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.

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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																			
Short Term Rental										X							X	X	9*
Accessory Use																			
Homestay																			

**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.

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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.

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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.

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VILLAGE OF
PINEHURST

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**
  - **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																			
Short Term Rental										X					?		X	X	9*
ACCESSORY USE																			
Homestay			?	?	?	?	?	?	?	?	?			?	?	?	?	?	?
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.**
  - **SR-9 Short Term Rental**
  - **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**
  - **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
Short Term Rental										X					?		X	X	9*

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
Homestay			?	?	?	?	?	?	?	?	?			?	?	?	?	?	?

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	Permitted*	?**	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	Permitted*	?**	Permitted	Permitted	Permitted	Permitted	Permitted	Accessory Use	Permitted	Permitted
VC	Permitted*	?**					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.

Village of Pinehurst
395 Magnolia Road
Pinehurst, NC 28374
Phone: 910-295-8646
Fax: 910-295-4434

Village of Pinehurst

Memo

To: Village Council

From: Doug Willardson

CC: Village Managers

Date: July 20, 2022

Re: Amortization Schedule

As Council continues to sort through the data surrounding short-term rentals (STRs), we are anticipating what some of the future questions or needs may be. If Council determines to prohibit STRs in specific zoning locations, there will need to be a transition or amortization period in which STR owners can recoup their initial investments in homes and transition them into other uses. Below is our reasoning for recommending, at a minimum, a three-year amortization period.

First, we determined the expected net operating income of a property. This was done by using the capitalization rate (cap rate). The cap rate is the net operating income divided by the purchase price multiplied 100. Industry sources show that the cap rate varies but the typical range is from 4.5% to 6.0%. Information from Lodgify shows that the cap rate for the Raleigh-Durham area is 4.6%. For our purposes, we used the rate of 4.5%. Therefore, by multiplying the purchase price by 4.5% we can get an approximate net operating income of a property.

Second, based on industry standards we estimated that 60% of the initial improvements made to a home will be recouped in the increased market value of the home. Thus, the remaining 40% is lost to the STR owner and will need to be recouped through operating income. The cost of improvements for each home will vary, but we will assume on the high side that 25% of the purchase price will be invested into the property initially.

Finally, to determine the length of time needed to recoup the initial lost investment in a property, we need to divide the lost value by the annual net operating income. The entire formula can be seen in the example below:

Purchase Price: $350,000

Net Operating Income:

$350,000 purchase price * Cap Rate of 4.5% = $15,750

Lost Value of Improvements:

$350,000 purchase price * 25% for improvements * 40% lost value = $35,000

Years to Recoup Lost Value of Improvements:

$35,000 / $15,750 = 2.22 Years

In this formula, the variable is the amount spent on improvements; the higher the percentage of the home's purchase price spent on improvements more time is needed to recoup those costs. If 23% of the home's purchase price were spent on improvements, exactly two years would be needed to recoup those lost dollars. If 34% were spent on improvements, the time needed to recoup the costs is three years.

Three years provides even those STR owners that spent significant amounts of money on improving their property the opportunity to recoup those funds. Also, a minimum three-year period will provide adequate time for owners to transition their properties to other uses and ensure that an excess of properties don't arrive on the market simultaneously.

Pinehurst Short Term Rentals*

[redacted]

Legend

- Multi-Family Cluster
- Multi-Family, ETJ
- Single Family
- Single Family, ETJ
- Pinehurst Village Limits
- ETJ Pinehurst

Moore County GIS (NC), State of North Carolina DOT, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, USDA, Esri, NASA, NGA, USGS

***Based on data provided to the Village on probable short term rental locations by local residents.**

PLANNING AND ZONING BOARD
REGULAR MEETING
THURSDAY, AUGUST 04TH, 2022
ASSEMBLY HALL
395 MAGNOLIA ROAD
PINEHURST, NORTH CAROLINA
4:00 PM

Board Members Present:	**Board Members Absent:**	**Staff Present:**
Jeramy Hooper, Chair	Phillip Shumaker	Darryn Burich, Planning Director
Jack Farrell, 1st Vice-Chair	Matt Jones	Alfred Cassidy, Senior Planner
Julia Latham, 2nd Vice-Chair		Maria Carpenter, Planner
David Alzamora		Shannon Konstantinou, Clerk to the Board
Sonja Rothstein		Lori Hercules, IT Technician
Paul Roberts		
Louise Mercuro		

Approximately 2 member(s) of the public in attendance.

