



**VILLAGE COUNCIL
AGENDA FOR WORK SESSION OF SEPTEMBER 8, 2020
ASSEMBLY HALL
395 MAGNOLIA RD.
PINEHURST, NORTH CAROLINA**

IMMEDIATELY FOLLOWING THE REGULAR MEETING

1. Call to Order.
2. Discuss Public Nuisance Ordinance.
3. Other Work Session Business.
4. Potential Future Agenda Topics.
5. Adjournment.

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.



**DISCUSS PUBLIC NUISANCE ORDINANCE.
ADDITIONAL AGENDA DETAILS:**

FROM:

Jeff Sanborn

DATE OF MEMO:

9/1/2020

MEMO DETAILS:

This agenda item is to continue discussions from the August 11th work session regarding updates to our noise nuisance ordinance language which are intended to create more clear standards and to enhance deterrence and enforceability.

ATTACHMENTS:

Description

- ☐ Updated Draft 9-8-20 - Chapter 92 Municipal Code
- ☐ Draft-Chapter 92 Municipal Code
- ☐ Summary of VOP Municipal Code Penalties
- ☐ NCGS 14-4 Violation of local ordinances misdemeanor
- ☐ NCGS 160A-175 Enforcement of Ordinances

CHAPTER 92: NUISANCES; ENVIRONMENTAL PROTECTION

Section

Nuisances

92.01 Certain conditions declared nuisances

92.02 Investigation of complaints

92.03 Notice and order to abate

92.04 Abatement by village

Pollutants and Noise Control

92.15 Regulation of emission of pollutants or contaminants

92.16 Regulating unreasonably loud, disturbing sound levels

NUISANCES

§ 92.01 CERTAIN CONDITIONS DECLARED NUISANCES.

The existence of any of the following conditions on any lot, whether improved or not, or other parcel of land within the corporate limits is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance:

(A) Growth of weeds and grass. The uncontrolled growth of noxious weeds or grass, in excess of eight inches, causing or threatening to cause a hazard detrimental to the public health or safety or by the inhabitation therein of rats, mice, snakes or vermin of any kind which is or may be dangerous or prejudicial to the public health;

(B) Accumulations of animal or vegetable matter. Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or by the inhabitation therein of rats, mice, snakes or vermin of any kind, which is or may be dangerous or prejudicial to the public health;

(C) Accumulations of rubbish and the like. Any accumulation of rubbish, trash or junk causing or threatening to cause a fire hazard, causing or threatening to cause the accumulation of stagnant water or causing or threatening to cause the inhabitation therein of rats, mice, snakes or vermin of any kind which is or may be dangerous or prejudicial to the public health;

(D) Open storage. The open storage of any abandoned ice box, refrigerator, stove, glass, building material, building rubbish or similar items, which may be unsightly, or may be dangerous or prejudicial to the public health or public safety;

(E) Indoor furniture. Indoor upholstered furniture or upholstered furniture intended for indoor use being stored outdoors causing or threatening to cause a fire hazard, causing or threatening to cause the accumulation of stagnant water or causing or threatening to cause the inhabitation or infestation therein of rats, mice, snakes, vermin or insects of any kind which is or may be dangerous or prejudicial to the public health;

(F) Conditions violating Health Department rules. Any condition detrimental to the public health or public safety, which violates the rules and regulations of the Moore County Health Department;

(G) Combustible items. Any accumulation of combustible items such as mattresses, boxes, paper, automobile tires and tubes, garbage, trash, refuse, brush, old clothes, rags,

damaged trees, downed or leaning trees or any other combustible materials or objects of a like nature;

(H) Burned or partially burned buildings and structures. Any building or other structure which has been burned, partially burned or otherwise partially destroyed and which is unsightly or hazardous to the safety of any person, is a continuing fire hazard or which is structurally unsound to the extent that the Village Building Official can reasonably determine that there is a likelihood of personal or property injury to any person or property entering the premises;

(I) Damaged structures and resulting debris. The existence of any of the following conditions associated with damaged structures or their resultant debris shall constitute a public nuisance:

(1) Damaged structure in danger of collapsing;

(2) Damaged structure or debris from damaged structures where it can reasonably be determined that there is a likelihood of personal or property injury; or

(3) Any structure, regardless of condition, or any debris from damaged structure, which is located in whole or in part in a public trust area or public land;

(J) Structurally deteriorated, or storm damaged automobile service station canopies or other canopies and signs. Any automobile service station canopy or other canopies, awnings with loose or deteriorated materials or signs with loose, unanchored or missing cladding, or fascia panels prone to progressive collapse, or structurally unsound members damaged by storms, vehicles or deterioration;

(K) Standing water. Any man-made condition which allows for standing water on a property which could breed insects or create offensive odors; and

(L) Miscellaneous. Any other condition that is specified as a nuisance in the village's ordinances and codes.

