in the best interest of the Village of Pinehurst and its extraterritorial jurisdiction, and that it is consistent with the 2019 Comprehensive Plan, and that the Pinehurst Development Ordinance be further amended, making the amendments set forth in this Ordinance; and

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED, by the Village Council of the Village of Pinehurst, North Carolina in the regular meeting assembled on the 27th day of September 27, 2022, make the following amendments to the Pinehurst Development Ordinance:

SECTION 1. The Village of Pinehurst Development Ordinance Chapters and Sections is amended as follows.

4.2.12 Revocation of Development Permit

A development permit may be revoked by the Village Planner after notifying the permit holder in writing and stating the reason for the revocation. The permit revocation shall follow the same process required for issuance of the development permit, including any required notice or hearing, in the review and approval of any revocation of that approval.

Terms under which a development permit may be revoked include:

- (A) Any substantial departure from the approved application, plans, or specifications; or
- (B) Refusal or failure to comply with the requirements of this ordinance or any applicable local development regulation or any State law delegated to the Village for enforcement purposes in lieu of the State; or
- (C) False statements or misrepresentations made in securing the approval; or
- (D) Any development approval mistakenly issued in violation of an applicable State or local law.

Revocation of a development permit by the Village Planner may be appealed as provided in Chapter 5 and pursuant to G.S. 160D-405.

8.5.1a Table of Permitted and Special Uses and Special Requirements

LODGING	PC	RD	R-210	R-30	R-20	R-15	R-10	R-8	R-5	R-MF	NC	H	HD	OP	VCP	VR	VMU	VC	SR
Bed and Breakfast Homes			X,SR									X,SR			X,SR	X,SR	X,SR		7
Boarding or Rooming House																			
Dormitory																			
Hotel												X	X				X,SR	X,SR	8
Recreational Vehicle Park																			
<u>Short Term Rental</u>										<u>X</u>							<u>X</u>	<u>X</u>	<u>9</u>
Accessory Use																			
<u>Homestay</u>																			

X Permitted by Right

SU Special Use Permit

SR Special Requirement

Section 8.6 Special Requirements (SR) to the Table of Permitted and Special Uses and Special Requirements

Principal Uses

SR-9 Banks, Credit Unions, Financial Services, Professional Services (to be recodified as SR-21 below)

SR-21 Banks, Credit Unions, Financial Services, Professional Services

SR-9 Short Term Rental

- 1) Development Permit is required for establishment of all new short term rental units after the effective date of this ordinance. Development Permits are non-transferable when a property is sold or transferred. Nonconforming short term rental units shall be regulated by subsections 14 and 15 below.
- 2) Maximum occupancy per unit is based on two (2) adult guests per bedroom.
- 3) A minimum of one (1) parking space shall be provided per bedroom on approved surfaces and locations per the applicable parking regulations of this Ordinance.
- 4) A minimum of one (1) smoke detector shall be provided per bedroom.
- 5) A minimum one (1) carbon monoxide detector shall be provided per level or floor of the dwelling unit.
- 6) Bedrooms and other habitable rooms shall meet the minimum light and ventilation requirements of Section 153.18 of the Pinehurst Municipal Code.
- 7) Bedrooms shall meet the minimum size requirements of Section 153.19 of the Pinehurst Municipal Code.
- 8) Ceiling Height. At least one-half of the floor area of every bedroom shall have a ceiling height of not less than seven feet and six inches.
- 9) Egress. Every dwelling unit shall be provided with adequate means of egress as required by the applicable provisions of the North Carolina State Building Code.
- 10) Cooking facilities are not permitted in any bedroom. For the purposes of this regulation, cooking facilities include any refrigerator in excess of seven (7) cubic feet; any stovetop range that operates on 220-volt electric service, any appliance that operates on natural gas; or any cooktop, whether integrated into a countertop or a separate appliance which contains more than two cooking surfaces or burners. This regulation shall not apply to single dwelling unit room rentals with a sleeping area, living area, and kitchen/eating area consolidated into one room.

- 11) Accessory Dwelling Units may be permitted for short term rental where Permitted by Right in Table 8.5.1a Table of Permitted and Special Uses and Special Requirements.
- 12) In residential zoning districts, short term rental units shall not be used for special events or large gatherings.
- 13) Revocation. If it is determined that more than 3 verified violations occur within a 365 day period the development permit may be revoked for a period of 365 days after which a new permit may be issued. For purposes of this Section any three or more verified violations of any combination of the following occurring at the short term rental premises shall apply:
- a. Any Pinehurst Development Ordinance regulation as adopted as Chapter 152 of the Pinehurst Municipal Code; or
 - b. Section 92.16 of the Pinehurst Municipal Code Regulating Unreasonably Loud, Disturbing Sound Levels; or
 - c. Section 92.17 of the Pinehurst Municipal Code Regulating Unruly Gatherings
 - d. Chapter 153 of the Pinehurst Municipal Code Establishing Minimum Housing Standards.
 - e. A verified violation is a determination made by a code enforcement official, law enforcement officer, or a judge, following notice of a violation being issued by the Village. Noticed violations of the Pinehurst Development Ordinance may be appealed as provided in Chapter 5 of this Ordinance pursuant to G.S. 160D-405.
- 14) Compliance Period; Existing Nonconforming Short Term Rental Units Permitted By Right
- a. Owners of existing short term rental units where Permitted by Right in Table 8.5.1a Table of Permitted and Special Uses and Special Requirements owners shall apply for a development permit and come into full compliance with SR-9 no later than January 1, 2024 or cease operation as a short term rental on that date. For purposes of this Section a non-conforming short term rental unit is a dwelling unit used for short term rental purposes and is located in a General Use Zoning District where it is identified as being Permitted by Right in Table 8.5.1a and does not have a Development Permit approved for use as a Short Term Rental Unit as of the effective date of this ordinance.
- 15) Amortization Period; Existing Short Term Rental Units Not Permitted by Right
- a. Owners of existing short term rental units where not Permitted by Right in Table 8.5.1a are prohibited and shall cease operation as a short term rental by October 1, 2025. For purposes of this Section a short term rental unit not permitted by right is a dwelling unit used for short term rental purposes where it is not identified as being Permitted by Right in Table 8.5.1a.

Section 10.2 Definitions

Short Term Rental: a whole house lodging occupancy where a dwelling unit is offered or made available by short-term lease or other financial consideration for a time period or lease term of less than 30 consecutive days for a cumulative total of more than 14 days in any calendar year. Short term rentals do not include other lodging uses as identified on Table 8.5.1a of the Table of Permitted and Special Uses and Special Requirements.

Homestay is a rental of a habitable room or rooms within a dwelling unit or attached accessory dwelling unit made available by short-term lease or other financial consideration for a period of less than 30 consecutive days while the full-time resident resides on-site during the duration of the rental period.

SECTION 2. That all ordinances or sections thereof in conflict herewith are hereby repealed and declared null and void from and after the date of adoption of this ordinance

SECTION 3. Severability: Should any section or provision of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the any validity of the ordinance as a whole or any part thereof which is not specifically declared to be invalid. If any court of competent jurisdiction invalidates the application of any provision of this ordinance, then such judgement shall not affect the remaining portions not specifically included in that judgment.

SECTION 4. That this Ordinance shall be and remain in full force and effect from and after the date of its adoption.

VILLAGE OF PINEHURST
VILLAGE COUNCIL

(Municipal Seal)

By: _____
John C. Strickland, Mayor

Attest:

Approved as to Form:

Kelly Chance, Village Clerk

Michael J. Newman, Village Attorney



PLANNING AND INSPECTIONS DEPARTMENT COUNCIL STAFF MEMO

To: Mayor Strickland and Village Council
From: Darryn Burich, Director of Planning and Inspections
Alex Cameron, Planning Supervisor
Date: September 22, 2022
Subject: Proposed PDO Amendments to Address Short Term Rentals and Permit Revocation

This memo supplements the staff report prepared for the Planning and Zoning Board's 09/06/22 public hearing. Please see that report for a more detailed description of the proposed text amendments.

On 09/01/22 a public hearing was held by the Planning and Zoning Board to take comments on the proposed PDO text amendments related to establishing regulations for short term rentals and permit revocation. The public hearing was attended by approximately 329 persons. After several hours of comments involving 50 speakers, both in favor and opposed, the Board took up initial discussion on the proposed amendments. An initial motion was rejected (5-3) to not approve a recommendation of the proposed PDO amendments submitted for consideration. Also, for sake of time and being able to make a recommendation back to Council, the Planning and Zoning Board moved to not take action on the Homestay aspects of the proposed amendments. Due to the length of the meeting, the meeting was continued by the Board to 09/06/22. For more information, please see the meeting videos or the draft meeting minutes in Novus Agenda.

The sections below provide a brief description of the Planning and Zoning Board's action on the PDO amendments by section.

Section 4.2.12 Revocation of Development Permit

P&Z approved the proposed amendments to Section 4.2.12 and 10.2 as part of one motion.

During the discussion adding a "cease and desist order" and removal of incomplete construction elements was discussed. The Village's development codes do provide the ability to issue stop work orders so adding a cease and desist is not necessary. There is not however clear language in the PDO for site restoration or removal of incomplete building elements and this is situation that has occurred on a small number of properties and could potentially be addressed with a PDO amendment. Staff will have to continue to research ways to potentially address these situations.

Section 10.2 Definitions

Some concern was raised about the ability to enforce the proposed 14 day grace period and what type of tracking system might be established for such purposes. Staff would address the situation as a potential use violation and once made aware of the situation would open a compliance investigation similar to how other use violations are addressed.

Section 8.5 Table 8.51a Table of Permitted and Special Uses and Special Requirements

P&Z discussed various aspects of not including STRs in single family neighborhoods as proposed by Council. Also discussed was including STR's in other zoning districts that permitted mixed-use development and multiple family uses. Ultimately P&Z approved a motion (5-3) to add STRs as permitted uses in all the single family residential zoning districts as well as NC Neighborhood Commercial, OP Office and Professional, VCP Village Cottage Professional, and VR Village Residential. Staff's assessment of the P&Z recommendation is that a majority felt that the regulations proposed with SR-9 along with the recent Municipal Code changes could address many of the issues raised by the public and represented a compromise between prohibition and reasonable land use regulation.

Section 8.6 Special Requirements (SR) to the Table of Permitted and Special Uses and Special Requirements – SR-9 Short Term Rental

P&Z unanimously approved creation of proposed SR-9 that creates special development requirements for short term rentals. During discussion P&Z proposed various minor edits to the SR as well as adding Item 16 requiring conspicuous posting within the STR of the contact information and rules. P&Z also recommended for Item 13 removing "large gatherings" and capitalizing Special Events to be consistent with PDO definition. Concern was raised that there was not a definition of what constitutes a large gathering and therefore issues with enforceability.

Comprehensive Plan Consistency

P&Z approved (6-2) that the proposed amendments are consistent with the 2019 Comprehensive Plan.

Conclusion

As there are some significant differences between the Council proposed text amendments forwarded to P&Z for review and what ultimately P&Z recommended to Council, staff has created and included in Novus Exhibit B. Exhibit B, incorporates the Planning and Zoning Boards recommendations to indicate how the proposed amendments would be structured should Council adopt the P&Z recommendation, which major changes are the permitted use table and minor edits to SR-9 Short Term Rental along with removal of "Homestays" at this time. P&Z would certainly be willing to take up further discussion Homestays and provide a recommendation to Council in that regard.