I. Call to Order

Mr. Hooper called the meeting to order at 04:00 PM, confirmed a quorum was present, and explained the purpose of this meeting. The Board introduced themselves and Mr. Hooper introduced Staff. Mr. Hooper noted the absence of Mr. Jones and Mr. Shumaker.

II. Approval of Minutes

A. 07-07-2022 Regular Meeting Minutes

Mr. Alzamora moved to approve the minutes of the July 07th, 2022 Regular Meeting. Seconded by Ms. Mercuro. Approved by a vote of 6-0.

B. 07-21-2022 Special Meeting Minutes

Mr. Farrell moved to approve with revisions the minutes of the July 21st, 2022 Regular Meeting. Revision: page 2, Blocks I and K: no change to building height. Seconded by Ms. Rothstein. Approved by a vote of 6-0.

Mr. Burich stated Item IV: Village Place Regulating Plan Version 2 would be discussed prior to Item III: Village Place Form Based Code and Zoning Updates.

III. Village Place Form Based Code and Zoning Updates

The purpose of this meeting is for the Planning and Zoning Board to discuss the draft Form Based Code elements and potential Pinehurst Development Ordinance (PDO) text amendment and base zoning district changes to implement the Village Place Small

DRAFT

Area Plan. This meeting is work session format and no action will be taken by the Board.

Mr. Burich reviewed Sections 2.3 Corner Lot and Front Elevation Standards and 5.0 Architectural Standards – Commercial. The Board and Staff discussed the detail of the architectural guidelines as used in Form Based Code, the flexibility or lack thereof in architectural design as represented, the use of different materials, the importance of establishing objective architectural design Standards that can be adjusted over time if found to be too restrictive or not restrictive enough, the process of adjusting and / or implementing Form Based Code Standards, the importance of looking ahead to what an area will look like in 50-60 years after development, the need to re-examine the use of flat roofs within the area, the need for more illustrations of architectural design options available, how the PDO and Historic District Standards will be taken into consideration when reviewing a proposal, the application and review process, and the importance of any Board member comments or concerns being shared and reviewed prior to meetings to help facilitate discussions.

IV. Village Place Regulating Plan Version 2

Review of the Village Place Regulating Plan Version 2.

The Board and Staff reviewed a draft version of the Village Place Regulating Plan depicting revisions agreed to at the 07-21-2022 Special Meeting – Work Session. The Board and Staff discussed how lot size will impact the size of structures / building types developed on those lots, extending active frontage along streets within the area where adjacent or partial active frontage is proposed, whether active frontage is needed on both sides of a street or if it is possible to have active frontage on only one side of a street, possibly reducing the amount of active frontage required for the area, how future changes to zoning can impact uses, increased storm water runoff in the area due to increased development, the responsibility of developers to consider the impact their projects will have on the area, Village Council's role in developing / implementing the Regulating Plan, and how the Regulating Plan will be implemented / used by the Board and Staff.

V. Next Meeting Dates

08-18-2022 Special Meeting - Work Session
09-01-2022 Regular Meeting
09-15-2022 Special Meeting - Work Session

The Board and Staff discussed topics to be covered in future meetings, and the upcoming Public Hearing of September 01st, 2022 regarding Short-Term Rental amendments to the PDO, which led to consideration of the role of the Board and the nature of a legislative hearing. Staff stated a draft of the proposed PDO amendment will be provided to the Board for review after the Village Council meeting of Tuesday, August 09th, 2022.

VI. Motion to Adjourn

Mr. Alzamora moved to adjourn the Regular Meeting. Seconded by Ms. Latham. Approved by a vote of 6-0 at 05:36 PM.