(1986 Code, § 3-2.1) (Ord. 03-31, passed 06-24-2003) Penalty, see § 10.99

§ 92.02 INVESTIGATION OF COMPLAINTS.

The Village Code Enforcement Officer or his or her designee, upon notice from any person of the existence of any of the conditions described in § 92.01, shall cause to be made, by the appropriate county official or village official, any investigation as may be necessary to determine whether conditions exist as to constitute a public nuisance as declared in § 92.01.

(1986 Code, § 3-2.2) (Ord. 03-31, passed 06-24-2003)

§ 92.03 NOTICE AND ORDER TO ABATE.

(A) Upon a determination that conditions constituting a public nuisance exist, the Village Code Enforcement Officer shall notify, in writing, the owner of the premises in question of the conditions constituting the public nuisance and shall order the prompt abatement thereof within 30 days from the receipt of the written notice. Receipt shall be deemed to occur on the third day after the date of the postmark if the notice is deposited in a United States Post Office.

(B) Abatement of a public nuisance shall consist of taking whatever appropriate steps are reasonably necessary to remove the condition or conditions, which result in the declaration of a public nuisance. Without limitation the Village Code Enforcement Officer, in ordering the abatement of a public nuisance, may require the removal of debris, rubbish, accumulations of animal or vegetable matter, growth of weeds and grass, burned or partially burned buildings and the like, the isolation of the condition to be abated so that access cannot be gained by persons or property which may be injured by the nuisance or other steps which are reasonably necessary to abate the nuisance.

(1986 Code, § 3-2.3) (Ord. 03-31, passed 06-24-2003; Ord. 15-20, passed 11-17-2015) Penalty, see § 10.99

§ 92.04 ABATEMENT BY VILLAGE.

(A) Generally.

(1) If any person, firm or corporation having been ordered to abate a public nuisance, fails, neglects or refuses to abate or remove the condition constituting the nuisance within **30** days from receipt of the order given pursuant to § 92.03, the Village Code Enforcement Officer or his or her designee shall cause the condition to be removed or otherwise remedied by having employees of the village or independent contractors go upon the premises and remove or otherwise abate the nuisance under the supervision of an officer or employee designated by the Village Manager.

(2) Any person who has been ordered to abate a public nuisance may, within the time allowed by this subchapter, request the village in writing to remove the condition, the cost of which shall be paid by the person making the request.

(3) In the event a local contractor cannot be obtained after a reasonable effort, the Village Manager shall be authorized to obtain the services of a contractor outside the immediate local area, and the costs thereof shall be deemed to be reasonable.

(B) Costs. The actual cost incurred by the village in removing or otherwise remedying a public nuisance shall be charged to the owner of the lot or parcel of land; and it shall be the duty of the Finance Officer to mail a statement of the charges to the owner or other person in possession of the premises with instructions that the charges are due and payable within 30 days from the mailing thereof. If the costs charged in accordance with this subchapter are not paid as herein stated, the costs shall become a lien upon the real estate and improvements, if any, on the real estate and shall be collected as unpaid taxes, as provided in G.S. § 160A-193.

(1986 Code, §§ 3-2.4, 3-2.5) (Ord. 03-31, passed 06-24-2003; Ord. 15-20, passed 11-17-2015)

POLLUTANTS AND NOISE CONTROL

§ 92.15 REGULATION OF EMISSION OF POLLUTANTS OR CONTAMINANTS.

(A) Emission or disposal of polluting substances prohibited. Pursuant to authority contained in G.S. § 160A-185 and for the purpose of prescribing regulations governing conditions detrimental to the health, safety and welfare of its citizens, there is hereby

adopted and made applicable within the corporate limits of the village from and after the effective date hereon, the following:

(1) The emission or disposal of substances and effluents that tend to pollute or contaminate land, water or air, rendering or tending to render it injurious to human health or welfare or to animals or plant life or to property, or interfering or tending to interfere with the enjoyment of life or property is prohibited; and

(2) Outdoor burning of any type is prohibited in the corporate limits of the village with the exception of specific permissible open burning as described in the State Administrative Code, Title 15A Chapter 2, Subchapter 2D, Sections 1903 and 1904. For these exceptions, an open burning permit must be obtained from the State Forest Service prior to the commencement of any burning.

(B) Compliance with state statutes. This section shall be consistent with and supplementary to state and federal laws and regulations.

(1986 Code, § 11-1) (Ord. passed 10-20-1980; Ord. 00-05, passed 02-22-2000) Penalty, see § 10.99

§ 92.16 REGULATING UNREASONABLY LOUD, DISTURBING SOUND LEVELS.