PLANNING AND INSPECTIONS DEPARTMENT STAFF REPORT

To: Planning and Zoning Board
From: Darryn Burich, Planning & Inspections Director
Alex Cameron, Planning Supervisor
Date: August 22, 2022
Subject: **Proposed Text Amendments to the Pinehurst Development Ordinance (PDO) to address Short Term Rentals and permit revocation. The amendments are to the following sections:**

- Section 4 Public Hearings, Permits and Approvals**
- Section 8.5 Table of Permitted and Special Uses and Special Requirements**
- Section 8.6 Special Requirements (SR) to the Table of Permitted and Special Uses and Special Requirements**
- Section 10.2 Definitions**

Text Amendment Process

Pursuant to Section 6 of the Pinehurst Development Ordinance (PDO) and Article 6 of North Carolina General Statute Chapter 160D, zoning ordinances or development regulations may be adopted, amended or repealed. The purpose of initiating changes to the text of the zoning ordinances are to make adjustments to the text of the development regulations that are necessary in light of changed conditions, adopted plans or changes in public policy, or that are necessary to advance the general welfare of the Village and are in furtherance of Section 1.2 of the PDO (Statement and Intent of This Ordinance).

Prior to considering action on these items, the proposed amendments shall be referred to the local planning board (Planning and Zoning Board) for review, comment and to forward a recommendation on the proposal, which is an *advisory* recommendation only.

Legislative public hearings are held for each the planning board and governing board review and consideration of the proposed zoning ordinance. Both boards shall also consider the currently adopted Comprehensive Plan and comment on whether the proposed action is consistent with the plan.

An amendment to the text of the PDO may only be initiated by the Village Council, Planning and Zoning Board, or by anyone who owns property or resides in the jurisdiction of this Ordinance or their agent, lessee, or any contract purchaser specifically authorized by all of the owners to file such application for such amendment, or any owner of a legal equitable interest in land located in the jurisdiction

Background on the Proposed Amendments

For the past several months, staff has been working at Council's direction to develop regulations pertaining to the use of dwelling units for short term rental (STR) purpose. Council's interest was, in part, responding to a number of citizen voiced concerns about an unregulated land use (short term rentals) and its impact on the quality of life within neighborhoods and especially within single family neighborhoods. Concerns about noise, trash, parking, and unruly guests have frequently been raised as common issues coupled with an overriding concern that short term rental uses as a transient lodging type use impact the integrity and fabric of the single family neighborhood. Moreover, concern has been raised about increasing numbers of single family homes transitioning to short term rentals, especially within the last 2-3 years, displacing persons wishing to live within the community and making homes less affordable, or creating concentrations of STRs in single family zoned neighborhoods.

Currently there are no regulations within the PDO that address the use of dwelling units as short term or long term rentals. From a Pinehurst Development Ordinance (PDO) standpoint, a house being used for a short term rental, is the same as a house being used for a long term rental. This is due in large part because there is not a current definition in the PDO of what defines a short term rental land use. Part of the definition issue is that the PDO currently defines a **dwelling** as "a building that contains one or more dwelling units used, intended, or designed to be used, rented, leased, let or hired out to be occupied for living purposes. The ordinance does not further require an occupant to establish occupancy nor identify a minimum time that a unit has to be rented or leased for living.

In order to best regulate land uses, the land use has to be defined in the ordinance and then the land use can be classified as a permitted or special use within any of the general use zoning districts. Defining the land use also provides the ability to create specific development standards for that land use.

The approach to addressing short term rentals has followed two paths; Municipal Code Neighborhood Quality of Life amendments and PDO amendments. The first path has included various amendments to the Pinehurst Municipal Code (e.g. overnight parking, unruly gatherings, etc.) that would apply to both STRs as well as traditional single family uses involving longer

periods of occupancy (Ordinance # 22-08 and included in Novus Agenda for this item). The second path involves amendments to the Pinehurst Development Ordinance (PDO) that will define STRs as a land use, establish where they may be permitted, and developing various standards to applicable to the land use through approval of a Development Permit. A development permit is the controlling form of approval for use of land within the Village.

These proposed regulations generally include:

1. Defining short term rentals and homestays as land uses that would be added to Section 10 Definitions in the PDO. Creating the land use definition will then allow for regulatory control within the Village's General Use Districts (e.g. R-10, R30, VMU, RMF, etc.).
2. Establishing various regulatory standards or special requirements (SR-9) that a STR would have to comply with in order to obtain a development permit to establish the land use. Please see Section 8.6 of the PDO for more information regarding special requirements.
3. Designating STRs and Homestays as land uses that may be Permitted by Right in various General Use District on Table 8.51a of the PDO.
4. Requiring new STRs created after the effective date of the ordinance obtain a development permit to establish the land use in districts where they are permitted by right.
5. Requiring that existing STRs within various zoning districts designated as Permitted by Right be required to obtain a development permit to establish the land use and come into compliance with the SR-9 or cease operations as a short term rental use by a certain date.
6. Requiring that existing STRs within various zoning districts not designated as Permitted by Right to cease operating as a short term rental use by a certain date.
7. Creating a process to revoke development permits for violations that would apply to any development permit issued not just STRs. Revocation is permitted by G.S. 160D-403(f).

Proposed PDO Amendments

The proposed amendments would affect the following sections of the PDO:

- Section 4 Public Hearings, Permits and Approvals
 - Amendments to this section would create the development permit revocation process.
- Section 8.5 Table of Permitted and Special Uses and Special Requirement
 - Amendments to this section would add “short term rental” and “homestay” to the “Uses Type” column within the Table 8.5.1a. This would then allow for those uses to be designated with an “X” denoting that it would be “Permitted by Right” within the various general use zoning districts.
- Section 8.6 Special Requirement (SR) to the Table of Permitted and Special Uses and Special Requirements
 - An amendment to this section would create SR-9 that would establish standards for short term rentals
- Section 10.2 Definitions
 - This would define Short Term Rental and Homestay within the PDO and provide for regulating the land uses as part of Chapter 8 Zoning.

Chapter 10 Village of Pinehurst Ordinance Definitions

- **Section 10.2 Definitions**
 - **Short Term Rental**
 - **Homestay**

Staff is proposing two additional land use definitions in Chapter 10 that will allow for regulation of the land uses similar to regulation of other land uses in the Village’s jurisdiction. By creating the land use definition subsequent requirements for development approvals can be developed and said rules can be enforced and potentially revoked for violations.

The two definitions are similar to definitions found in other North Carolina communities and across the nation so the names and definitions are not unique and staff feels they do a relatively good job of identifying and differentiating the uses. The major difference between the two is that the STR involves use of the dwelling unit while the owner is not present on the property during the duration of the rental use versus a Homestay where the property owner is present on the property. Homestay was added as a definition to create a distinction between the land uses as the concerns raised have generally centered around STRs, which may not have the same level of direct management that a Homestay has.

Short Term Rental: a whole house lodging occupancy where a dwelling unit is offered or made available by short-term lease or other financial consideration for a time period or lease term of less than 30 consecutive days for a cumulative total of more than 14 days in any calendar year. Short term rentals do not include the other defined lodging uses identified on Table 8.5.1a of the Table of Permitted and Special Uses and Special Requirements.

Homestay is the rental of a habitable room or rooms within a dwelling unit or attached accessory dwelling unit made available by short-term lease or other financial consideration for a period of less than 30 consecutive days while the full-time resident resides on-site during the duration of the rental period.

Chapter 8 Zoning

- **Section 8.5 Table of Permitted and Special Uses and Special Requirements**
 - o **8.5.1a Table of Permitted and Special Uses and Special Requirements**

Chapter 8 of the PDO establishes the various general use zoning districts (e.g. R-10, R-30, VMU, VC, etc.) and Table 8.5.1a identifies which types of uses are permitted by right in the district by general land use (e.g. Residential, Lodging, Office/Service, etc.). Once listed in the table with an “X” that would designate that use as “Permitted by Right” and a development permit may be obtained subject to meeting ordinance requirements. The table below identifies the general use type (Lodging) that an STR is proposed to be included in as it is similar to the other transient lodging uses such as Bed and Breakfast Homes and Hotels. The table also includes a SR (Special Requirement) that would pertain to the use. For STRs, staff has proposed creating SR-9, which will be discussed in more detail in the following sections of this memo (proposed SR-9 would relocate existing SR-9 to SR-21).

Relative to the Homestay use, staff is proposing to add that to the Accessory Uses section of table 8.5.1a. Per Section 10.2 of the PDO, an accessory use is defined as a use on the same lot as, and of a nature customarily incidental and subordinate to the principal use, structure, or building on the property.

The proposed “X’s” placed on the table have been recommended by Council based on several work sessions. As currently proposed, the only districts where STRs would be Permitted by Right would be R-MF (Multiple Family), VMU (Village Mixed-Use), and VC (Village Commercial). The proposed “?’s” are those districts where Council has specifically requested a recommendation by the Planning and Zoning Board with respect to whether the Board feels those uses are appropriate in those districts. An additional consideration, suggested by Council could be to add a SR requirement to the Homestay use such as proposed SR-9.

The districts recommended by Council are generally those that would not be predominantly single family in nature and may be more suited for STR use such as the R-MF district which includes the 1970s condos developed along the golf courses. The VMU and VC districts permit mixed use development that could include residential over commercial.

Four zoning districts not proposed for inclusion but may warrant additional consideration. Neighborhood Commercial (NC) and Office and Professional also permit mixed use development. Village Cottage Professional (VCP) and Village Residential (VR) permit stand-alone multiple family dwellings and townhouses. Please see the attached *Table 1* at the end of

this memo that identifies the various residential and lodging uses permitted in the various zoning districts.

LODGING	PC	RD	R-210	R-30	R-20	R-15	R-10	R-8	R-5	R-MF	NC	H	HD	OP	VCP	VR	VMU	VC	SR
Bed and Breakfast Homes			X,SR									X,SR			X,SR	X,SR	X,SR		7
Boarding or Rooming House																			
Dormitory																			
Hotel												X	X				X,SR	X,SR	8
Recreational Vehicle Park																			
<u>Short Term Rental</u>										<u>X</u>					<u>?</u>		<u>X</u>	<u>X</u>	<u>9*</u>
ACCESSORY USE																			
<u>Homestay</u>			<u>?</u>	<u>?</u>	<u>?</u>	<u>?</u>	<u>?</u>	<u>?</u>	<u>?</u>	<u>?</u>	<u>?</u>			<u>?</u>	<u>?</u>	<u>?</u>	<u>?</u>	<u>?</u>	<u>?</u>
Dwelling Accessory			X	SU, SR	SU, SR	SU, SR	SU, SR	SU, SR	SU, SR	X, SR					X, SR	X, SR	X, SR		

Adding SR 9 will require relocation of existing SR-9 which is proposed to relocate to SR-21

X Permitted by Right SU Special Use Permit SR Special Requirement

Chapter 8 Zoning

- Section 8.6 Special Requirements (SR) to the Table of Permitted and Special Uses and Special Requirements.