Respectfully Submitted,

Shannon Konstantinou
Clerk to the Board &
Planning Administrative Specialist
Village of Pinehurst

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

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.

DRAFT

PLANNING AND ZONING BOARDSTATEMENT OF CONSISTENCY
WITH THE LONG RANGE COMPREHENSIVE PLAN
JULY 1, 2021 REGULAR MEETING

TEXT AMENDMENTS TO THE PINEHURST DEVELOPMENT ORDINANCE
TO ADDRESS SHORT TERM RENTALS AND PERMIT REVOCATION

The Village of Pinehurst Planning and Zoning Board finds that:

The proposed text amendment **IS/IS NOT** consistent with *Envision the Village,* the adopted 2019 Comprehensive Long Range Plan which identifies 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 proposed text amendments **DO/DO NOT** enhance the character and address the impacts of short term rentals in residential neighborhoods. Achieving goals consistent with the Comprehensive Plan is considered reasonable and in the best interest of the public.

Therefore, the Village of Pinehurst Planning and Zoning Board recommends **APPROVAL(as proposed)/APROVAL WITH REVISIONS/REJECTION** of the text amendments to the Pinehurst Development Ordinance.

This is the _____day of _____,2021.

_____

Chair of the Planning and Zoning Board

_____
Shannon Konstantinou
Clerk to the Planning and Zoning Board

Cc: Darryn Burich
Alex Cameron

DRAFT

ORDINANCE #22-08:

AN ORDINANCE AMENDING CHAPTERS 72, 92, 130 AND 153 OF THE PINEHURST MUNICIPAL CODE.

WHEREAS, the Village Council of the Village of Pinehurst adopted an ordinance dated October 20, 1980, establishing and implementing certain authorized police powers for the purpose of prescribing regulations governing conditions detrimental to the health, safety, and welfare of its citizens; 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 Chapters 72, 92, 130 and 153 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 28th day of June, 2022 as follows:

SECTION 1. That the following amendments be made to Chapter 72:

§ 72.01 PARKING PROHIBITED AT ALL TIMES.

No person shall park a vehicle at any time upon any of the streets or parts thereof described in the Parking Prohibited at All Times Parking Schedule, Parking Schedule I, compiled under the direction of the Village Manager and kept on file in the office of the Village Clerk.

(1986 Code, § 7-3.1) Penalty, see § 72.99

§ 72.02 PARKING IN OR NEAR INTERSECTIONS.

It shall be unlawful for any person to park any vehicle in any street right-of-way intersection or upon any public street right-of-way within 30 feet of any street intersection.

(1986 Code, § 7-3.2) Penalty, see § 72.99

§ 72.03 PARKING TIME LIMITED ON CERTAIN STREETS.

No person shall park a vehicle for longer than the time limit shown in the Parking Time Limited on Certain Streets Parking Schedule, Parking Schedule II, compiled under the direction of the Village Manager and kept on file in the office of the Village Clerk, at any time between the hours listed in the schedule of any day upon any of the streets or parts of streets described in Parking Schedule II.

(1986 Code, § 7-3.5) (Ord. 90-14, passed 05-21-1990) Penalty, see § 72.99

§ 72.04 PARALLEL, DIAGONAL AND PERPENDICULAR PARKING ONLY.

(A) No person shall park on any street shown in the Parallel Parking Only Parking Schedule, Parking Schedule III, compiled under the direction of the Village Manager and kept on file in the office of the Village Clerk, unless they park on a parallel basis.

(1986 Code, § 7-3.6)

(B) No person shall park on any street shown in the Diagonal Parking Only Parking Schedule, Parking Schedule IV, compiled under the direction of the Village Manager and kept on file in the office of the Village Clerk, unless they park on a diagonal basis.

(1986 Code, § 7-3.7)

(C) No person shall park on any street shown in the Perpendicular Parking Only Parking Schedule, Parking Schedule VI, compiled under the direction of the Village Manager and kept on file in the office of the Village Clerk, unless they park on a perpendicular basis.