(A) Unlawful sound levels. It shall be unlawful for any person, ~~firm or corporation~~ **business entity (including, but not limited to a sole proprietorship, limited partnership, limited liability company and corporation)** to create or assist in creating, **or to permit, continue, or permit the continuance of** any unreasonably loud, disturbing sound levels in the village, taking into consideration volume, duration, frequency, time of day and other characteristics of the sound, unless specifically authorized by the village (see division (C) of this section).

(B) Prohibited activities. The following activities, among others, are hereby declared to be unreasonably loud, disturbing sound levels, but the enumeration shall not be deemed to be exclusive:

(1) The playing of any musical instrument or electronic sound amplification equipment in a manner or with such volume, that a ~~reasonably prudent person would recognize as likely to unreasonably disturb persons on adjacent property or in the vicinity~~ **sustained noise level of 40 dBs or more between the hours of 10:00 p.m. and 7:00 a.m. or 55 dBs or more at other times can be measured from any nearby residential property (sustained is defined as a continuous measurement over the threshold for at least 10 seconds, or at least 15 instances of measurements over the threshold in a 60-second period. When taking measurements, the measuring official will ensure no significant ambient or contributing noise is present, or will measure ambient and contributing noise levels separately when the offending noise is silent so that they can be subtracted);**

(2) The keeping of any animal or bird which makes frequent or long continued sounds, that a reasonably prudent person would recognize as likely to unreasonably disturb persons in the vicinity;

(3) The use of any automobile, motorcycle or vehicle so out of repair, so loaded, or in a manner as to create unreasonably loud, disturbing sounds;

(4) The operating of any **non-construction** business **activity in or near** adjacent to any residential area **in the Village** ~~so loud that as to cause unreasonably loud, disturbing sounds~~ **a sustained noise level of 40 dBs or more between the hours of 10:00 p.m. and 7:00 a.m. or 55 dBs or more at other times can be measured from any nearby residential property (sustained is defined as a continuous measurement over the threshold for at least 10 seconds, or at least 15 instances of measurements over the threshold in a 60-second period. When taking measurements, the measuring official will ensure no significant ambient or contributing noise is present, or will measure ambient and contributing noise levels separately when the offending noise is silent so that they can be subtracted);**

(5) The creation of unreasonably loud, disturbing sound levels adjacent to any school, educational facility, church or court during their normal operating hours, or within 150 feet of any hospital, which a reasonably prudent person would recognize as likely to unreasonably interfere with the working of the institutions, provided signs are displayed indicating that the area is a school, educational facility, church, court or hospital;

(6) The erection (including excavation), demolition, alteration or repair of any building in any district other than between the hours of 7:00 a.m. and 7:00 p.m. on Monday through Saturday, excluding holidays. This restriction shall not pertain to the following:

(a) Interior work on an occupied dwelling at any time that does not produce noise that a reasonably prudent person would recognize as likely to unreasonably disturb persons on adjacent property or in the vicinity.

(b) Emergency repairs to dwellings or structures that are needed to protect health or property.

(c) On Sundays and holidays, home maintenance and improvement tasks may be performed by home occupants with or without unpaid/un-contracted assistance, between the hours of 10:00 a.m. and 7:00 p.m. using power and hand tools that are generally available for retail sale from home improvement and hardware stores as long as said work does not produce noise that a reasonably prudent person would recognize as likely to unreasonably disturb persons on adjacent property or in the vicinity.

(d) Upon receipt of prior written approval from the Village Planning and Inspections Department, any construction, demolition, alteration or repair not otherwise allowed by this restriction may be performed. This provision is intended to accommodate work that is in the best interests of the village as a whole, as well as work contracted or paid for by a home occupant that must be done on a Sunday or holiday for valid reasons.

(7) The operation of power equipment including but not limited to lawn and garden maintenance equipment, generators (not including home stand-by power generators in operation during periods of utility power outages and test periods) and landscaping construction and maintenance equipment between the hours of 8:00 p.m. and 7:00 a.m.

(8) The use of any electronic sound amplification equipment for advertising, paging or solicitation purposes, except with an appropriate permit; and

(9) The conduct of, or participation in, any recreational activity in a residential district in the village which creates sound levels **so loud that** ~~a reasonably prudent person would recognize as likely to unreasonably disturb persons~~ **a sustained noise level of 40 dBs or more between the hours of 10:00 p.m. and 7:00 a.m. or 55 dBs or more at other times**

can be measured from any nearby residential property (sustained is defined as a continuous measurement over the threshold for at least 10 seconds, or at least 15 instances of measurements over the threshold in a 60-second period. When taking measurements, the measuring official will ensure no significant ambient or contributing noise is present, or will measure ambient and contributing noise levels separately when the offending noise is silent so that they can be subtracted); ~~on adjacent property or in the vicinity, particularly between the hours of 10:00 p.m. and 7:00 a.m.~~

(C) Approval of exceptions.

