



**VILLAGE COUNCIL
AGENDA FOR REGULAR MEETING OF JULY 13, 2021
ASSEMBLY HALL
395 MAGONOLIA ROAD
PINEHURST, NORTH CAROLINA
4:30 PM**

1. Call to Order.

2. Reports:

Manager

Council

3. Motion to Approve Consent Agenda.

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

A. Approval of Village Council Meeting Minutes

June 22, 2021 Regular Meeting

June 22, 2021 Work Session

June 22, 2021 Closed Session

B. Consider Resolution 21-14 for Accepting American Rescue Plan Act Funds

End of Consent Agenda.

4. Discuss and Consider Resolution 21-13 Establishing a Policy with Regards to Title VI.

5. Other Business.

6. Comments from Attendees.

7. Motion to Adjourn.

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

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

Values: Service, Initiative, Teamwork, and Improvement.



**COUNCIL
ADDITIONAL AGENDA DETAILS:**

ATTACHMENTS:

Description

- 📎 2021 Key Partner List



Council Member to Report	Partners & Collaborators
John Strickland	Moore County Transportation Committee
	Neighborhood Advisory Committee
	Pinehurst Resort
Judy Davis	Tri-Cities Work Group (Pinehurst, So. Pines, Aberdeen)
	FirstHealth
	Moore County
Lydia Boesch	Convention and Visitors Bureau
	Bicycle and Pedestrian Advisory Committee
Kevin Drum	Triangle J. COG
	Partners in Progress
	NCDOT/TARPO
Jane Hogeman	Beautification Committee
	Moore County Schools
	Pinehurst Business Partners



APPROVAL OF VILLAGE COUNCIL MEETING MINUTES
ADDITIONAL AGENDA DETAILS:

June 22, 2021 Regular Meeting
June 22, 2021 Work Session
June 22, 2021 Closed Session

FROM:

Kelly Chance

CC:

Jeff Sanborn

DATE OF MEMO:

7/2/2021

MEMO DETAILS:

Attached are the draft minutes from the June 22 Council Regular meeting, Work session, and Closed Session

ATTACHMENTS:

Description

- ☐ June 22, 2021 Work Session
- ☐ June 22, 2021 Regular Session



**VILLAGE COUNCIL
MINUTES FOR WORK SESSION OF JUNE 22, 2021
ASSEMBLY HALL
395 MAGNOLIA ROAD
PINEHURST, NORTH CAROLINA**

IMMEDIATELY FOLLOWING THE REGULAR MEETING

The Pinehurst Village Council held a work session at 7:20 p.m. Tuesday, June 22, 2021, in the Assembly Hall of Pinehurst Village Hall, 395 Magnolia Road, Pinehurst, North Carolina. The meeting was streamed in real time on the Village's website.

The following were in attendance in Assembly Hall:

Mr. John C. Strickland, Mayor
Ms. Judy Davis, Mayor Pro Tem
Ms. Lydia Boesch, Councilmember
Mr. Kevin Drum, Councilmember
Ms. Jane Hogeman, Councilmember
Mr. Jeffrey Sanborn, Village Manager
Ms. Kelly Chance, Village Clerk
Mr. Michael Newman, Village Attorney

And approximately 3 attendees, including 3 staff and 0 press.

1. Call to Order.

Mayor John Strickland called the Council work session to order.

2. Discuss Potential Future Agenda Items.

- Focus Area Five
- Park Service Draft

3. Other Work Session Business.

- None

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

Upon a motion by Councilmember Boesch, seconded by Councilmember Hogeman, Council unanimously approved to recess the work session and enter a closed session, by a vote of 5-0, at 7:30 p.m.

5. Closed Session

Council held a closed session pursuant to NCGS §143-318.11(a)(5) to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease.

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

Upon a motion by Councilmember Boesch, seconded by Mayor Pro Tem Davis, Council unanimously approved to adjourn the closed session and re-enter the work session, by a vote of 5-0, at 8:55 p.m.

7. Motion to Adjourn.

Upon a motion by Mayor Strickland, seconded by Councilmember Hogeman, Council unanimously approved to adjourn the work session, by a vote 5-0, at 8:56 p.m.