(1986 Code, § 7-3.7)

(D) The Village Manager may provide temporary permission for alternate parking methods in these areas for oversized vehicles, trailers or equipment being used for current permitted construction activities, planned maintenance activities, and other activities where the Manager determines it is in the best interest of the public, tenants, and property owners to permit temporary alternate parking methods. The Village Manager is authorized to place restrictions they deem appropriate to the specific location and nature of the request.

(E) This section does not apply to unplanned emergency response for repair and maintenance activities. This section does not apply to routine, short-term delivery and pick-up activities. See § 72.08 Loading and Unloading Zones for applicable regulations.

(Ord. 88-15, passed 10-17-1988; Ord. 90-12, passed 04-17-1990; Ord. 90-14, passed 05-21-1990; Ord. 20-15, passed 12-8-2020) Penalty, see § 72.99

§ 72.05 RESERVED. OVERNIGHT PARKING ON RESIDENTIAL STREETS.

(A) No person shall park on any Village street, or within the Village's right-of-way adjacent to any street, that is within or abutting single-family residential zoning (R5, R8, R10, R15, R20, R30 and R210) unless they are parking in Village marked and

delineated parking spaces or are parking between the hours of 7:00 am and 11:00 pm. Parking governed by § 72.01, § 72.02, and § 72.03 takes precedence over § 72.05.

(B) This section does not apply to unplanned emergency response for repair and maintenance of disabled vehicles, installation or repair of utilities, or the provision of emergency services.

(C) Penalty, see § 72.99

§ 72.07 PARKING AND STORAGE OF CERTAIN VEHICLES.

(A) *Definitions*. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMMERCIAL VEHICLE. Any vehicle designed, equipped or used for trade meeting any of the following criteria:

(a) A large vehicle designed for off-road usage such as a bulldozer, front-end loader and similar construction equipment;

(b) A vehicle designed to transport 16 or more passengers; or

(c) A vehicle equipped with external modifications designed to be used in trade including, but not limited to, externally-mounted tools, machinery, equipment, tool or equipment racks.

(1986 Code, § 7-17.2)

OVERSIZED VEHICLE. Any of the following vehicles or any vehicle that is similar in nature to any of the following vehicles: buses, recreational vehicle (RV), campers, box trucks, cargo trucks, truck-tractors, dump trucks and moving vans.

(1986 Code, § 7-17.3)

TRAILER. Any of the following trailers or any trailer that is similar in nature to any of the following trailers: travel trailers, semi-trailers, horse trailers, livestock trailers, commercial trailers, recreational trailers, utility trailers or landscape trailers. All of these ***TRAILERS*** shall include covered varieties as well as open air varieties.

(1986 Code, § 7-17.4)

LIGHT DUTY TRUCK. A pickup truck, sport utility vehicle, van, minivan or other licensed and powered vehicle having a gross vehicle weight rating of no more than 8,500 lbs. and a payload capacity of no more than 4,000 lbs.

FOR A FEE. In exchange for any payment or other thing(s) or right(s) having value.

COMMERCIAL PURPOSE. Any purpose that supports or enhances business outcomes for any corporation, company, limited liability company, limited partnership or sole proprietorship.

(B) *Parking and/or storage prohibited.* Commercial vehicles, oversized vehicles and trailers shall not be parked or stored in any residentially zoned districts or on any public

right-of-way adjacent thereto unless they are kept within a totally enclosed structure. ~~No vehicles shall be parked or stored for a fee, or for any commercial purpose, on any property in the jurisdiction of the village unless the use of the property for the purpose of parking or storing vehicles for a fee exists on the date of adoption of this section (April 26, 2005), or the use of the property for the parking or storing of vehicles for a fee receives specific approval from the Village Council.~~ The provisions of this section shall not apply to:

(1) Vehicles or equipment being used for current permitted construction activities or engaged in routine pickups, deliveries or similar typical activities;

(2) Vehicles or equipment being used for service activities or in case of emergencies resulting from breakdowns requiring repairs to the vehicle;

(3) Vehicles involved in a governmental purpose and/or performing an emergency function;

(4) Vehicles that are licensed as a school, church or nonprofit organization bus and kept on property owned by the same; or

(5) Vehicles that are incidentally associated with and stored/parked at a permitted or conditional use or legally existing nonconforming use as set forth in the Pinehurst Development Ordinance.