(1) Persons wishing to engage in activities other than those involving the erection (including excavation), demolition, alteration or repair of any building prohibited by this section may do so when specific written approval is obtained from the village. Written permission shall not be unreasonably withheld, and may contain appropriate conditions and restrictions designed to minimize the disruptive impact. Written permission for activities significantly for religious or political purposes shall be granted, subject only to reasonable time, place and manner restrictions. Written permission issued under this section may specify that the permission granted will continue for a stated period or until revoked after actual notice. Persons shall not be held in violation of this section when acting in conformity with permitted conditions, but any permission may be revoked if it is determined that the authorized activity has resulted in generation of unreasonably loud, disturbing sound levels, or significant complaints from residents.

(2) In case permission is denied, written permission is provided with conditions unacceptable to the application, or permission is revoked, the applicant shall be entitled to a prompt, informal hearing with the Village Manager or his or her designee, upon submission of a written request. Any person aggrieved by a matter regulated by this section may submit to the Village Manager written comments, including requests for appropriate relief.

(1986 Code, § 11-2) (Ord. 96-02, passed 01-22-1996; Ord. 05-18, passed 06-07-2005; Ord. 05-22, passed 08-23-2005; Ord. 13-46, passed 11-12-2013; Ord. 13-48, passed 12-10-2013; Ord. 15-17, passed 12-08-2015) ~~Penalty, see § 10.99~~

§ 92.17 PENALTIES AND ENFORCEMENT.

(A) All provisions of chapter § 92.16 will be enforced by the Chief of Police and the Police Department's assigned officers.

(B) Any person, firm or corporation violating any of the provisions of § 92.16(B)(1), § 92.16(B)(4) and § 92.16(B)(9), or failing or neglecting or refusing to comply with the same, shall be issued a notice of civil infraction subject to a maximum penalty of **\$100** and/or shall be guilty of a Class 3 misdemeanor and subject to a fine of \$100 or imprisonment not to exceed 30 days. For penalty purposes each violation recorded and subsequently abated on any distinct enforcement officer visit shall constitute a separate offense. *Statutory references: G.S. § 14-4(a) and G.S. § 160A-175.*

(C) In cases where violations of § 92.16(B)(1), § 92.16(B)(4) and § 92.16(B)(9) are committed by a person or persons under contract (rental or otherwise) with the legal owner of the property or with the agent of the legal owner of such property on

which the violation occurs and the legal owner of the property is not present during the offense, the owner will receive a written warning after the first violation involving a single piece of property within a 24 month period. For any subsequent violations involving the same property and owner with 24 months of a previous violation, the property owner is subject to civil penalty under § 92.17 (B), except that violations recorded on distinct calendar days may be considered separate offenses and the maximum civil and criminal fines will be **\$200**. This provision does not prevent additional penalty enforcement against the person or persons under contract. *Statutory references: G.S. § 14-4(a) and G.S. § 160A-175.*

(D) In all other cases under chapter 92, violators are subject to penalty, under § 10.99.

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NUISANCES

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(B) Accumulations of animal or vegetable matter. Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or by the inhabitation therein of rats, mice, snakes or vermin of any kind, which is or may be dangerous or prejudicial to the public health;

(C) Accumulations of rubbish and the like. Any accumulation of rubbish, trash or junk causing or threatening to cause a fire hazard, causing or threatening to cause the accumulation of stagnant water or causing or threatening to cause the inhabitation therein of rats, mice, snakes or vermin of any kind which is or may be dangerous or prejudicial to the public health;

(D) Open storage. The open storage of any abandoned ice box, refrigerator, stove, glass, building material, building rubbish or similar items, which may be unsightly, or may be dangerous or prejudicial to the public health or public safety;

(E) Indoor furniture. Indoor upholstered furniture or upholstered furniture intended for indoor use being stored outdoors causing or threatening to cause a fire hazard, causing or threatening to cause the accumulation of stagnant water or causing or threatening to cause the inhabitation or infestation therein of rats, mice, snakes, vermin or insects of any kind which is or may be dangerous or prejudicial to the public health;

(F) Conditions violating Health Department rules. Any condition detrimental to the public health or public safety, which violates the rules and regulations of the Moore County Health Department;

(G) Combustible items. Any accumulation of combustible items such as mattresses, boxes, paper, automobile tires and tubes, garbage, trash, refuse, brush, old clothes, rags,

damaged trees, downed or leaning trees or any other combustible materials or objects of a like nature;

(H) Burned or partially burned buildings and structures. Any building or other structure which has been burned, partially burned or otherwise partially destroyed and which is unsightly or hazardous to the safety of any person, is a continuing fire hazard or which is structurally unsound to the extent that the Village Building Official can reasonably determine that there is a likelihood of personal or property injury to any person or property entering the premises;