- o SR-9 Short Term Rental

- o SR-21 Banks, Credit Unions, Financial Services, Professional Services

The PDO contains a list of special requirements that apply to various uses and generally include additional development standards. In this instance, staff is proposing to create SR-9 to establish various standards with respect to the short term rental use. Staff is recommending STRs be created as SR-9 to keep it proximate to other Lodging uses such as Bed and Breakfast Homes (SR-7) and Hotel (SR-8). The current SR-9 Banks, Credit Unions, Financial Services, Professional Services would relocate to a reserved SR as SR-21.

Standard 1 requires a Development Permit to establish the land use. Standards 2-10 generally relate to a development or minimum housing standard. Standard 10 allows accessory dwelling units to be used for STR purposes where Permitted by Right. Standard 12 states that STR's may not be used to host special events or large gatherings. Standard 13 discusses revocation. Standard 14 establishes a timeframe for existing STRs permitted by right to come into compliance with SR-9 and/or cease operations by a specified date. Standard 15 amortizes nonconforming STRs away by July 31, 2024 after which the use would have to revert to a

permitted by the zoning classifications. For example, an STR in a single family zoning district would have to revert back to a single family use by the deadline.

SR-9 Short Term Rental

- 1) Development Permit is required for establishment of all new short term rental units after the effective date of this Ordinance. Development Permits are non-transferable when a property is sold or transferred. Nonconforming short term rental units shall be regulated by subsections 14 and 15 below.
- 2) Maximum occupancy per unit is based on two (2) adult guests per bedroom.
- 3) A minimum of one (1) parking space shall be provided per bedroom on approved surfaces and locations per the applicable parking regulations of this Ordinance.
- 4) A minimum of one (1) smoke detector shall be provided per bedroom.
- 5) A minimum one (1) carbon monoxide detector shall be provided per level or floor of the dwelling unit.
- 6) Bedrooms and other habitable rooms shall meet the minimum light and ventilation requirements of Section 153.18 of the Pinehurst Municipal Code.
- 7) Bedrooms shall meet the minimum size requirements of Section 153.19 of the Pinehurst Municipal Code.
- 8) Ceiling Height. At least one-half of the floor area of every bedroom shall have a ceiling height of not less than seven feet and six inches.
- 9) Egress. Every dwelling unit shall be provided with adequate means of egress as required by the applicable provisions of the North Carolina State Building Code.
- 10) Cooking facilities are not permitted in any bedroom. For the purposes of this regulation, cooking facilities include any refrigerator in excess of seven (7) cubic feet; any stovetop range that operates on 220-volt electric service, any appliance that operates on natural gas; or any cooktop, whether integrated into a countertop or a separate appliance which contains more than two cooking surfaces or burners. This regulation shall not apply to single dwelling unit room rentals with a sleeping area, living area, and kitchen/eating area consolidated into one room.
- 11) Accessory Dwelling Units may be permitted for short term rental where Permitted by Right in Table 8.5.1a Table of Permitted and Special Uses and Special Requirements.
- 12) In residential zoning districts, short term rental units shall not be used for special events or large gatherings.
- 13) Revocation. If it is determined that more than 3 verified violations occur within a 365 day period the development permit may be revoked for a period of 365 days after which a new permit may be issued. For purposes of this Section any three or more verified violations of any combination of the following occurring at the short term rental premises shall apply:
 - a. Any Pinehurst Development Ordinance regulation as adopted as Chapter 152 of the Pinehurst Municipal Code; or
 - b. Section 92.16 of the Pinehurst Municipal Code Regulating Unreasonably Loud, Disturbing Sound Levels; or
 - c. Section 92.17 of the Pinehurst Municipal Code Regulating Unruly Gatherings

- d. Chapter 153 of the Pinehurst Municipal Code Establishing Minimum Housing Standards.
 - e. A verified violation is a determination made by a code enforcement official, law enforcement officer, or a judge, following notice of a violation being issued by the Village. Noticed violations of the Pinehurst Development Ordinance may be appealed as provided in Chapter 5 of this Ordinance pursuant to G.S. 160D-405.
- 14) Compliance Period; Existing Nonconforming Short Term Rental Units Permitted By Right
- a. Owners of existing short term rental units where Permitted by Right in Table 8.5.1a Table of Permitted and Special Uses and Special Requirements owners shall apply for a Development Permit and come into full compliance with SR-9 no later than January 1, 2024 or cease operation as a short term rental on that date. For purposes of this Section a nonconforming short term rental unit is a dwelling unit used for short term rental purposes and is located in a General Use Zoning District where it is identified as being Permitted by Right in Table 8.5.1a and does not have a Development Permit for use as a short term rental unit as of the effective date of this ordinance.
- 15) Amortization Period; Existing Short Term Rental Units Not Permitted by Right
- a. Owners of existing short term rental units where not Permitted by Right in Table 8.5.1a are prohibited and shall cease operation as a short term rental by October 1, 2025. For purposes of this Section a short term rental unit not permitted by right is a dwelling unit used for short term rental purposes where it is not identified as being Permitted by Right in Table 8.5.1a.

Chapter 4 Public Hearings, Permits and Approvals

- **Section 4 Permits and Approvals**
 - o **Section 4.12.12 Revocation of Development Permit**

Section 4 of the PDO identifies the processes and procedures for obtaining various types of permits (e.g. development, building, temporary use, etc.) but lacks procedures for revoking a development permit. The most common permit issued relative to PDO requirements is the Development Permit.

While Section 4 identifies the processes and procedures for obtaining a permit, it does not include any provisions to revoke a permit and there may be times when having this ability would be beneficial from a code compliance standpoint. This would establish a process and procedure for revoking a development permit. Particularly, staff is proposing this as part of the short term rental discussions that would provide the ability to revoke development permits for various violations as proposed in Special Requirement 9.

Development approval revocation is specifically permitted pursuant to G.S 160D-403(f) “Revocation of Development Approvals” and identifies the procedures for doing so including appeals. The PDO language proposed below is consistent with state statute.

4.2.12 Revocation of Development Permit

A development permit may be revoked by the Village Planner after notifying the permit holder in writing and stating the reason for the revocation. The permit revocation shall follow the same process required for issuance of the development permit, including any required notice or hearing, in the review and approval of any revocation of that approval.

Terms under which a development permit may be revoked include:

- (A) Any substantial departure from the approved application, plans, or specifications; or
- (B) Refusal or failure to comply with the requirements of this Ordinance or any applicable local development regulation or any State law delegated to the Village for enforcement purposes in lieu of the State; or
- (C) False statements or misrepresentations made in securing the approval; or
- (D) Any development approval mistakenly issued in violation of an applicable State or local law.

Revocation of a development permit by the Village Planner may be appealed as provided in Chapter 5 and pursuant to G.S. 160D-405.

Adding permit revocation would provide an additional code compliance tool that could be used to address ongoing and sometimes more complex compliance issues that include all development issues, not just STRs. Once revoked, a person wishing to reestablish the use through a development permit, would need to submit the same information needed to obtain the original permit, which for most situations should be disincentive enough to allow the situation to deteriorate to the level of having to revoke the permit.

Comprehensive Plan Consistency Statement

The 2019 Village of Pinehurst Comprehensive Plan, Guiding Principle 3 Places to Live (page 118) recommends in part that the Village should “Protect and enhance the quality and character of existing residential neighborhoods.” Additionally, the Comprehensive Plan includes a subsection titled “Address Short Term Rentals” (page 127) ending with Implementation Strategy 3.9 which states: “Continue to monitor the legislative authority of the Village to regulate short term rentals and evaluate options to address the impacts of short term rentals on single family neighborhoods.”

The PDO amendments as proposed attempt to enhance the character and address the impacts of short term rentals specifically on single family neighborhoods by:

- 1) Defining the short term rental use as a lodging use to provide for its zoning classification as a permitted use in the Village’s various zoning districts.
- 2) Not designating short term rentals as “Permitted by Right” within any of the Village’s single family zoning districts (etc. R-210, R-30, R-20, R-15, R-10, R-8, R-5) to prevent the continued displacement of owner-occupied or long term residents from the single family neighborhoods.
- 3) Recommending as a permitted use in the Village’s more intense commercial districts of VMU and VC which permit a mixture of land uses to include commercial and residential uses. These districts are not predominantly single family uses in nature.

- 4) Recommending as a permitted use in the Village's multiple family district (R-MF) recognizing that multiple family districts are in general more transient in nature.
- 5) Establishing minimum standards for short term rentals as part of a new Special Requirement (SR-9)
- 6) Requiring a Development Permit for new short term rentals created after the effective of the ordinance where Permitted by Right to ensure that the minimum standards are met prior to the establishment of the use similar to other uses as regulated by the Pinehurst Development Ordinance.
- 7) Requiring a Development Permit for existing short term rentals where Permitted by Right created after the effective of the ordinance to ensure that the minimum standards are met for the land use or to cease operations a short term rental land use by a specified date.
- 8) Amortizing away, after a specified date, short term rental land uses from zoning districts that are predominantly single family nature and zoning to maintain and/or restore the single family character of the neighborhood.
- 9) Relative to the proposed amortization period, providing a sufficient amount of time for short term rentals not permitted by right to recoup costs and transition from being a short term rental use to that allowed by the zoning district.

Staff feels the proposed PDO amendments are consistent with the 2019 Comprehensive Plan.

Recommendation

As previously discussed, the proposed PDO amendments are based on Council direction and Council/staff discussions over the course of the past several months in multiple work sessions. The Planning and Zoning Board is now asked to provide a recommendation on the proposed PDO amendments as discussed in this staff memo as well as identified in Exhibit A in Novus Agenda as "Proposed PDO Amendments".

There are three aspects to the Board's review of the proposed amendments. The first aspect is to review the amendments to the following PDO as proposed:

- **Section 10.2 Definitions**
 - **Short Term Rental (approve definition)**
 - **Homestay (approve definition)**
- **Section 8.6 Special Requirements (SR) to the Table of Permitted and Special Uses and Special Requirements.**
 - **SR-9 Short Term Rental (approve proposed standards)**
 - **SR-21 Banks, Credit Unions, Financial Services, Professional Services (approve relocation)**
- **Section 4 Permits and Approvals**
 - **Section 4.12.12 Revocation of Development Permit (approve process)**

As part of its deliberations on the above amendments, the Board may recommend modifications to the proposed language such as better clarifying a proposed definition or Special Requirement Standard.

The second aspect to the Board's review is to provide a recommendation as to the districts proposed by Council where STRs would be "Permitted by Right" in Table 8.5.1a.

LODGING	PC	RD	R-210	R-30	R-20	R-15	R-10	R-8	R-5	R-MF	NC	H	HD	OP	VCP	VR	VMU	VC	SR
<u>Short Term Rental</u>										<u>X</u>					<u>?</u>		<u>X</u>	<u>X</u>	<u>9*</u>

As part of its deliberations on STR inclusion into the various general use districts, **the Board may recommend additional districts for inclusion as Permitted by Right (with an "X" on the table) or not to be permitted by right.** The Council has specifically requested consideration as to the VCP (Village Cottage Professional district) as noted in the table with a "?". As previously discussed, more districts may warrant inclusion based on uses permitted within those districts or the intended character of those districts as identified in PDO Section 8.2.