Respectfully Submitted,

Kelly Chance,
Village Clerk

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

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DRAFT



**VILLAGE COUNCIL
MINUTES FOR REGULAR MEETING OF JUNE 22, 2021
ASSEMBLY HALL
395 MAGNOLIA ROAD
PINEHURST, NORTH CAROLINA
4:30 PM**

The Pinehurst Village Council held a Regular Meeting at 4:30 p.m., Tuesday, June 22, 2021 in the Assembly Hall of Pinehurst Village Hall, 395 Magnolia Road, Pinehurst, North Carolina. The following attended:

Mr. John C. Strickland, Mayor
Ms. Judy Davis, Mayor Pro Tem
Ms. Lydia Boesch, Councilmember
Mr. Kevin Drum, Councilmember
Ms. Jane Hogeman, Councilmember
Mr. Jeffrey M. Sanborn, Village Manager
Ms. Kelly Chance, Village Clerk

In addition, approximately 29 attendees, including 13 staff and 1 press.

1. Call to Order.

Mayor Strickland called the Village Council meeting to order.

2. Invocation and Pledge of Allegiance.

Dr. Matt Stillman, Pastor of Trinity Christian Fellowship, offered the invocation and Mayor Strickland led in the Pledge of Allegiance.

3. Reports:

Village Manager – Jeff Sanborn

- FY2021 Street resurfacing wrapped up this year by completing 4.6 miles.
- Magnolia Streetscape Project is now underway
- Staff Changes – Lauren Craig will be leaving to accept a position as Family and Children's Program Director with her church, and we will be looking for someone with data and reporting experience
- Alexandria Rye, from Sanford, NC is our new Senior Planner
- Megan Skjellerup was promoted to Assistant Public Services Director

Village Council

- Mayor Strickland reported the First Health held a celebration on June 9th at the Fairbarn for its volunteers during the COVID-19 immunization project and the NAC Meeting was held Monday with a presentation given on the West Pinehurst Park
- Mayor Pro Tem Davis reported she and Councilmember Bosch took a tour of the new Pinehurst Elementary School agreed it is a tremendous asset for our community. Ms. Davis also reported the men's U.S. Open finished up and next is the women's. She also reminded everyone that Shakespeare in the Pines would be providing two performances in August.
- Councilmember Drum reported that the Village Business Group is starting Late till eight this Thursday – through the summer – to help support the Village Retailers.
- Councilmember Boesch reported Carolina Golf has a four-page ad with a nice advertisement article about Pinehurst. Ms.

- Bosch stated that next Tuesday on course number 2 and 4, the longest consecutive amateur tour for men would be held.
- Councilmember Hogeman encouraged everyone to participate in the upcoming Thursday night shopping to help support our retailers.

4. **Motion to Approve Consent Agenda.**

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

- Approval of Village Council Meeting Minutes.
 - June 8, 2021 Regular Meeting
 - June 8, 2021 Work Session
 - June 8, 2021 Closed Session
- Budget Amendments Report

End of Consent Agenda.

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

5. **Present Natalie Hawkins with Resolution 21-09, honoring her for her service with the Village of Pinehurst.**

Mayor John Strickland presented Natalie Hawkins, former Assistant Village Manager of Administration, with a framed Resolution and thanked her for her many years of service to the Village of Pinehurst. Past Councilmembers In attendance to thank and congratulate Ms. Hawkins included John Bouldry, Jack Farrell, and Claire Berggren.

6. **Discuss and Consider Ordinance #21-07 for a proposed Amendment to the Official Zoning Map for a portion of Moore County PID # 00025800.**

Mayor Strickland stated this is a continuation of our previous discussions on this ordinance, our duty is to the citizens, and we have heard a lot of public input throughout this project. It has been a very amicable and productive discussion with the Resort representatives. Village Manager Jeff Sanborn and Darryn Burich, Planning and Inspections Director highlighted some of the conditions that had been intently looked at, refined, and were now ready to be considered.