(I) Damaged structures and resulting debris. The existence of any of the following conditions associated with damaged structures or their resultant debris shall constitute a public nuisance:

(1) Damaged structure in danger of collapsing;

(2) Damaged structure or debris from damaged structures where it can reasonably be determined that there is a likelihood of personal or property injury; or

(3) Any structure, regardless of condition, or any debris from damaged structure, which is located in whole or in part in a public trust area or public land;

(J) Structurally deteriorated, or storm damaged automobile service station canopies or other canopies and signs. Any automobile service station canopy or other canopies, awnings with loose or deteriorated materials or signs with loose, unanchored or missing cladding, or fascia panels prone to progressive collapse, or structurally unsound members damaged by storms, vehicles or deterioration;

(K) Standing water. Any man-made condition which allows for standing water on a property which could breed insects or create offensive odors; and

(L) Miscellaneous. Any other condition that is specified as a nuisance in the village's ordinances and codes.

(1986 Code, § 3-2.1) (Ord. 03-31, passed 06-24-2003) Penalty, see § 10.99

§ 92.02 INVESTIGATION OF COMPLAINTS.

The Village Code Enforcement Officer or his or her designee, upon notice from any person of the existence of any of the conditions described in § 92.01, shall cause to be made, by the appropriate county official or village official, any investigation as may be necessary to determine whether conditions exist as to constitute a public nuisance as declared in § 92.01.

(1986 Code, § 3-2.2) (Ord. 03-31, passed 06-24-2003)

§ 92.03 NOTICE AND ORDER TO ABATE.

(A) Upon a determination that conditions constituting a public nuisance exist, the Village Code Enforcement Officer shall notify, in writing, the owner of the premises in question of the conditions constituting the public nuisance and shall order the prompt abatement thereof within 30 days from the receipt of the written notice. Receipt shall be deemed to occur on the third day after the date of the postmark if the notice is deposited in a United States Post Office.

(B) Abatement of a public nuisance shall consist of taking whatever appropriate steps are reasonably necessary to remove the condition or conditions, which result in the declaration of a public nuisance. Without limitation the Village Code Enforcement Officer, in ordering the abatement of a public nuisance, may require the removal of debris, rubbish, accumulations of animal or vegetable matter, growth of weeds and grass, burned or partially burned buildings and the like, the isolation of the condition to be abated so that access cannot be gained by persons or property which may be injured by the nuisance or other steps which are reasonably necessary to abate the nuisance.

(1986 Code, § 3-2.3) (Ord. 03-31, passed 06-24-2003; Ord. 15-20, passed 11-17-2015) Penalty, see § 10.99

§ 92.04 ABATEMENT BY VILLAGE.

(A) Generally.

(1) If any person, firm or corporation having been ordered to abate a public nuisance, fails, neglects or refuses to abate or remove the condition constituting the nuisance within **30** days from receipt of the order given pursuant to § 92.03, the Village Code Enforcement Officer or his or her designee shall cause the condition to be removed or otherwise remedied by having employees of the village or independent contractors go upon the premises and remove or otherwise abate the nuisance under the supervision of an officer or employee designated by the Village Manager.

(2) Any person who has been ordered to abate a public nuisance may, within the time allowed by this subchapter, request the village in writing to remove the condition, the cost of which shall be paid by the person making the request.

(3) In the event a local contractor cannot be obtained after a reasonable effort, the Village Manager shall be authorized to obtain the services of a contractor outside the immediate local area, and the costs thereof shall be deemed to be reasonable.

(B) Costs. The actual cost incurred by the village in removing or otherwise remedying a public nuisance shall be charged to the owner of the lot or parcel of land; and it shall be the duty of the Finance Officer to mail a statement of the charges to the owner or other person in possession of the premises with instructions that the charges are due and payable within 30 days from the mailing thereof. If the costs charged in accordance with this subchapter are not paid as herein stated, the costs shall become a lien upon the real estate and improvements, if any, on the real estate and shall be collected as unpaid taxes, as provided in G.S. § 160A-193.

(1986 Code, §§ 3-2.4, 3-2.5) (Ord. 03-31, passed 06-24-2003; Ord. 15-20, passed 11-17-2015)

POLLUTANTS AND NOISE CONTROL

§ 92.15 REGULATION OF EMISSION OF POLLUTANTS OR CONTAMINANTS.