The third aspect to the Board's review is provide a recommendation as to the districts into which the Homestay use would be Permitted by Right as an accessory use and whether or not SR-9 should apply to Homestay uses as well. Council has not provided a specific recommendation on Homestays.

ACCESSORY USE	PC	RD	R-210	R-30	R-20	R-15	R-10	R-8	R-5	R-MF	NC	H	HD	OP	VCP	VR	VMU	VC	SR
<u>Homestay</u>			<u>?</u>	<u>?</u>	<u>?</u>	<u>?</u>	<u>?</u>	<u>?</u>	<u>?</u>	<u>?</u>	<u>?</u>			<u>?</u>	<u>?</u>	<u>?</u>	<u>?</u>	<u>?</u>	<u>?</u>

Planning and Zoning Board Action:

The Planning and Zoning Board shall consider each proposed amendment to the development ordinance and make a recommendation to Village Council on the proposed amendment. In considering an amendment, the Board shall conduct a legislative public hearing on the application. During the public hearing, the Board will take public comments on the proposal, review the proposed amendments, discuss and deliberate. The Board may decide to continue the hearing in order to give time or consideration to address concerns raised or receive more input or data. After conducting the public hearing, the Board will formulate a recommendation to Village Council and also make a statement on whether the proposed amendment is consistent with the Comprehensive Plan. The Board should make a recommendation to Village Council within 30 days of the first scheduled public hearing. If no recommendation is made within the 30 day window, Village Council may take the up the proposal without a recommendation.

The Planning and Zoning Board has the following options:

1. Recommend adoption of the proposed amendments as drafted.
2. Recommend adoption of the proposed amendments with revisions (to any of the sections as presented).
3. Continue the public hearing to gather more input or comment on the proposal.
4. Recommend rejection of the proposed amendments.

Attachment: Table 1

Zoning District	Short Term Rental	Homestay	Dwelling – Single Family	Dwelling – Two Family	Dwelling – Multifamily	Dwelling – Townhouse/ Clustered Dwellings	Dwelling – Mixed Use	Accessory Dwelling^	Bed & Breakfast Homes	Hotel
R-5		***	Permitted					Special Use		
R-8 R-10 R-15 R-20 R-30		***	Permitted					Special Use		
R-210		***	Permitted					Accessory Use	Permitted	
R-MF	<u>Permitted*</u>	***	Permitted	Permitted	Permitted	Permitted		Accessory Use		
NC		***					Permitted			
H		***							Permitted	Permitted
HD		***								Permitted
OP		***					Permitted			
VCP	***	***	Permitted	Permitted	Permitted	Permitted		Accessory Use	Permitted	
VR		***	Permitted	Permitted	Permitted	Permitted		Accessory Use	Permitted	
VMU	<u>Permitted*</u>	***	Permitted	Permitted	Permitted	Permitted	Permitted	Accessory Use	Permitted	Permitted
VC	<u>Permitted*</u>	***					Permitted			Permitted

^ Under the Historic Preservation Overlay, special use becomes a permitted use for accessory dwellings.

*Proposed based on direct input from Village Council during previous work sessions developing proposed ordinance language. P&Z is requested to provide recommendation.

**P&Z additional recommendation.

4.2.12 Revocation of Development Permit

A development permit may be revoked by the Village Planner after notifying the permit holder in writing and stating the reason for the revocation. The permit revocation shall follow the same process required for issuance of the development permit, including any required notice or hearing, in the review and approval of any revocation of that approval. Terms under which a development permit may be revoked include:

- (A) Any substantial departure from the approved application, plans, or specifications; or
- (B) Refusal or failure to comply with the requirements of this ordinance or any applicable local development regulation or any State law delegated to the Village for enforcement purposes in lieu of the State; or
- (C) False statements or misrepresentations made in securing the approval; or
- (D) Any development approval mistakenly issued in violation of an applicable State or local law.

Revocation of a development permit by the Village Planner may be appealed as provided in Chapter 5 and pursuant to G.S. 160D-405.

Exhibit A Proposed PDO Amendments

8.5.1a Table of Permitted and Special Uses and Special Requirements

LODGING	PC	RD	R-210	R-30	R-20	R-15	R-10	R-8	R-5	R-MF	NC	H	HD	OP	VCP	VR	VMU	VC	SR
Bed and Breakfast Homes			X,SR									X,SR			X,SR	X,SR	X,SR		7
Boarding or Rooming House																			
Dormitory																			
Hotel												X	X				X,SR	X,SR	8
Recreational Vehicle Park																			
<u>Short Term Rental</u>										<u>X</u>							<u>X</u>	<u>X</u>	<u>9*</u>
Accessory Use																			
<u>Homestay</u>																			

**Adding SR-9 will require current SR-9 to move to SR-21*

X Permitted by Right

SU Special Use Permit

SR Special Requirement

Section 8.6 Special Requirements (SR) to the Table of Permitted and Special Uses and Special Requirements

Principal Uses

~~SR-9 Banks, Credit Unions, Financial Services, Professional Services~~ (to be recodified as SR-21 below)

SR-21 Banks, Credit Unions, Financial Services, Professional Services

SR-9 Short Term Rental

- 1) Development Permit is required for establishment of all new short term rental units after the effective date of this ordinance. Development Permits are non-transferable when a property is sold or transferred. Nonconforming short term rental units shall be regulated by subsections 14 and 15 below.
- 2) Maximum occupancy per unit is based on two (2) adult guests per bedroom.
- 3) A minimum of one (1) parking space shall be provided per bedroom on approved surfaces and locations per the applicable parking regulations of this Ordinance.
- 4) A minimum of one (1) smoke detector shall be provided per bedroom.
- 5) A minimum one (1) carbon monoxide detector shall be provided per level or floor of the dwelling unit.
- 6) Bedrooms and other habitable rooms shall meet the minimum light and ventilation requirements of Section 153.18 of the Pinehurst Municipal Code.
- 7) Bedrooms shall meet the minimum size requirements of Section 153.19 of the Pinehurst Municipal Code.
- 8) Ceiling Height. At least one-half of the floor area of every bedroom shall have a ceiling height of not less than seven feet and six inches.
- 9) Egress. Every dwelling unit shall be provided with adequate means of egress as required by the applicable provisions of the North Carolina State Building Code.
- 10) Cooking facilities are not permitted in any bedroom. For the purposes of this regulation, cooking facilities include any refrigerator in excess of seven (7) cubic feet; any stovetop range that operates on 220-volt electric service, any appliance that operates on natural gas; or any cooktop, whether integrated into a countertop or a separate appliance which contains more than two cooking surfaces or burners. This regulation shall not apply to single dwelling unit room rentals with a sleeping area, living area, and kitchen/eating area consolidated into one room.
- 11) Accessory Dwelling Units may be permitted for short term rental where Permitted by Right in Table 8.5.1a Table of Permitted and Special Uses and Special Requirements.
- 12) In residential zoning districts, short term rental units shall not be used for special events or large gatherings.

- 13) Revocation. If it is determined that more than 3 verified violations occur within a 365 day period the development permit may be revoked for a period of 365 days after which a new permit may be issued. For purposes of this Section any three or more verified violations of any combination of the following occurring at the short term rental premises shall apply:
- a. Any Pinehurst Development Ordinance regulation as adopted as Chapter 152 of the Pinehurst Municipal Code; or
 - b. Section 92.16 of the Pinehurst Municipal Code Regulating Unreasonably Loud, Disturbing Sound Levels; or
 - c. Section 92.17 of the Pinehurst Municipal Code Regulating Unruly Gatherings
 - d. Chapter 153 of the Pinehurst Municipal Code Establishing Minimum Housing Standards.
 - e. A verified violation is a determination made by a code enforcement official, law enforcement officer, or a judge, following notice of a violation being issued by the Village. Noticed violations of the Pinehurst Development Ordinance may be appealed as provided in Chapter 5 of this Ordinance pursuant to G.S. 160D-405.
- 14) Compliance Period; Existing Nonconforming Short Term Rental Units Permitted By Right
- a. Owners of existing short term rental units where Permitted by Right in Table 8.5.1a Table of Permitted and Special Uses and Special Requirements owners shall apply for a development permit and come into full compliance with SR-9 no later than January 1, 2024 or cease operation as a short term rental on that date. For purposes of this Section a non-conforming short term rental unit is a dwelling unit used for short term rental purposes and is located in a General Use Zoning District where it is identified as being Permitted by Right in Table 8.5.1a and does not have a Development Permit approved for use as a Short Term Rental Unit as of the effective date of this ordinance.
- 15) Amortization Period; Existing Short Term Rental Units Not Permitted by Right
- a. Owners of existing short term rental units where not Permitted by Right in Table 8.5.1a are prohibited and shall cease operation as a short term rental by October 1, 2025. For purposes of this Section a short term rental unit not permitted by right is a dwelling unit used for short term rental purposes where it is not identified as being Permitted by Right in Table 8.5.1a.

Section 10.2 Definitions

Short Term Rental: a whole house lodging occupancy where a dwelling unit is offered or made available by short-term lease or other financial consideration for a time period or lease term of less than 30 consecutive days for a cumulative total of more than 14 days in any calendar year. Short term rentals do not include other lodging uses as identified on Table 8.5.1a of the Table of Permitted and Special Uses and Special Requirements.

Homestay is a rental of a habitable room or rooms within a dwelling unit or attached accessory dwelling unit made available by short-term lease or other financial consideration for a period of less than 30 consecutive days while the full-time resident resides on-site during the duration of the rental period.



HISTORY, CHARM, AND SOUTHERN HOSPITALITY_____

**PLANNING AND ZONING BOARD
STATEMENT OF CONSISTENCY WITH THE
LONG RANGE COMPREHENSIVE PLAN
SEPTEMBER 06, 2022 SPECIAL MEETING**

**TEXT AMENDMENT TO THE PINEHURST
DEVELOPMENT ORDINANCE to address short
term rentals and permit revocation (Sections
4.2.12, 10.2, 8.6, and 8.5).**

The Village of Pinehurst Planning and Zoning Board finds that:

The proposed text amendments as contained in the approved motions **ARE** consistent with the Village of Pinehurst 2019 Comprehensive Plan. Achieving goals in accordance with the Comprehensive Plan are considered reasonable and are in the best interest of the public.

Therefore, the Village of Pinehurst Planning and Zoning Board recommends **APPROVAL** of the text amendments to the Pinehurst Development Ordinance with the following revisions:

Section 8.5 Table of Permitted and Special Uses and Special Requirements

- Add all residential districts, NC, OP, VCP, and VR as permitted by right with “SR”

Section 8.6 Special Requirements (SR) to the Table of Permitted and Special Uses and Special Requirements

- *Item 4: Add “and one fully operational fire extinguisher.”*
- *Item 12: Capitalize “Special Events” and remove “large gatherings”*
- *Item 13 E: Modify first sentence to “verified violation is a determination made by a code enforcement officer or a judge. Following such determination, notice of violation shall be issued by the Village.”*
- *Item 16: To read “Contact information and these special requirements shall be conspicuously posted or otherwise made available to tenants.”*

PLANNING & INSPECTIONS

395 Magnolia Road • Pinehurst, NC 28374 • Telephone (910) 295-2581 • Fax (910) 295-1396 • www.vopnc.org



HISTORY, CHARM, AND SOUTHERN HOSPITALITY_____

This is the 15th day of SEPTEMBER, 2022.