(1986 Code, § 7-17.1)

(6) A single, light duty truck belonging to a permanent resident or the employer of a permanent resident of the residential property and parked entirely on that same residential property.

(C) No commercial vehicles, oversized vehicles or trailers shall be parked or stored for a fee, or for any commercial purpose, on any property in the jurisdiction of the village unless the use of the property for the purpose of parking or storing vehicles for a fee exists on the date of adoption of this section (April 26, 2005), or the use of the property for the parking or storing of vehicles for a fee receives specific approval from the Village Council.

(~~C~~D) *Administration and enforcement.* The Chief of Police and the Zoning Enforcement Officer shall be responsible for the administration and enforcement of this section. The Chief of Police shall be responsible for administration and enforcement of this section for situations on public streets and highways within the village, on property owned by the village and in instances of illegal commercial parking of vehicles, or parking or storage of vehicles for a fee, as described in division (C) above. The Chief of Police is authorized to cause the violation of the prohibition of commercial parking or storage of vehicles, for a fee, to cease and desist immediately. The Zoning Enforcement Officer shall be responsible for administration and enforcement of this section for other situations on private property.

(E) Penalty, see § 72.99.

(1986 Code, § 7-17.5)

(Ord. 03-54, passed 11-25-2003; Ord. 05-05, passed 04-26-2005) ~~Penalty, see § 72.99~~

§ 72.99 PENALTY.

(A) Whoever violates any provision of this chapter for which no specific penalty is otherwise provided shall be subject to the provisions of § 70.99.

(B) Violations of the terms of § 72.07 on private property shall subject the real estate property owner ~~violator~~ to ~~the penalties and remedies, either criminal or civil or both~~ a civil penalty of $100 per violation, with each day the violation exists constituting a separate and distinct offense ~~as set forth in § 10.99 of this code~~. However, violations of the § 72.07 prohibition of commercial parking or storage of vehicles, for a fee, shall be punishable by a fine of $500 per violation, with each day the violation exists constituting a separate and distinct offense.

(C) Violations of the terms of § 72.07 within a Village or State right-of-way shall subject the vehicle owner to the provisions of § 70.99. In order to ensure pedestrian safety, The Police Department or the Village Manager may cause the vehicle in violation to be removed, without notice, at the expense of the vehicle owner.

(D) In order to ensure pedestrian safety, The Police Department or the Village Manager may cause vehicles in violation of § 72.05 to be removed, without notice, at the expense of the owner.

SECTION 2. That the following amendments be made to Chapter 92:

§ 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)

§ 92.16 REGULATING UNREASONABLY LOUD, DISTURBING SOUND LEVELS.

(A) *Unlawful sound levels.* It shall be unlawful for any person, or business entity (business entity includes, but is 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 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 ten 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 any residential area in the village so loud that 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 ten 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 the 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 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 ten 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).

(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.

(D) Penalty, see § 92.99

(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; Ord. 20-13, passed 10-13-2020)

§ 92.17 UNRULY GATHERINGS.

(A) Unruly gatherings at residential properties are prohibited. For the purpose of regulating this prohibited activity, the following shall constitute an unruly gathering:

(1) The presence of at least one person who is not a permanent resident of the residential property, and

(2) Three or more validated offenses among the following types committed within 100 yards of the subject property and within a 24 hour period during which the 1non-resident of the property was present, and committed by persons present at the subject property within that same 24 hour period:

a) Disorderly conduct

b) Serving alcohol to minors or contributing to delinquency of minors

c) Illegal substance use or possession

d) DWI or DUI

e) Violations of § 92.16

f) Assault charges

g) Vandalism charges

h) Urinating or defecating in public

i) Indecent exposure or other lewd conduct constituting a criminal offense

j) Any felony offense charges

(B) Any additional groupings of three or more validated and qualifying offenses during any qualifying 24 hour period, even if it overlaps the 24 hour period for another Unruly Gathering violation, will constitute an additional violation of § 92.17.