(A) Emission or disposal of polluting substances prohibited. Pursuant to authority contained in G.S. § 160A-185 and for the purpose of prescribing regulations governing conditions detrimental to the health, safety and welfare of its citizens, there is hereby

adopted and made applicable within the corporate limits of the village from and after the effective date hereon, the following:

(1) The emission or disposal of substances and effluents that tend to pollute or contaminate land, water or air, rendering or tending to render it injurious to human health or welfare or to animals or plant life or to property, or interfering or tending to interfere with the enjoyment of life or property is prohibited; and

(2) Outdoor burning of any type is prohibited in the corporate limits of the village with the exception of specific permissible open burning as described in the State Administrative Code, Title 15A Chapter 2, Subchapter 2D, Sections 1903 and 1904. For these exceptions, an open burning permit must be obtained from the State Forest Service prior to the commencement of any burning.

(B) Compliance with state statutes. This section shall be consistent with and supplementary to state and federal laws and regulations.

(1986 Code, § 11-1) (Ord. passed 10-20-1980; Ord. 00-05, passed 02-22-2000) Penalty, see § 10.99

§ 92.16 REGULATING UNREASONABLY LOUD, DISTURBING SOUND LEVELS.

(A) Unlawful sound levels. It shall be unlawful for any person, firm or corporation to create or assist in creating, **or to permit, continue, or permit the continuance of** any unreasonably loud, disturbing sound levels in the village, taking into consideration volume, duration, frequency, time of day and other characteristics of the sound, unless specifically authorized by the village (see division (C) of this section).

(B) Prohibited activities. The following activities, among others, are hereby declared to be unreasonably loud, disturbing sound levels, but the enumeration shall not be deemed to be exclusive:

(1) The playing of any musical instrument or electronic sound amplification equipment in a manner or with such volume, that a ~~reasonably prudent person would recognize as likely to unreasonably disturb persons on adjacent property or in the vicinity~~ **sustained noise level of 40 dBs or more between the hours of 10:00 p.m. and 7:00 a.m. or 55 dBs or more at other times can be measured from any nearby residential property (sustained is defined as a continuous measurement over the threshold for at least 10 seconds, or at least 15 instances of measurements over the threshold in a 60 second period. When taking measurements, the measuring official will ensure no significant ambient or contributing noise is present, or will measure ambient and contributing noise levels separately when the offending noise is silent so that they can be subtracted);**

(2) The keeping of any animal or bird which makes frequent or long continued sounds, that a reasonably prudent person would recognize as likely to unreasonably disturb persons in the vicinity;

(3) The use of any automobile, motorcycle or vehicle so out of repair, so loaded, or in a manner as to create unreasonably loud, disturbing sounds;

(4) The operating of any **non-construction business activity in or near** ~~adjacent to~~ any residential area so **loud that as to cause unreasonably loud, disturbing sounds sustained noise level of 40 dBs or more between the hours of 10:00 p.m. and 7:00**

a.m. or 55 dBs or more at other times can be measured from any nearby residential property (sustained is defined as a continuous measurement over the threshold for at least 10 seconds, or at least 15 instances of measurements over the threshold in a 60 second period. When taking measurements, the measuring official will ensure no significant ambient or contributing noise is present, or will measure ambient and contributing noise levels separately when the offending noise is silent so that they can be subtracted);

(5) The creation of unreasonably loud, disturbing sound levels adjacent to any school, educational facility, church or court during their normal operating hours, or within 150 feet of any hospital, which a reasonably prudent person would recognize as likely to unreasonably interfere with the working of the institutions, provided signs are displayed indicating that the area is a school, educational facility, church, court or hospital;

(6) The erection (including excavation), demolition, alteration or repair of any building in any district other than between the hours of 7:00 a.m. and 7:00 p.m. on Monday through Saturday, excluding holidays. This restriction shall not pertain to the following:

(a) Interior work on an occupied dwelling at any time that does not produce noise that a reasonably prudent person would recognize as likely to unreasonably disturb persons on adjacent property or in the vicinity.

(b) Emergency repairs to dwellings or structures that are needed to protect health or property.

(c) On Sundays and holidays, home maintenance and improvement tasks may be performed by home occupants with or without unpaid/un-contracted assistance, between the hours of 10:00 a.m. and 7:00 p.m. using power and hand tools that are generally available for retail sale from home improvement and hardware stores as long as said work does not produce noise that a reasonably prudent person would recognize as likely to unreasonably disturb persons on adjacent property or in the vicinity.

(d) Upon receipt of prior written approval from the Village Planning and Inspections Department, any construction, demolition, alteration or repair not otherwise allowed by this restriction may be performed. This provision is intended to accommodate work that is in the best interests of the village as a whole, as well as work contracted or paid for by a home occupant that must be done on a Sunday or holiday for valid reasons.

(7) The operation of power equipment including but not limited to lawn and garden maintenance equipment, generators (not including home stand-by power generators in operation during periods of utility power outages and test periods) and landscaping construction and maintenance equipment between the hours of 8:00 p.m. and 7:00 a.m.