Applicants Dick Higginbotham, CFO of Pinehurst Country Club and Tom Pachell, President of the Pinehurst Resort and Country club noted there were eight conditions approved by both the applicant and the board and they believe they have relieved both the Council's and Community member's concerns about parking and other items that may come up during the continuing process. The applicants stated they would like the date on Condition number 7 to be 6 months to 1 year following the issuance of the building permit and acknowledged that March or April 2022 is the projected date for seeking the building permit. Councilmember Hogeman asked what is going into the development agreement. Mr. Higginbotham stated the development agreement would be more focused on what happens if something goes wrong

Councilmember suggested pulling out the "prior to 12/31/2021 language in Condition #7, and replacing it with "one year after building permit. There was a consensus of Council to accept this and Mr. Higginbotham stated the Resort accepts all the other 10 conditions and the change on condition #7. Mayor Pro Tem Davis stated condition's #9 and #10 should also read, "shall be constructed prior to July 1, 2022."

Upon a motion by Mayor Pro Tem Davis, seconded by Councilmember Boesch, Council unanimously approved Ordinance 21-07, amending the Official Zoning Map for a portion of Moore County PID #00025800 to allow for construction of a hotel with associated meeting and locker room facilities, a bar, and related facility amenities with agreed upon conditions as amended: condition Number 7, the final part of that sentence will read, "one year after issuance of the building permit;" Condition number 9 will read, "prior to July 1, 2022;" Condition number 10 will read, "prior to July 1, 2022," by a vote of 5-0.

Council took a five 5 minute break at 6:09 pm.

7. **Discuss and Consider Adoption of American Rescue Plan Special Reserve Fund Ordinance.**

Brooke Hunter, Finance Director, presented Council with a grant project ordinance to create a multi-year special revenue fund to track the use of the Village's American Rescue Plan distribution. Ms. Hunter explained that as part of the American Rescue Plan Act of 2021 signed into law on March 11, 2021, the Village would receive funds from the Coronavirus State and Local Fiscal Recovery Fund to provide support in responding to the impact of COVID-19. Based on preliminary estimates prepared by Congressional staff in March, the Village expects to receive approximately \$4,860,000 in total. This will be received in two tranches – the first half is expected sometime this month (unless North Carolina applies for an extension) and the second half will be distributed a year later. These funds must be obligated by December 31, 2024 and expended by December 31, 2026.

Ms. Hunter stated the Village's distribution of American Rescue Plan Act funds must be recorded separately in our accounting system. Her recommendation is to create a separate Special Revenue Fund using a grant project ordinance, allowed by NC General Statute 159-13.2 that will span the life of the grant. This separate fund will provide clear documentation of the grant revenue received and how it is expended over the next several years. The fund will remain open until the project is complete. Ms. Hunter stated the ordinance includes estimated revenues and appropriations of \$4,860,000. The expenditure account listed is only included for budgetary purposes. We do not anticipate expending these funds in FY 2021 as we continue to research eligible uses. Once a plan is developed to expend these funds according to the eligible uses determined by the US Department of the Treasury, we will present a budget amendment to Council to move the funds out of this budgetary expenditure account and into the appropriate accounts.

Upon a motion by Councilmember Hogeman, seconded by Councilmember Drum, Council unanimously approved Ordinance 21-10, adopting a multi-year special revenue fund to track Coronavirus state and local fiscal recovery funds under the American Rescue Plan Act of 2021 for the Village of Pinehurst by a vote of 5-0.

8. Discuss and Consider changes to the Position Classification and Pay Plan.

Angela Kantor, Human Resources Director presented to Council Resolution 21-12 to amend the Policy on the Administration of the Position Classification and Pay Plan. Ms. Kantor stated the Human Resources Department contracted with The MAPS Group Inc. in FY 20-21 to perform a partial position classification and pay study. The study included

- Evaluating all regular full-time and part-time positions in the following departments: Police, Information Technology, Planning and 4 Administrative positions in various departments.
- Conducting a salary survey of comparable organizations in the public sector;
- Updating class specifications (position descriptions) for each position; and
- Making recommendations for position classification changes and policy changes.