**Chair of the Planning and
Zoning Board**

Shannon Konstantinou
Clerk to the Planning and Zoning Board

Cc: Darryn Burich
Alex Cameron

PLANNING & INSPECTIONS

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4.2.12 Revocation of Development Permit

A development permit may be revoked by the Village Planner after notifying the permit holder in writing and stating the reason for the revocation. The permit revocation shall follow the same process required for issuance of the development permit, including any required notice or hearing, in the review and approval of any revocation of that approval.

Terms under which a development permit may be revoked include:

- (A) Any substantial departure from the approved application, plans, or specifications;
or
- (B) Refusal or failure to comply with the requirements of this ordinance or any applicable local development regulation or any State law delegated to the Village for enforcement purposes in lieu of the State; or
- (C) False statements or misrepresentations made in securing the approval; or
- (D) Any development approval mistakenly issued in violation of an applicable State or local law.

Revocation of a development permit by the Village Planner may be appealed as provided in Chapter 5 and pursuant to G.S. 160D-405.

Exhibit B Proposed PDO Amendments with Planning and Zoning Board's Recommended Revisions

8.5.1a Table of Permitted and Special Uses and Special Requirements

LODGING	PC	RD	R-210	R-30	R-20	R-15	R-10	R-8	R-5	R-MF	NC	H	HD	OP	VCP	VR	VMU	VC	SR
Bed and Breakfast Homes			X,SR									X,SR			X,SR	X,SR	X,SR		7
Boarding or Rooming House																			
Dormitory																			
Hotel												X	X				X,SR	X,SR	8
Recreational Vehicle Park																			
<u>Short Term Rental</u>			<u>X,SR</u>	<u>X,SR</u>	<u>X,SR</u>	<u>X,SR</u>	<u>X,SR</u>	<u>X,SR</u>	<u>X,SR</u>	<u>X,SR</u>	<u>X,SR</u>			<u>X,SR</u>	<u>X,SR</u>	<u>X,SR</u>	<u>X,SR</u>	<u>X,SR</u>	<u>9*</u>
Accessory Use																			
<u>Homestay</u>																			

*Adding SR-9 will require current SR-9 to move to SR-21

X Permitted by Right

SU Special Use Permit

SR Special Requirement

Section 8.6 Special Requirements (SR) to the Table of Permitted and Special Uses and Special Requirements

Principal Uses

~~SR-9 Banks, Credit Unions, Financial Services, Professional Services~~ (to be recodified as SR-21 below)

SR-21 Banks, Credit Unions, Financial Services, Professional Services

SR-9 Short Term Rental

- 1) Development Permit is required for establishment of all new short term rental units after the effective date of this ordinance. Development Permits are non-transferable when a property is sold or transferred. Nonconforming short term rental units shall be regulated by subsections 14 and 15 below.
- 2) Maximum occupancy per unit is based on two (2) adult guests per bedroom.
- 3) A minimum of one (1) parking space shall be provided per bedroom on approved surfaces and locations per the applicable parking regulations of this Ordinance.
- 4) A minimum of one (1) smoke detector shall be provided per bedroom and one fully operational fire extinguisher.
- 5) A minimum one (1) carbon monoxide detector shall be provided per level or floor of the dwelling unit.
- 6) Bedrooms and other habitable rooms shall meet the minimum light and ventilation requirements of Section 153.18 of the Pinehurst Municipal Code.
- 7) Bedrooms shall meet the minimum size requirements of Section 153.19 of the Pinehurst Municipal Code.
- 8) Ceiling Height. At least one-half of the floor area of every bedroom shall have a ceiling height of not less than seven feet and six inches.
- 9) Egress. Every dwelling unit shall be provided with adequate means of egress as required by the applicable provisions of the North Carolina State Building Code.
- 10) Cooking facilities are not permitted in any bedroom. For the purposes of this regulation, cooking facilities include any refrigerator in excess of seven (7) cubic feet; any stovetop range that operates on 220-volt electric service, any appliance that operates on natural gas; or any cooktop, whether integrated into a countertop or a separate appliance which contains more than two cooking surfaces or burners. This regulation shall not apply to single dwelling unit room rentals with a sleeping area, living area, and kitchen/eating area consolidated into one room.
- 11) Accessory Dwelling Units may be permitted for short term rental where Permitted by Right in Table 8.5.1a Table of Permitted and Special Uses and Special Requirements.

Exhibit B Planning and Zoning Board Recommended Revisions to the Proposed PDO Amendments

- 12) In residential zoning districts, short term rental units shall not be used for ~~Special Events or large gatherings.~~
- 13) Revocation. If it is determined that more than 3 verified violations occur within a 365 day period the development permit may be revoked for a period of 365 days after which a new permit may be issued. For purposes of this Section any three or more verified violations of any combination of the following occurring at the short term rental premises shall apply:
- a. Any Pinehurst Development Ordinance regulation as adopted as Chapter 152 of the Pinehurst Municipal Code; or
 - b. Section 92.16 of the Pinehurst Municipal Code Regulating Unreasonably Loud, Disturbing Sound Levels; or
 - c. Section 92.17 of the Pinehurst Municipal Code Regulating Unruly Gatherings
 - d. Chapter 153 of the Pinehurst Municipal Code Establishing Minimum Housing Standards.
 - e. A verified violation is a determination made by a code enforcement official, law enforcement officer, or a judge., ~~f~~Following ~~notice of a violation~~ ~~being such determination, notice of violation shall be~~ issued by the Village. Noticed violations of the Pinehurst Development Ordinance may be appealed as provided in Chapter 5 of this Ordinance pursuant to G.S. 160D-405.
- 14) Compliance Period; Existing Nonconforming Short Term Rental Units Permitted By Right
- a. Owners of existing short term rental units where Permitted by Right in Table 8.5.1a Table of Permitted and Special Uses and Special Requirements owners shall apply for a development permit and come into full compliance with SR-9 no later than January 1, 2024 or cease operation as a short term rental on that date. For purposes of this Section a non-conforming short term rental unit is a dwelling unit used for short term rental purposes and is located in a General Use Zoning District where it is identified as being Permitted by Right in Table 8.5.1a and does not have a Development Permit approved for use as a Short Term Rental Unit as of the effective date of this ordinance.
- 15) Amortization Period; Existing Short Term Rental Units Not Permitted by Right
- a. Owners of existing short term rental units where not Permitted by Right in Table 8.5.1a are prohibited and shall cease operation as a short term rental by October 1, 2025. For purposes of this Section a short term rental unit not permitted by right is a dwelling unit used for short term rental purposes where it is not identified as being Permitted by Right in Table 8.5.1a.
- a.16) Contact information and these Special Requirements shall be conspicuously posted or otherwise made available to tenants.

DRAFT

Section 10.2 Definitions

Short Term Rental: a whole house lodging occupancy where a dwelling unit is offered or made available by short-term lease or other financial consideration for a time period or lease term of less than 30 consecutive days for a cumulative total of more than 14 days in any calendar year. Short term rentals do not include other lodging uses as identified on Table 8.5.1a of the Table of Permitted and Special Uses and Special Requirements.

~~**Homestay** is a rental of a habitable room or rooms within a dwelling unit or attached accessory dwelling unit made available by short term lease or other financial consideration for a period of less than 30 consecutive days while the full time resident resides on-site during the duration of the rental period.~~



**DISCUSS AND CONSIDER ORDINANCE 22-19 AMENDING CHAPTER 110
OF THE PINEHURST MUNICIPAL CODE: PEDDLING AND SOLICITING
ON PRIVATE PROPERTY
ADDITIONAL AGENDA DETAILS:**

FROM:

Kelly Chance

CC:

Jeff Sanborn and Village Council

DATE OF MEMO:

10/4/2022

MEMO DETAILS:

This item is presented for follow-up from Council Work Session, September 13, 2022. Under the direction of Council, Chapter 110 of the Pinehurst Municipal Code which governs Peddling and Soliciting on Private Property in the Village of Pinehurst.

Amendments include:

- Elimination of the ability to engage in any act of canvassing or soliciting in any public or quasi-public place, door-to-door, or place-to-place, within the Village of Pinehurst with the exception of: any person canvassing or soliciting for a political candidate, organization, or program; or any nonprofit, religious, charitable, recreational, civic or veteran's organization, service club or volunteer fire or first aid company desiring to solicit or canvass.
- Elimination of background investigation requirement due to current laws governing the ability of our police department
- Changes to the Application requirements
- Elimination of \$10.00 Fee
- Changes to the Appeals process
- Changes to the Revocation authority
- Changing of "permit" to "Special permit" throughout the chapter
- Restructuring and renumbering the Sections and elimination of sections 110.10 and 10.11

Staff submits Ordinance #22-19 Amending Chapter 110 for Council Consideration for approval.

ATTACHMENTS:

Description

Ordinance #22-19 Amending Chapter 110 of the Pinehurst Municipal Code: Peddling and Soliciting on Private Property

□

(DRAFT)

- ▣ Application for Special Permit for Peddling and Soliciting on Private Property
- ▣ Solicitation Special Permit
- ▣ Ordinance #09-15 Amending the Municipal Code: Peddling and Soliciting on Private Property

ORDINANCE #22-19:

AN ORDINANCE AMENDING CHAPTER 110 OF THE PINEHURST MUNICIPAL CODE.

WHEREAS, the Village Council of the Village of Pinehurst adopted an ordinance dated May 26, 2009, establishing and implementing certain authorized police powers for the purpose of governing the manner in which businesses and individuals will be allowed to peddle and solicit for business and other purposes on private property in the Village of Pinehurst; and

WHEREAS, on September 13, 2011, the Village Council of the Village of Pinehurst adopted Ordinance 11-25 which established the general ordinances of the Village of Pinehurst as revised, amended, restated, codified, and compiled in book form and declared that these shall constitute the "Village of Pinehurst, North Carolina Municipal Code"; and

WHEREAS, the Municipal Code will be subsequently amended from time to time as conditions warrant; and

WHEREAS, the Village Council has determined that it is in the best interest of the citizens of Pinehurst to amend Chapter 110 in the Pinehurst Municipal Code in order to further promote and protect quality of life in Pinehurst's various residential neighborhoods; and

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Village Council of the Village of Pinehurst, North Carolina in the regular meeting assembled this 11th day of October 2022 as follows:

SECTION 1. That the following amendments be made to Chapter 110:

Section

- 110.01 ~~Definitions~~ **Purpose of Regulations**
- 110.02 ~~Purpose of regulations~~ **Definitions**
- 110.03 ~~Permit required~~ **Exceptions: Special Permits**
- 110.04 Application for permit
- 110.05 ~~Permit fees~~ **Denial or Issuance of Special Permits**
- 110.06 ~~Investigation of applicant; denial or issuance of permit~~ **Appeals**
- 110.07 ~~Appeals~~ **Display of Special Permit**
- 110.08 ~~Display of permit~~ **Regulation of Activity: Violations**
- 110.09 ~~Regulation of activity; violations~~ **Revocation of Special Permit**
- 110.10 ~~Exceptions; special permits~~
- 110.11 ~~Revocation of Permit~~

§ 110.01 DEFINITIONS. PURPOSE OF REGULATIONS

~~For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

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~~CANVASSER or SOLICITOR~~

- ~~(1) An itinerant vendor of merchandise who shall go from door to door or place to place, selling, causing to be sold, offering for sale or taking orders for present or future delivery of merchandise, products or services of any description whatsoever, including but not limited to magazines, periodicals, books and orders or contracts for home improvements or alterations.~~
- ~~(2) A person who makes or conducts surveys for research purposes, analysis, opinion polls, rating data and any similar work which, by nature, involves door to door or place to place activity.~~
- ~~(3) A person who goes from door to door or place to place for the purpose of soliciting contributions, donations, or any other thing of value for any person or organization.~~
- ~~(4) A person who goes from door to door or place to place for the purpose of distributing circulars or other printed or electronic media.~~

~~CANVASSING or SOLICITING.~~ The act of going from door to door or place to place for the purpose of:

- ~~(1) Sale, distribution, advertising, promoting, demonstrating and/or vending of merchandise, products, services, or materials or taking orders for present or future delivery of merchandise, products, services or materials, of any description whatever, including but not limited to magazines, periodicals, books and orders or contracts for home improvements or alterations.~~
- ~~(2) Making or conducting surveys for research purposes, analyses, opinion polls, rating data and any similar work, which, by nature, involves door to door or place to place activity;~~
- ~~(3) Soliciting contributions, donations or any other thing of value for any person or organization; or~~
- ~~(4) Distributing circulars, advertisements, brochures or other similar printed matter.~~

~~PERSON.~~ Any individual, firm, partnership, association, group of persons or corporation.