(C) Penalty, see § 92.99.

§ 92.99 PENALTY.

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

(B) Any person, or business entity (business entity includes but is not limited to a sole proprietorship, limited partnership, limited liability company, and 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 $500 and/or shall be guilty of a Class 3 misdemeanor and subject to a fine of $100 or imprisonment not to exceed 30 days. Civil penalties will start at $100 for the first infraction within a 24-month period, and will escalate by $100 for each subsequent infraction within a 24-month period up to the maximum of $500. For penalty purposes each violation recorded and subsequently abated on any distinct enforcement officer visit shall constitute a separate offense (See G.S. § 14-4(a) and § 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 is subject to civil penalty under § ~~92.17~~ 92.99(B). This provision does not prevent additional penalty enforcement against the person or persons under contract or other code violators on the property (See G.S. § 14-4(a) and § 160A-175).

(D) Property owners in violation of § 92.17 will be subject to a fine of $1,000 for the first offense. Any subsequent offenses on the same property within 24 months of a previous offense will subject the property owner to a fine of $2,000. Penalties imposed pursuant to § 92.17 do not prevent imposition of penalties for underlying offenses.

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

SECTION 3. That the following addition be made to Chapter 130:

§ 130.06 PUBLIC URINATION AND DEFECATION PROHIBITED.

(A) Except in designated restrooms, it shall be unlawful for any person to urinate or defecate on any public place, sidewalk, street, alleyway or right-of-way, or in any public building, or on private property

(B) Having the permission of the real property owner or person in lawful possession of the real property shall constitute an affirmative defense to the charge of urinating or defecating on private property.

(C) Penalty. Any person who violates this section shall be guilty of a Class 3 misdemeanor and shall be fined $500.

SECTION 4. That the following amendments be made to Chapter 153:

§ 153.20 SAFE AND SANITARY MAINTENANCE.

(A) *Exterior foundation, walls, and roofs.* Every foundation wall, exterior wall, and exterior roof shall be substantially weather tight and rodent proof; shall be kept in sound condition and good repair; shall be capable of affording privacy; and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.

(B) *Interior floors, walls, and ceilings.* Every floor, interior wall, and ceiling shall be substantially rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon.

(C) *Windows and doors.* Every window, exterior door, basement, or cellar door and hatchway shall be substantially weather tight, watertight, and rodent proof and shall be kept in sound working condition and good repair.

(D) *Stairs, porches, and appurtenances.* Every outside and inside stair, porch, and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use would cause to be placed thereon and shall be kept in sound condition and good repair.

(E) *Bathroom floors.* Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so that it will be reasonably impervious to water and will permit such floor to be easily kept in a clean and sanitary condition.

(F) *Supplied facilities*. Every supplied facility, piece of equipment, or utility which is required under this chapter shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

(G) *Drainage.* Every yard shall be properly graded in order to obtain thorough drainage and to prevent the accumulation of stagnant water.

(H) *Noxious growth.* Every yard and all exterior property areas shall be kept free of noxious growth.

(I) *Egress.* Every dwelling unit shall be provided with adequate means of egress as required by the State Residential Building Code.

(J) *Renter Safety*. Lack of smoke detectors and carbon monoxide detectors in rented or leased (regardless of term) residential properties as required by NCGS 42-42, NCGS 43A-31 or any successor language. Penalty: Property owners who do not correct deficiencies in accordance with this requirement within 30 days of written notification by the Village of Pinehurst will be fined $250 for each offense.

(K) *Penalty*. Unless otherwise specified, the penalty associated with violations of § 153.20 is as specified in §10.99.

SECTION 5. That these Ordinance amendments shall be and remain in full force and effect from July 1, 2022.

THIS ORDINANCE is passed and adopted this 28th day of June, 2022.

VILLAGE OF PINEHURST
VILLAGE COUNCIL

(Municipal Seal)

By: _____
John C. Strickland, Mayor

Attest:

_____
Kelly Chance, Village Clerk

Approved as to Form:

_____
Michael J. Newman, Village Attorney