Ms. Kantor stated the study began in March with employees in the selected departments completing position description questionnaires outlining current job responsibilities. Employees, supervisors, department directors and managers were interviewed to clarify responsibilities for each position. The group conducted a salary survey to determine the competitiveness of our salary grades for each position. We selected areas to survey based on geography, job similarities, and direct competitors for recruiting. The following towns were surveyed: Aberdeen, Carrboro, Clayton, Davidson, Harrisburg, Hope Mills, Laurinburg, Lexington, Rockingham, Sanford, Southern Pines, as well as Moore County.

Ms. Kantor stated that based on the information collected and reviewed, we are recommending the following changes that more appropriately reflect the responsibilities for the positions and are more in line with our peers:

- Change title for the Administrative Coordinator to Administrative and Telecommunications Coordinator.
- Move Police Officer from pay grade 18 to pay grade 19.
- Move Senior Police Officer from pay grade 19 to pay grade 20.
- Move Master Police Officer and Police Investigator from pay grade 20 to pay grade 21.
- Move Deputy Police Chief from pay grade 28 to pay grade 29.
- Move Police Chief from pay grade 32 to pay grade 33.
- Move Planning and Zoning Specialist from pay grade 18 to pay grade 19.
- Change the title for the Principal Planner to Planning Supervisor and move from pay grade 25 to pay grade 26.
- Move Planning and Inspections Director from pay grade 31 to pay grade 32.
- Add Code Compliance Technician to pay grade 18. This was included in the budget.

- Move Recreation Superintendent from pay grade 22 to pay grade 24.
- Change the title for the Network Administrator to IT Infrastructure Administrator and move from pay grade 25 to pay grade 26.
- Change the title for the Administrative Assistant for Administration to Administrative and Data Coordinator and move from pay grade 15 to pay grade 18.

Ms. Kantor stated we not only review positions and pay grades during this process, but we also review the policy outlining the administration of our pay plan. There are no changes recommended for the policy at this time. We recommend increasing the pay grades by 1.2% based on the average Consumer Price Index (CPI) for calendar year 2020, as outlined in the policy. We will continue to offer merit pay based on performance for the fiscal year. Merit increases would continue to be effective October 1. The amount of merit pay available would be discussed during budget preparations. This year the merit range is 0% 3%. Those who earn 3% must demonstrate truly extraordinary performance.

Councilmember Hogeman asked why the recreation supervisor is going up two pay grades. Ms. Kantor said she did comparative data and looked at the functions this position does, including supervision, and because this job was added after all the other positions were evaluated. Councilmember Boesch asked what happens in the market if something happens between the three-year evaluation periods. Ms. Kantor said we would watch this, make modifications, and adjust our budget projections as needed.

Upon a motion by Councilmember Boesch, seconded by Councilmember Hogeman, Council unanimously approved Resolution 21-12, amending the policy on administration of the Position Classification and Pay Plan for the Village of Pinehurst by a vote of 5-0.

9. Discuss and Consider Lease Agreement for Rental of Village Property.

Mark Wagner, Parks and Recreation Director, presented Council for discussion and consideration the renewal of the lease for Barn 19 to Scott Norris Horse Transportation for a term of 60 months beginning on July 1, 2021. The current lease for the property expires on June 30, 2021 and the renewal would include a 3% increase in rent for a total due of \$10,968.00. He stated the lease renewal does include accommodations related to the upcoming 2024 US Open as the USGA has exclusive rights to the Harness Track property during a portion of this renewal term.

Some discussion occurred around CPI and why we chose a 3% increase in rent. Councilmember Hogeman stated we need to look into how we adjust the fair market value on five-year leases and evaluate our escalation clause. Councilmember Drum stated we need to not put roadblocks in the way right now, since we know this is an industry that has shown some decline, and this is a stable tenant who is helping to build the Harness Track, which we want to see.