No person, except as allowed in § 110.03, shall canvass, solicit, or sell food, beverages, services, or merchandise, or engage in any act of canvassing or soliciting in any public or quasi-public place, door-to-door, or place-to-place, within the Village of Pinehurst.

The purposes of this chapter are:

- (A) Deterring the use of soliciting, vending, and canvassing to gain access to home for commercial purposes;**
- (B) Maintaining quiet and privacy for residents of the village;**
- (C) Discouraging unethical and dishonest business practices;**
- (D) For the general protection, health and welfare of the residents of the village; and**

(E) To preserve a record to identify names and addresses of all canvassers, vendors, and solicitors

(1986 Code, § 3-8.3) (Ord. 09-15, passed 05-26-2009)

§ 110.02 PURPOSE OF REGULATIONS. DEFINITIONS

~~The purposes of this chapter are:~~

- ~~(A) Deterring the use of soliciting, vending and canvassing to gain access to home for commercial purposes;~~
- ~~(B) Maintaining quiet and privacy for residents of the village;~~
- ~~(C) Discouraging unethical and dishonest business practices;~~
- ~~(D) For the general protection, health and welfare of the residents of the village; and~~
- ~~(E) To preserve a record to identify names and addresses of all canvassers, vendors and solicitors~~

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CANVASSER or SOLICITOR

- (1) An itinerant vendor of merchandise who shall go from door-to-door or place-to-place, selling, causing to be sold, offering for sale, or taking orders for present or future delivery of merchandise, products or services of any description whatsoever, including but not limited to magazines, periodicals, books and orders or contracts for home improvements or alterations.**
- (2) A person who makes or conducts surveys for research purposes, analysis, opinion polls, rating data and any similar work which, by nature, involves door-to-door or place-to-place activity.**
- (3) A person who goes from door-to-door or place-to-place for the purpose of soliciting contributions, donations, or any other thing of value for any person or organization.**
- (4) A person who goes from door-to-door or place-to-place for the purpose of distributing circulars or other printed or electronic media.**

CANVASSING or SOLICITING. The act of going from door-to-door or place-to-place for the purpose of:

- (1) Sale, distribution, advertising, promoting, demonstrating and/or vending of merchandise, products, services, or materials or taking orders for present or future delivery of merchandise, products, services, or materials, of any description whatever, including but not limited to magazines, periodicals, books and orders or contracts for home improvements or alterations.**

- (2) Making or conducting surveys for research purposes, analyses, opinion polls, rating data and any similar work, which, by nature, involves door-to-door or place-to-place activity;
- (3) Soliciting contributions, donations or any other thing of value for any person or organization; or
- (4) Distributing circulars, advertisements, brochures or other similar printed matter.

PERSON. Any individual, firm, partnership, association, group of persons or corporation.

(1986 Code, § 3-8.3) (Ord. 09-15, passed 05-26-2009)

§ 110.03 ~~PERMIT REQUIRED.~~ EXCEPTIONS: SPECIAL PERMIT

~~No person, except as provided herein, shall canvass, solicit, or sell food, beverages, services, or merchandise, or engage in any act of canvassing or soliciting in any public or quasi-public place, door-to-door, or place-to-place, within the village, without first having obtained a permit therefor in accordance with the provisions of this chapter.~~

(A) The provisions of this section apply only to:

- (1) Any person canvassing or soliciting for a political candidate, organization, or program; or
- (2) Any nonprofit, religious, charitable, recreational, civic or veteran's organization, service club or volunteer fire or first aid company desiring to solicit or canvass

(B) Notwithstanding the foregoing, any person claiming the exemption set forth in division (A) of this section shall, prior to conduct of canvassing or soliciting within the village, file an application, in writing, with the Village Clerk for a special permit.

(C) The Village Clerk shall file a copy of all applications for a special permit with the Chief of Police.

(D) Upon being satisfied that the person or organization is bona fide, subject to the exemptions set forth herein and as represented in its application, the Village Clerk shall issue a special permit, without charge, for the period during which canvassing or soliciting is requested.

(E) Any person conducting solicitation or canvassing on private property subject to prior express permission of the property owner is exempt from all the provisions of this chapter.

(1986 Code, § 3-8.3) (Ord. 09-15, passed 05-26-2009) ~~Penalty, see § 110.99~~

§ 110.04 APPLICATION FOR SPECIAL PERMIT.

(A) Applicants for **special** permits shall be made upon forms provided by the Village Clerk, who shall file a duplicate copy with the Police Department, containing the following information:

- (1) The name, date of birth, **and** age, ~~and physical description~~ of the applicant.
- (2) The complete permanent home and local address of applicant;
- (3) The name and address of the organization or person for whom canvassing, vending or soliciting is being made;
- (4) A description of the nature of the business or activity and the goods, services or wares to be sold;
- (5) ~~Two~~ **One form of identification with a** recent photographs of the applicant, ~~which shall be approximately two and one half by two and one half inches in size,~~ showing the head and shoulders of the applicant in a clear and distinguishing manner;
- (6) The days and dates upon which the canvassing or soliciting is to take place;
- (7) A statement as to whether or not the applicant has been convicted of a crime, misdemeanor or disorderly persons offense and, if so, the details thereof;
- (8) The make, model, year, color and license plate number of each vehicle used by the applicant during the period of canvassing, vending or soliciting within the village and copies of the applicant's driver's license, registration and insurance certificate;
- (9) A list of current canvassing, vending, or soliciting permits received from other municipalities; and
- (10) A statement as to whether or not the applicant has been denied a canvassing, vending or soliciting permit during the past year.

(B) A separate application shall be filed for each individual soliciting or canvassing within the village.

(1986 Code, § 3-8.5) (Ord. 09-15, passed 05-26-2009)

§ 110.05 ~~PERMIT FEES~~ DENIAL OR ISSUANCE OF SPECIAL PERMITS.

~~The Village Council shall annually adopt, by resolution, fees and charges for peddling and soliciting permit applications.~~

(A) In the event that the Village Clerk shall deny a special permit to the applicant, he or she shall detail the reasons for the denial.

(B) In the event that the Village Clerk shall approve a special permit to the applicant, a special permit will be issued, upon which shall be affixed one photograph of the applicant.

(1986 Code, § 3-8.5) (Ord. 09-15, passed 05-26-2009)

§ 110.06 INVESTIGATION OF APPLICANT; DENIAL OR ISSUANCE OF PERMIT. ~~APPEALS.~~

~~(A) Upon receipt of a duplicate application, the Police Department shall cause an investigation to be made of the applicant's business or moral character for the protection of the public safety and welfare. In the event that the investigation should reveal any of the following, the Chief of Police shall deny a permit to the applicant:~~

~~(1) Conviction of any crime or misdemeanor involving arson and/or other burnings, assault and battery, breaking and entering, bribery and corruption, burglary, embezzlement, conspiracy, conversion and misappropriation of funds, extortion or threats, forgery and counterfeiting, frauds and cheats, indecency and obscenity, larceny, loan sharking, possession or use of a controlled dangerous substance, rape and carnal abuse, receiving stolen property and any other crimes against the person or crimes involving moral turpitude;~~

~~(2) Conviction of any misdemeanor or disorderly person's offenses, common thievery, burglary, pickpocketing, carrying weapons, conspiracy, unlawful soliciting, assault and battery, fraud and misrepresentation, possession or use of habit producing drugs, shoplifting and any other offense involving moral turpitude; and/or~~

~~(3) Business pursuits resulting in fraud, misappropriation of funds of similar activity.~~

~~(B) The above crimes, misdemeanors or disorderly person's offenses shall be deemed to be those as defined or equivalent to crimes and disorderly person's offenses defined by law in the State of North Carolina.~~

~~(C) In the event that the Chief of Police shall deny a permit to the applicant, he or she shall detail the reasons for the denial.~~

~~(D) In the event that the investigation should not disclose any of the above, a permit shall be issued forthwith by the Chief of Police, upon which shall be affixed one photograph of the applicant.~~

In the event that the Village Clerk shall deny any application for a special permit, the applicant may appeal that decision within a period of ten days from the date of denial. The appeal shall be filed with the Village Clerk and shall be heard by the Village Manager within a period of seven days from the date it is filed. The Village Manager may affirm, modify, or reverse the decision of the Village Clerk and shall indicate, in writing, the reason for its determination. The Village Manager shall relate his or her findings and conclusions to the objectives of this chapter. The Village Manager's determination shall be rendered forthwith and shall be final.

(1986 Code, § 3-8.6) (Ord. 09-15, passed 05-26-2009)

§ 110.07 ~~APPEALS.~~ DISPLAY OF SPECIAL PERMIT.

~~In the event that the Chief of Police shall deny any application for a permit, the applicant may appeal that decision within a period of ten days from the date of denial. The appeal shall be filed with the Village Clerk and shall be heard by the Village Manager within a period of seven days from the date it is filed. The Village Manager may affirm, modify, or reverse the decision of the~~

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~~Chief of Police and shall indicate, in writing, the reason for its determination. The Village Manager shall apply the standards indicated hereinabove and shall relate his or her findings and conclusions to the objectives of this chapter. The Village Manager's determination shall be rendered forthwith and shall be final.~~

Each applicant, when canvassing or soliciting within the village, shall carry the special permit at all times and shall exhibit the same to any citizen or police officer upon request.

(1986 Code, § 3-8.6) (Ord. 09-15, passed 05-26-2009) **Penalty, see § 110.99**

§ 110.08 ~~DISPLAY OF PERMIT~~ REGULATION OF ACTIVITY UNDER A SPECIAL PERMIT: VIOLATIONS

~~Each applicant, when canvassing or soliciting within the village, shall carry the permit at all times and shall exhibit the same to any citizen or police officer upon request.~~

(A) All special permits issued pursuant to this chapter shall be for a term of one week (seven days) from date of issuance with no solicitation taking place on Sundays.