(8) The use of any electronic sound amplification equipment for advertising, paging or solicitation purposes, except with an appropriate permit; and

(9) The conduct of, or participation in any recreational activity in a residential district in the village which creates sound levels **so loud that a reasonably prudent person would recognize as likely to unreasonably disturb persons sustained noise level of 40 dBs or more between the hours of 10:00 p.m. and 7:00 a.m. or 55 dBs or more at other times can be measured from any nearby residential property (sustained is defined as a continuous measurement over the threshold for at least 10 seconds, or at least 15 instances of measurements over the threshold in a 60 second period. When taking**

measurements, the measuring official will ensure no significant ambient or contributing noise is present, or will measure ambient and contributing noise levels separately when the offending noise is silent so that they can be subtracted); ~~on adjacent property or in the vicinity, particularly between the hours of 10:00 p.m. and 7:00 a.m.~~

(C) Approval of exceptions.

(1) Persons wishing to engage in activities other than those involving the erection (including excavation), demolition, alteration or repair of any building prohibited by this section may do so when specific written approval is obtained from the village. Written permission shall not be unreasonably withheld, and may contain appropriate conditions and restrictions designed to minimize the disruptive impact. Written permission for activities significantly for religious or political purposes shall be granted, subject only to reasonable time, place and manner restrictions. Written permission issued under this section may specify that the permission granted will continue for a stated period or until revoked after actual notice. Persons shall not be held in violation of this section when acting in conformity with permitted conditions, but any permission may be revoked if it is determined that the authorized activity has resulted in generation of unreasonably loud, disturbing sound levels, or significant complaints from residents.

(2) In case permission is denied, written permission is provided with conditions unacceptable to the application, or permission is revoked, the applicant shall be entitled to a prompt, informal hearing with the Village Manager or his or her designee, upon submission of a written request. Any person aggrieved by a matter regulated by this section may submit to the Village Manager written comments, including requests for appropriate relief.

(1986 Code, § 11-2) (Ord. 96-02, passed 01-22-1996; Ord. 05-18, passed 06-07-2005; Ord. 05-22, passed 08-23-2005; Ord. 13-46, passed 11-12-2013; Ord. 13-48, passed 12-10-2013; Ord. 15-17, passed 12-08-2015) ~~Penalty, see § 10.99~~

§ 92.17 PENALTIES AND ENFORCEMENT.

(A) All provisions of chapter § 92.16 will be enforced by the Chief of Police and the Police Department's assigned officers.

(B) Any person, firm or corporation violating any of the provisions of § 92.16(B)(1), § 92.16(B)(4) and § 92.16(B)(9), or failing or neglecting or refusing to comply with the same, shall be issued a notice of civil infraction subject to a maximum penalty of **\$100** and/or shall be guilty of a Class 3 misdemeanor and subject to a fine of \$100 or imprisonment not to exceed 30 days. For penalty purposes each violation recorded and subsequently abated on any distinct enforcement officer visit shall constitute a separate offense. *Statutory references: G.S. § 14-4(a) and G.S. § 160A-175.*

(C) In cases where violations of § 92.16(B)(1), § 92.16(B)(4) and § 92.16(B)(9) are committed by a person or persons under contract (rental or otherwise) with the legal owner of the property on which the violation occurs and the legal owner of the property is not present during the offense, the owner will receive a written warning after the first violation involving a single piece of property during a 24 month period. For any subsequent violations involving the same property and owner with 24

months of a previous violation, the property owner is subject to penalty under § 92.17 (B), except that violations recorded on distinct calendar days may be considered separate offenses and the maximum civil and criminal fines will be **\$200**. This provision does not prevent additional penalty enforcement against the person or persons under contract. *Statutory references: G.S. § 14-4(a) and G.S. § 160A-175.*

(D) In all other cases under chapter 92, violators are subject to penalty, under § 10.99.

Summary of Village of Pinehurst Municipal Code Penalty Structure

	Criminal Violation	Fine	And/or	Days Imprisonment
Solid Waste	none	\$50 (civil)		
<i>Solid Waste alternate or in addition (this penalty does structure does not appear to be intentional. It references G.S. 160A-175 only)</i>	<i>Class 3 misdemeanor</i>	<i>\$500</i>		
Motor Vehicle, Parking & Traffic		\$5		
<i>Motor Vehicle, Parking & Traffic if not pay</i>	<i>Misdemeanor</i>	<i>\$50</i>	<i>Or</i>	<i>30 days</i>
Bike/Skateboard/Roller Blade w/o helmet		\$10		
<i>Bike/Skateboard/Roller Blade w/o helmet if not pay</i>	<i>Misdemeanor</i>	<i>\$50</i>	<i>Or</i>	<i>30 days</i>
Golf Carts Use		\$50		
Oversized Vehicle Parking	Class 3 misdemeanor	\$50	Or	30 days
Abandoned, Junk & Nuisance Vehicles	Class 3 misdemeanor	\$50	Or	30 days
Animals	Class 3 misdemeanor	\$50	Or	30 days
Nuisance (other than Pollutants and Noise Control)	Class 3 misdemeanor Plus actual cost of abatement	\$50	Or	30 days
Pollutants and Noise Control	Class 3 misdemeanor	\$50	Or	30 days
Fire Code	Class 3 misdemeanor	\$50	Or	30 days
Fire Code Occupancy Limits		\$100, first offense \$250 second \$500 third	and	30 days, third offense