Mayor Strickland said he does not like this policy and would not want us to continue. Councilmember Boesch said if we said CPI then let us use CPI. Mayor Strickland suggested we re-evaluate the contract now, but Councilmember Boesch and Councilmember Hogeman said they felt that would not be fair, as the tenant has already agreed to this. After some discussion, Mayor Strickland proposed that we will allow a 3% this year but beginning next year, we will switch to CPI. Councilmember Hogeman and Councilmember Drum were adamant that the current lease not be changed.

Upon a motion by Mayor Pro Tem Davis, seconded by Councilmember Boesch, Council approved to authorize the Mayor or his designee to execute a Lease Agreement, for rental of Barn 19, between The Village of Pinehurst and Scott Norris Horse Transportation for the term of sixty (60) months, commencing on July 1, 2021 and ending on June 30, 2026 with an amendment that after year one, we will switch to CPI, by a vote of 3-2. Councilmember Drum and Councilmember Hogeman voted against the amendment.

10. Other Business.

Mayor Pro Tem Davis announced she would not seek re-election in the fall. She stated it has been an honor and a privilege to serve the community and serve on the council.

11. Comments from Attendees.

- No Comments

12. Motion to Adjourn.

Upon a motion by Councilmember Drum, seconded by Councilmember Hogeman, Council unanimously approved to adjourn the regular meeting by a vote of 5-0 at 7:19 p.m.

Respectfully Submitted,

Kelly Chance,
Village Clerk

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

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**CONSIDER RESOLUTION 21-14 FOR ACCEPTING AMERICAN RESCUE
PLAN ACT FUNDS
ADDITIONAL AGENDA DETAILS:**

FROM:

Brooke Hunter

CC:

Jeff Sanborn

DATE OF MEMO:

7/2/2021

MEMO DETAILS:

Resolution #21-14 is attached for your consideration to accept the Village's distribution of American Rescue Plan Act funds. This Council action is a formality required under North Carolina General Statute 160A-17.1. The language in this resolution complements the American Rescue Plan Act Special Revenue Fund ordinance that was adopted on June 22, 2021 to account for these funds. This item is presented on the consent agenda as the acceptance of these funds was discussed in detail at the last council meeting upon adoption of the Special Revenue Fund.

If you have any questions regarding this item, please feel free to contact me.

ATTACHMENTS:

Description

- Resolution 21-14 - Accepting American Rescue Plan Act Funds

RESOLUTION #21-14:

A RESOLUTION FOR ACCEPTING AMERICAN RESCUE PLAN ACT FUNDS FOR THE VILLAGE OF PINEHURST, NORTH CAROLINA.

WHEREAS, the Village of Pinehurst is eligible for funding from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (CSLRF); and

WHEREAS, the North Carolina General Assembly will provide for the distribution of funds to eligible North Carolina municipalities; and

WHEREAS, before receiving a payment, the Village Council is required to formally accept the CSLRF funds; and

WHEREAS, revenue received under the CSLRF must only be spent for purposes authorized by the CSLRF, and applicable regulations, and by state law; and

WHEREAS, revenue received under the CSLRF must be accounted for in a separate fund and not co-mingled with other revenue for accounting purposes; and

WHEREAS, the Village of Pinehurst must comply with all applicable budgeting, accounting, contracting, reporting, and other compliance requirements for CSLRF funds;

NOW, THEREFORE, BE IT RESOLVED by the Village Council of the Village of Pinehurst, North Carolina, in the regular meeting assembled this 13th day of July, 2021 as follows:

SECTION 1. That we do hereby accept and request CSLRF funding to be distributed by the State of North Carolina.

SECTION 2. That the Village of Pinehurst affirms that the CSLRF revenue will only be used for the purposes prescribed in the CSLRF, and in US Treasury guidance in 31 CFR, Part 35, and any applicable regulations, and in accordance with state law.

SECTION 3. That the Village of Pinehurst will comply with procedures created by the North Carolina General Assembly and the US Treasury Department to receive funds under the act.

SECTION 4. That the Village of Pinehurst will account for CSLRF in a separate fund and not co-mingle it with other revenues for accounting purposes and will comply with all applicable federal and state budgeting, accounting, contracting, reporting, and other compliance requirements for CSLRF funds.