(B) Canvassing and soliciting shall be conducted between the hours of 9:00 a.m. and 5:00 p.m., Monday through Saturday.

(C) No canvasser or solicitor shall enter or attempt to enter the house or apartment of any resident of the village without an express invitation from the occupant thereof.

(D) No canvasser or solicitor shall conduct himself or herself in a manner as to become objectionable to or annoy any person while canvassing or soliciting.

(E) No canvasser or solicitor shall canvass or solicit upon premises where signs so located give adequate notice of the prohibition of those activities.

(1) The owner and/or occupant of premises identified in the village may obtain a sign, placard or sticker from the Village Clerk, which may be affixed to a front door, front window or front-facing wall of the premises and giving notice that canvassing and soliciting is not permitted on the premises.

(2) All circulars, samples, merchandise or other printed or electronic media distributed by the canvasser or solicitor shall be handed to an occupant of the property or left in a secure location on the premises.

(1986 Code, § 3-8.6) (Ord. 09-15, passed 05-26-2009) **Penalty, see § 110.99**

§ 110.09 ~~REGULATION OF ACTIVITY; VIOLATIONS.~~ REVOCATION OF SPECIAL PERMIT

~~(A) All permits issued pursuant to this chapter shall be for a term of one week (seven days) from date of issuance with no solicitation taking place on Sundays.~~

~~(B) Canvassing and soliciting shall be conducted between the hours of 9:00 a.m. and 5:00 p.m., Monday through Saturday.~~

~~(C) No canvasser or solicitor shall enter or attempt to enter the house or apartment of any resident of the village without an express invitation from the occupant thereof.~~

~~(D) No canvasser or solicitor shall conduct himself or herself in a manner as to become objectionable to or annoy any person while canvassing or soliciting.~~

~~(E) No canvasser or solicitor shall canvass or solicit upon premises where signs so located give adequate notice of the prohibition of those activities.~~

~~(1) The owner and/or occupant of premises identified in the village may obtain a sign, placard or sticker from the Village Clerk, which may be affixed to a front door, front window or front facing wall of the premises and giving notice that canvassing and soliciting is not permitted on the premises.~~

~~(2) All circulars, samples, merchandise or other printed or electronic media distributed by the canvasser or solicitor shall be handed to an occupant of the property or left in a secure location on the premises.~~

(A) Special permits issued under this chapter may be revoked by the Village Clerk, after written notice outlining reasons, for any of the following causes:

(1) Misrepresentation or false material statement contained in the application;

(2) Misrepresentation or false material statement contained in the course of carrying on activities regulated herein;

(3) Conducting canvassing or soliciting in an unlawful manner in violation of the provisions of this chapter or in any manner as to cause a breach of the peace or to constitute a menace to safety or general welfare of the public.

(B) Any person whose special permit has been revoked shall have the right of appeal, subject to the procedure and standards as set forth in § 110.06.

(1986 Code, § 3-8.6) (Ord. 09-15, passed 05-26-2009) ~~Penalty, see § 110.99~~

~~§ 110.10 EXCEPTIONS; SPECIAL PERMITS.~~

~~(A) The provisions of this section shall not apply to:~~

~~(1) Any person canvassing or soliciting for a political candidate, organization or program; or~~

~~(2) Any nonprofit, religious, charitable, recreational, civic or veteran's organization, service club or volunteer fire or first aid company desiring to solicit or have solicited or canvassed in its name money, donations or financial assistance of any kind.~~

~~(B) Notwithstanding the foregoing, any person claiming the exemption set forth in division (A) of this section shall, prior to conduct of canvassing or soliciting within the village, file an~~

~~application, in writing, with the Village Clerk for a special permit. The application shall contain the following information:~~

- ~~(1) The name and address of the person or organization;~~
 - ~~(2) The purpose for which the special permit is required;~~
 - ~~(3) The names and addresses of the officers, directors or trustees of the organization;~~
 - ~~(4) The period during which canvassing or soliciting is being carried on. Day and time limitations are the same as in § 110.09(B); and~~
 - ~~(5) The names and addresses of all canvassers or solicitors engaged or utilized by the applicant.~~
- ~~(C) The Village Clerk shall file a copy of all applications for a special permit with the Chief of Police.~~
- ~~(D) Upon being satisfied that the per~~
- ~~(E) The Village Clerk shall file a copy of all applications for a special permit with the Chief of Police.~~
- ~~(F) Upon being satisfied that the person or organization is bona fide, subject to the exemptions set forth herein and as represented in its application, the Village Clerk shall issue a special permit, without charge, for the period during which canvassing or soliciting is requested.~~
- ~~(G) Any person conducting solicitation or canvassing on private property subject to prior express permission of the property owner is exempt from all the provisions of this chapter.~~

~~§ 110.11 REVOCATION OF PERMIT.~~

- ~~(A) Permits issued under this chapter may be revoked by the Chief of Police, after written notice outlining reasons, for any of the following causes:~~
- ~~(1) Misrepresentation or false material statement contained in the application;~~
 - ~~(2) Misrepresentation or false material statement contained in the course of carrying on activities regulated herein;~~
 - ~~(3) Conviction of any crime, misdemeanor or disorderly person's offense or engaging in business activity that would have precluded issuance of a permit as set forth hereinabove; and/or~~
 - ~~(4) Conducting canvassing or soliciting in an unlawful manner in violation of the provisions of this chapter or in any manner as to cause a breach of the peace or to constitute a menace to safety or general welfare of the public.~~
- ~~(B) Any person whose permit has been revoked shall have the right of appeal, subject to the procedure and standards as set forth in § 110.07.~~

~~(1986 Code, § 3-8.6) (Ord. 09-15, passed 05-26-2009)~~

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SECTION 2. That all ordinances or sections thereof in conflict herewith are hereby repealed and declared null and void from and after the date of adoption of this ordinance.

SECTION 3. That this Ordinance shall be and remain in full force and effect from and after the date of its adoption.

THIS ORDINANCE is passed and adopted this 11th day of October, 2022.

(Municipal Seal)

VILLAGE OF PINEHURST
VILLAGE COUNCIL

By: _____
John C. Strickland, Mayor

Attest:

Approved as to Form:

Kelly Chance, Village Clerk

Michael J. Newman, Village Attorney

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Application for Special Permit
Door-to-Door Peddling, Soliciting, & Canvassing

Applicant's Name: _____ Date of Birth: ____ / ____ / ____ Age: ____
Month Day Year

Date of Application: _____ Applicant's Local Telephone Number: _____

Applicant's Permanent Home Address: _____

Applicant's Local Address: _____

Organization Name: _____

Exemption Claimed per § 110.03 Pinehurst Municipal Code (Chapter 110) Yes ☐ No ☐

Company / Organization's Address: _____

Nature of Business or Activity: _____

Describe Goods, Services or Wares to be Sold: _____

Days and Dates of Peddling, Soliciting, Canvassing: _____

- **Limited to SEVEN (7) days – Monday through Saturday – 9 a.m. to 5 p.m.**

**** NO SOLICITATION ALLOWED ON SUNDAYS**

Have you ever been convicted of a crime, misdemeanor, or disorderly person's offense? Yes ☐ No ☐

If yes, give details: _____

Vehicle: _____
Make Model Year Color License Plate Number (State and Number)

List current peddling, soliciting or canvassing permits received from other municipalities: _____

Have you been denied a peddling, soliciting or canvassing permit in the past 12 months? Yes ☐ No ☐

**** A separate application shall be filed for each individual soliciting or canvassing with the Village of Pinehurst.**

**** Please allow three (3) to five (5) business days for application processing.**

Attach the following to this application for permit:

- 1) Copy of one form of identification with a recent photograph of the applicant showing the head and shoulders of the applicant in a clear and distinguishing manner

PINEHURST MUNICIPAL CODE
CHAPTER 110 Peddling and Soliciting on Private Property

§ 110.01 PURPOSE OF REGULATIONS

No person, except as allowed in § 110.03, shall canvass, solicit, or sell food, beverages, services, or merchandise, or engage in any act of canvassing or soliciting in any public or quasi-public place, door-to-door, or place-to-place, within the Village of Pinehurst.

The purposes of this chapter are:

- (A) Deterring the use of soliciting, vending, and canvassing to gain access to home for commercial purposes;
 - (B) Maintaining quiet and privacy for residents of the village;
 - (C) Discouraging unethical and dishonest business practices;
 - (D) For the general protection, health and welfare of the residents of the village; and
 - (E) To preserve a record to identify names and addresses of all canvassers, vendors, and solicitors
- (1986 Code, § 3-8.3) (Ord. 09-15, passed 05-26-2009)

§ 110.03 EXCEPTIONS: SPECIAL PERMIT

(A) The provisions of this section apply only to:

- (1) Any person canvassing or soliciting for a political candidate, organization, or program; or
- (2) Any nonprofit, religious, charitable, recreational, civic or veteran's organization, service club or volunteer fire or first aid company desiring to solicit or canvass

(B) Notwithstanding the foregoing, any person claiming the exemption set forth in division (A) of this section shall, prior to conduct of canvassing or soliciting within the village, file an application, in writing, with the Village Clerk for a special permit.

(C) The Village Clerk shall file a copy of all applications for a special permit with the Chief of Police.

(D) Upon being satisfied that the person or organization is bona fide, subject to the exemptions set forth herein and as represented in its application, the Village Clerk shall issue a special permit, without charge, for the period during which canvassing or soliciting is requested.

(E) Any person conducting solicitation or canvassing on private property subject to prior express permission of the property owner is exempt from all the provisions of this chapter.

(1986 Code, § 3-8.3) (Ord. 09-15, passed 05-26-2009)



Door-to-Door Peddling, Soliciting, & Canvassing

SOLICITATION SPECIAL PERMIT

Date: _____

Applicant's Full Name: (Print) _____

Applicant's Signature: _____

Permit Approved: Yes _____ **No** _____

If denied, reason for denial: _____

Effective Dates: _____ **to** _____

Date Issued: _____

Signature: _____

Village Clerk

(Municipal Seal)

Each applicant, when canvassing or soliciting within the Village, shall carry the special permit at all times and shall exhibit the same to any citizen or police officer upon request.

ORDINANCE #09-15:

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE VILLAGE OF PINEHURST WITH REGARD TO ESTABLISHING REGULATIONS GOVERNING PEDDLING AND SOLICITING ON PRIVATE PROPERTY IN THE VILLAGE OF PINEHURST.