Certain activities in parks (alcohol, damage, digging, advertising, soliciting, gambling, littering, molesting animals, commercial activities, hitting golf balls, tobacco use)	Class 3 misdemeanor	\$50	Or	30 days
Removal or damaging of street signs		Cost of repair		
Obstructing a street or using skateboard, etc downtown	Misdemeanor	\$50	Or	30 days
Damaging a street without permit	Misdemeanor	\$50	Or	30 days
Picketing	Class 3 misdemeanor	\$50	Or	30 days
Picketing with firearm or other dangerous weapon	Class 3 misdemeanor	\$50	Or	30 days
Peddling on Private Property/Mobile Vendors		\$500	And/or	90 days
Smoking in municipal buildings and vehicles	Class 3 misdemeanor	\$500		
Soliciting in public places	Misdemeanor	\$50		
Unlawful discharge of a weapon				
Alcohol on public streets	Class 3 misdemeanor	\$50	Or	30 days
Unauthorized driveway connections, building code violations,	Class 3 misdemeanor	\$50	Or	30 days

§ 14-4. Violation of local ordinances misdemeanor.

(a) Except as provided in subsection (b), if any person shall violate an ordinance of a county, city, town, or metropolitan sewerage district created under Article 5 of Chapter 162A, he shall be guilty of a Class 3 misdemeanor and shall be fined not more than five hundred dollars (\$500.00). No fine shall exceed fifty dollars (\$50.00) unless the ordinance expressly states that the maximum fine is greater than fifty dollars (\$50.00).

(b) If any person shall violate an ordinance of a county, city, or town regulating the operation or parking of vehicles, he shall be responsible for an infraction and shall be required to pay a penalty of not more than fifty dollars (\$50.00). (1871-2, c. 195, s. 2; Code, s. 3820; Rev., s. 3702; C.S., s. 4174; 1969, c. 36, s. 2; 1985, c. 764, s. 2; 1985 (Reg. Sess., 1986), c. 852, s. 17; 1991, c. 415, s. 1; c. 446, s. 1; 1993, c. 538, s. 8; c. 539, s. 9; 1994, Ex. Sess., c. 24, ss. 14(b), 14(c); 1995, c. 509, s. 133.1.)

§ 160A-175. Enforcement of ordinances.

(a) A city shall have power to impose fines and penalties for violation of its ordinances, and may secure injunctions and abatement orders to further insure compliance with its ordinances as provided by this section.

(b) Unless the Council shall otherwise provide, violation of a city ordinance is a misdemeanor or infraction as provided by G.S. 14-4. An ordinance may provide by express statement that the maximum fine, term of imprisonment, or infraction penalty to be imposed for a violation is some amount of money or number of days less than the maximum imposed by G.S. 14-4.

(c) An ordinance may provide that violation shall subject the offender to a civil penalty to be recovered by the city in a civil action in the nature of debt if the offender does not pay the penalty within a prescribed period of time after he has been cited for violation of the ordinance.

(c1) An ordinance may provide for the recovery of a civil penalty by the city for violation of the fire prevention code of the State Building Code as authorized under G.S. 143-139.

(d) An ordinance may provide that it may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the General Court of Justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the city for equitable relief that there is an adequate remedy at law.

(e) An ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement, and the General Court of Justice shall have jurisdiction to issue such orders. When a violation of such an ordinance occurs the city may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.

In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished, or removed; that fixtures, furniture, or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with the ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the city may execute the order of abatement. The city shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the clerk of superior court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

(f) Subject to the express terms of the ordinance, a city ordinance may be enforced by any one, all, or a combination of the remedies authorized and prescribed by this section.

(g) A city ordinance may provide, when appropriate, that each day's continuing violation shall be a separate and distinct offense.

(h) Notwithstanding any authority under this Article or any local act of the General Assembly, no ordinance regulating trees may be enforced on land owned or operated by a

public airport authority. (1971, c. 698, s. 1; 1985, c. 764, s. 35; 1993, c. 329, s. 4; 2013-331, s. 2.)