SECTION 5. That the Village Council of the Village of Pinehurst designates and directs the Village Manager to take all actions necessary on behalf of the Village Council to receive the CSLRF funds.

THIS RESOLUTION passed and adopted this 13th day of July, 2021.

VILLAGE OF PINEHURST
VILLAGE COUNCIL

(Municipal Seal)

By: _____
John C. Strickland, Mayor

Attest:

Approved as to Form:

Kelly Chance, Village Clerk

Michael J. Newman, Village Attorney



**DISCUSS AND CONSIDER RESOLUTION 21-13 ESTABLISHING A POLICY
WITH REGARDS TO TITLE VI.
ADDITIONAL AGENDA DETAILS:**

FROM:

Jeff Batton

DATE OF MEMO:

7/6/2021

MEMO DETAILS:

This item is to consider the adoption of a Village of Pinehurst Title VI Non-Discrimination policy as required of all local government agencies that receive federal and state funds through NC DOT.

Title VI of the Civil Rights Act of 1964 states that no person shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

NC DOT receives funds from the Federal Highway Administration so they are required to be in compliance with Title VI and they are required to ensure any sub-recipients of funds, whether state or federal, are in compliance as well. NC DOT in turn requires receiving agencies have their own Title VI policy to ensure compliance.

The attached Title VI Non-Discrimination Policy has been reviewed and approved by the North Carolina Department of Transportation's Office of Civil Rights which is charged with ensuring each local government receiving funds have a compliant policy statement. The NCDOT Compliance Review Report is attached for reference.

Adoption of this policy by resolution does not change any of the current non-discriminatory practices of the Village but it is a technically necessary to remain eligible for financial assistance for things such as Powell Bill. As such, staff recommends approval.

Thanks.

ATTACHMENTS:

Description

- ☐ Resolution #21-13
- ☐ Title VI Policy
- ☐ NCDOT Compliance Review Report

RESOLUTION #21-13:

**RESOLUTION TO ADOPT A TITLE VI POLICY FOR THE VILLAGE OF
PINEHURST TO PROHIBIT DISCRIMINATION IN PROGRAMS AND SERVICES
AND IN ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE**

WHEREAS, in 1964, Congress enacted the Civil Rights Act of 1964, which included that section labeled Title VI which prohibits discrimination in any activity which is financed by federal funds or receives federal financial assistance; and

WHEREAS, since the adoption of Title VI, additional federal regulations and court decisions have further refined the definition of “federal financial assistance” and what entities are affected and controlled by Title VI; and

WHEREAS, the Village of Pinehurst has no formal policy in place for defining and preventing discrimination in the activities and for the entities Title VI affects; and

WHEREAS, the interpretation and application are not intuitive or readily understood, requiring an understanding of what “federal financial assistance” might be in any particular situation and what persons or entities must comply with Title VI; and

WHEREAS, a policy and procedure for reporting violations will provide guidelines for the Village of Pinehurst and private persons and companies doing business with the Village of Pinehurst and receiving federal financial assistance.

NOW, THEREFORE, BE IT RESOLVED by the Village of Pinehurst Council that the attached “Title VI Policy” is hereby adopted as the official policy of the Village of Pinehurst for applying, reporting and enforcing Title VI of the Civil Rights Act of 1964.

IT IS FURTHER RESOLVED that the Village Manager is authorized to approve this policy on a yearly basis if no changes are made to it.

THIS RESOLUTION passed and adopted this ____ day of ____, 2021.

VILLAGE OF PINEHURST
VILLAGE COUNCIL

(Municipal Seal)

By: _____
John C. Strickland, Mayor

Attest:

Approved as to Form:

Kelly Chance, Village Clerk

Michael J. Newman, Village Attorney



VILLAGE OF PINEHURST
STANDARD PROCEDURE

SUBJECT:	Title VI Nondiscrimination Policy	Effective: July 13, 2021
Department:	Administration	Policy No.: 46
Prepared by:	Jeff Batton	Revised:
Approved by:	Village Council	# of Pages: 14

POLICY: It is the policy of the Village of Pinehurst to ensure that no person, shall, on the ground of race, color, national origin, limited English Proficiency, income-level, sex, sexual orientation, age, disability, or religion be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any Village of Pinehurst program or activity as provided by Title VI of the Civil Rights Act of 1964 and other pertinent nondiscrimination authorities.