THAT WHEREAS, the Village Council of the Village of Pinehurst provides services for the public health, safety, and general welfare of the community; and

WHEREAS, North Carolina General Statute 160A-174 gives authority to municipalities to regulate acts that may be detrimental to the health and safety of its citizens; and

WHEREAS, regulation of peddling and solicitation on private property in the Village of Pinehurst should be done in a manner that protects the safety of both residents and visitors; and

WHEREAS, the Village Council feels it is necessary to establish and adopt regulations governing the manner in which businesses and individuals will be allowed to peddle and solicit for business and other purposes on private property in the Village of Pinehurst;

NOW, THEREFORE, BE IT RESOLVED by the Village Council of the Village of Pinehurst, North Carolina in regular meeting assembled this 26th day of May, 2009, as follows:

SECTION 1. That Section 3.8 of Chapter 3 of the Municipal Code is hereby established for the purpose of governing the manner in which businesses and individuals will be allowed to peddle and solicit for business and other purposes on private property in the Village of Pinehurst, reading as follows:

CHAPTER 3

SECTION 8

- 3-8.1. Definitions
- 3-8.2. Purpose
- 3-8.3. Permit Required
- 3.8.4. Application For Permit
- 3-8.5. Fees
- 3-8.6. Investigation of Applicant; Denial or Issuance of Permit
- 3-8.7. Appeals
- 3-8.8. Display of Permits
- 3-8.9. Regulations; Penalties
- 3-8.10. Exceptions; Special Permits
- 3-8.11. Revocation of Permits

3-8.1. DEFINITIONS:

For the purpose of this Chapter, the following words and phrases shall have the meanings ascribed to them by this Section:

CANVASSER or SOLICITOR A. An itinerant vendor of merchandise who shall go from door-to-door or place-to-place, selling causing to be sold, offering for sale or taking orders for present or future delivery of merchandise, products or services of any description whatever, including but not limited to magazines, periodicals, books and orders or contracts for home improvements or alterations.

B. A person who makes or conducts surveys for research purposes, analyses, opinion polls, rating data and any such similar work; which, by nature, involves door-to-door or place-to-place activity.

C. A person who goes from door-to-door or place-to-place for the purpose of soliciting contributions, donations or any other thing of value for any person or organization.

D. A person who goes from door-to-door or place-to-place for the purpose of distributing circulars or other printed or electronic media.

CANVASSING or SOLICITING The Act of going from door-to-door or place-to-place for the purpose of (a) sale, distribution, advertising, promoting, demonstrating, and/or vending of merchandise, products, services, or materials, or taking orders for present or future delivery of merchandise, products, services or materials, of any description whatever, including but not limited to magazines, periodicals, books and orders or contracts for home improvements or alterations; (b) making or conducting surveys for research purposes, analyses, opinion polls, rating data and any such similar work, which, by nature, involves door-to-door or place-to-place activity; (c) soliciting contributions, donations or any other thing of value for any person or organization; of (d) distributing circulars, advertisements, brochures, or other, similar printed matter.

PERSON Any individual, firm, partnership, association, group or persons or corporation.

3-8.2. PURPOSE:

The purposes of this Chapter are:

- A. Deterring the use of soliciting, vending and canvassing to gain access to home for commercial purposes.
- B. Maintaining quiet and privacy for residents of the Village of Pinehurst.
- C. Discouraging unethical and dishonest business practices.

- D. For the general protection, health and welfare of the residents of the Village of Pinehurst.
- E. To preserve a record to identify names and addresses of all canvassers, vendors and solicitors.

3-8.3. PERMIT REQUIRED:

No person, except as provided herein, shall canvass, solicit or sell food, beverages, services, or merchandise or engage in any act of canvassing or soliciting in any public or quasi-public place, door-to-door, or place-to-place, within the Village of Pinehurst, without first having obtained a permit therefore in accordance with the provisions of this Chapter.

3-8.4 APPLICATION FOR PERMIT:

- A. Applicants for permits shall be made upon forms provided by the Village Clerk, who shall file a duplicate copy with the Police Department, containing the following information:
 - 1. The name, date of birth, age and physical description of the applicant.
 - 2. The complete permanent home and local address of applicant.
 - 3. The name and address of the Organization or person for whom canvassing, vending or soliciting is being made.
 - 4. A description of the nature of the business or activity and the goods, services or wares to be sold.
 - 5. Two (2) recent photographs of the applicant, which shall be approximately two and one-half by two and one-half (2 ½ " x 2 ½") inches in size, showing the head and shoulders of the applicant in a clear and distinguishing manner.
 - 6. The days and dates upon which the canvassing or soliciting is to take place.
 - 7. A statement as to whether or not the applicant has been convicted of a crime, misdemeanor or disorderly persons offense and, if so, the details thereof.
 - 8. The make, model, year, color and license plate number of each vehicle used by the applicant during the period of canvassing, vending or

soliciting within the Village of Pinehurst and copies of the applicant's driver's license, registration and insurance certificate.

9. A list of current canvassing, vending or soliciting permits received from other municipalities.

10. A statement as to whether or not the applicant has been denied a canvassing, vending or soliciting permit during the past year.

B. A separate application shall be filed for each individual soliciting or canvassing within the Village of Pinehurst.

3-8.5 FEES:

A. The Village Council shall annually adopt by Resolution, fees and charges for peddling and soliciting permit applications.

3-8.6 INVESTIGATION OF APPLICANT; DENIAL OR ISSUANCE OF PERMIT:

A. Upon receipt of a duplicate application, the Police Department shall cause an investigation to be made of the applicant's business or moral character for the protection of the public safety and welfare.

In the event that the investigation as aforesaid should reveal any of the following, the Chief of Police shall deny a permit to the applicant:

1. Conviction of any crime or misdemeanor involving arson and/or other burnings, assault and battery, breaking and entering, bribery and corruption, burglary, embezzlement, conspiracy, conversion and misappropriation of funds, extortion or threats, forgery and counterfeiting, frauds and cheats, indecency and obscenity, larceny, loan sharking, possession or use of a controlled dangerous substance, rape and carnal abuse, receiving stolen property and any other crimes against the person or crimes involving moral turpitude.
2. Conviction or any misdemeanor or disorderly persons offense, common thievery, burglary, pick pocketing, carrying weapons, conspiracy, unlawful soliciting, assault and battery, fraud and misrepresentation, possession or use of habit producing drugs, shoplifting and any other offense involving moral turpitude.
3. Business pursuits resulting in fraud, misappropriation of funds or similar activity.

- B. The above crimes, misdemeanors or disorderly persons offenses shall be deemed to be those as defined or equivalent to crimes and disorderly person's offenses defined by law in the State of North Carolina.
- C. In the event that the Chief of Police shall deny a permit to the applicant, he shall detail the reasons for such denial.
- D. In the event that the investigation as aforesaid should not disclose any of the above, a permit shall be issued forthwith by the Chief of Police, upon which shall be affixed one (1) photograph of the applicant.

3-8.7 APPEALS:

In the event that the Chief of Police shall deny any application for a permit, the applicant may appeal that decision within a period of ten (10) days from the date of denial. Said appeal shall be filed with the Village Clerk and shall be heard by the Village Manager within a period of seven (7) days from the date it is filed. The Village Manager may affirm, modify or reverse the decision of the Chief of Police and shall indicate, in writing, the reason for its determination. The Village Manager shall apply the standards indicated hereinabove and shall relate his findings and conclusions to the objectives of this Chapter. The Village Managers' determination shall be rendered forthwith and shall be final.

3-8.8. DISPLAY OF PERMITS:

Each applicant, when canvassing or soliciting within the Village of Pinehurst, shall carry the permit at all times and shall exhibit the same to any citizen or Police Officer upon request.

3-8.9. REGULATIONS; PENALTIES:

- A. All permits issued pursuant to this Chapter, shall be for a term of one (1) week (7 days) from date of issuance with no solicitation taking place on Sundays.
- B. Canvassing and Soliciting shall be conducted between the hours of 9:00 am and 5:00 pm, Monday through Saturday.
- C. No canvasser or solicitor shall enter or attempt to enter the house or apartment of any resident of the Village of Pinehurst without an express invitation from the occupant thereof.

- D. No canvasser or solicitor shall conduct himself in such a manner as to become objectionable to or annoy any person while canvassing or soliciting.
- E. No canvasser or solicitor shall canvass or solicit upon premises where signs so located give adequate notice of the prohibition of such activities.
 - 1. The owner and/or occupant of premises identified in the Village of Pinehurst may obtain a sign, placard or sticker from the Village Clerk, which may be affixed to a front door, front window or front facing wall of the premises, and giving notice that canvassing and soliciting is not permitted on the premises.
 - 2. All circulars, samples, merchandise, or other printed or electronic media distributed by the canvasser or solicitor shall be handed to an occupant of the property or left in a secure location on the premises.
 - 3. Any person who violates any provision of this Chapter, upon conviction thereof, shall be punished by a fine not exceeding five hundred (\$500.) dollars or by imprisonment for a term not exceeding ninety (90) days or both. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

3-8.10. EXCEPTIONS; SPECIAL PERMITS, CANVASSING OR SOLICITING BY EXPRESS INVITATION:

- A. The provisions of this Section shall not apply to: (a) any person canvassing or soliciting for a political candidate, organization or program, including the solicitation of donations or contributions for any political, candidate, organization or program; or, (b) any non-profit, religious, charitable, recreational, civic or veteran's organization, service club, or volunteer fire or first aid company desiring to solicit or have solicited or canvassed in its name money, donations or financial assistance of any kind.
- B. Notwithstanding the foregoing, any person claiming the exemption set forth in paragraph A of this Section shall, prior to conduct of canvassing or soliciting within the Village of Pinehurst, file an application, in writing, with the Village Clerk, for a special permit. Said application shall contain the following information:
 - 1. The name and address of the person or organization;
 - 2. The purpose for which the special permit is required;

3. The names and addresses of the officers, directors or trustees of the organization;
4. The period during which canvassing or soliciting is being carried on. Day and time limitations are the same as in Section 3-8.9. B, above;
5. The names and addresses of all canvassers or solicitors engaged or utilized by the applicant.

The Village Clerk shall file a copy of all applications for a Special Permit with the Chief of Police.

- C. Upon being satisfied that the person or organization, is bona fide, subject to the exemptions set forth herein and as represented in its application, the Village Clerk shall issue a special permit, without charge, for the period of time during which canvassing or soliciting is requested.
- D. Any person conducting solicitation or canvassing on private property subject to prior express permission of the property owner is exempt from all of the provisions of this ordinance.

3-8.11. REVOCATION OF PERMITS:

- A. Permits issued under this Chapter may be revoked by the Chief of Police, after written notice outlining reasons, for any of the following causes:
 1. Misrepresentation or false material statement contained in the application.
 2. Misrepresentation or false material statement contained in the course of carrying on activities regulated herein.
 3. Conviction of any crime, misdemeanor or disorderly person's offense or engaging in business activity that would have precluded issuance of a permit as set forth hereinabove.
 4. Conducting canvassing or soliciting in an unlawful manner in violation of the provisions of this Chapter or in such manner as to cause a breach of the peace or to constitute a menace to safety or general welfare of the public.
- B. Any person whose permit has been revoked shall have the right of appeal, subject to the procedure and standards as set forth in Section 3-8.7 above.

SECTION 2. That all ordinances or sections thereof in conflict herewith are hereby repealed and declared null and void from and after the date of adoption of this ordinance.

SECTION 3. That this Ordinance shall be and remain in full force and effect from and after the date of its adoption.

Adopted this 26th day of May, 2009.

(Municipal Seal)



Attest:

Linda S. Brown
Linda S. Brown, Village Clerk

VILLAGE OF PINEHURST
VILLAGE COUNCIL

By: George P. Lane

George P. Lane, Mayor

Approved as to Form: Michael J. Newman

Michael J. Newman, Village Attorney