The following practices are hereby prohibited throughout the Village of Pinehurst to comply, at a minimum, with Title VI and related requirements:

- Denying to an individual any standard service, financial aid, or other program benefit without good cause;
- Providing any service, financial aid, or other benefit to a person which is distinct in quantity or quality, or is provided in a different manner, from that provided to others under the program;
- Subjecting a person to segregation or separate treatment in any part of a program;
- Restrictions in the enjoyment of any advantages, privileges, or other benefits enjoyed by others;
- Methods of administration which, directly or through contractual relationships, would defeat or substantially impair the accomplishment of effective nondiscrimination;
- Different standards, criteria, or other requirements for admission, enrollment, or participation in planning, advisory, contractual or other integral activities;

- Acts of intimidation or retaliation, including threatening, coercing, or discrimination against any individual for the purpose of interfering with any right or privilege secured by any pertinent nondiscrimination law, or because s/he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing;
- Discrimination in any employment resulting from a program, a primary objective of which is to provide employment.

In the event someone believes they have experienced discrimination in any of the above-referenced practices, they should immediately report such to the Title VI Coordinator, designated as *Jeff Batton or his successor* in the position of Assistant Village Manager for Operations, using the Complainant Form attached as Appendix A. It shall be the Title VI Coordinator's responsibility to fully investigate any such claims and he/she is granted latitude to include other relevant experts and departments such as Human Resources in conducting a thorough investigation. It shall also be the Title VI Coordinator's responsibility to document and report all findings to the Village Manager, Village Attorney and any other necessary agency identify and recommend changes to rectify issues identified, and ensure compliance with all timeframes set forth within the Complaint Form.

In order to ensure compliance with the requirements of Title VI of the Civil Rights Act of 1964 by contractors performing work for, or on behalf of, the Village of Pinehurst, written contracts shall include the standard provisions as found in the attached Appendix B. It shall be the responsibility of the Title VI Coordinator to determine the contracts that will be required to include the special provisions.

Approved by:

John C. Strickland, Mayor

Date

Resolution # 21- 13

Village Council, Resolution

Date

APPENDIX A



VILLAGE OF PINEHURST TITLE VI POLICY EXTERNAL DISCRIMINATION COMPLAINT INSTRUCTIONS

INTRODUCTION

The Village of Pinehurst is responsible for processing discrimination complaints filed under Title VI of the Civil Rights Act of 1964 and related nondiscrimination laws as a result receiving federal financial assistance. Participants and beneficiaries of programs and activities administered or funded by Village of Pinehurst who feel they have been discriminated against based on race, color, national origin, Limited English Proficiency, income-level, sex, sexual orientation, age, or disability have a right to file a complaint. Complaints of alleged discrimination will be investigated by the appropriate authority.

FILING OF COMPLAINTS

1. **Applicability** – These complaint procedures apply to Village of Pinehurst programs, activities and services, including sub-recipients and contractors (e.g., subcontractors and consultants) receiving funds through Village of Pinehurst. **Note:** Title VI does not include internal complaints related to Equal Employment Opportunity (EEO).
2. **Eligibility** – Any person or class of persons who believes he/she has been subjected to discrimination based on race, color, national origin, limited English proficiency, income-level, sex, sexual orientation, age, or disability, (and religion, where applicable) may file a written complaint with the Assistant Village Manager for Operations. The law also prohibits intimidation or retaliation against anyone who files a complaint.
3. **Filing Options and Time Limits** – Complaints may be filed by the affected individual(s) or a representative and must be filed no later than 180 calendar days after the following:
 - The date of the alleged act of discrimination; or
 - The date when the person(s) became aware of the alleged discrimination; or
 - Where there has been a continuing course of conduct, the date on which that conduct was discontinued or the latest instance of the conduct.
4. **Format for Complaints** – Complaints **must be in writing and signed** by the complainant(s) or a representative, and include the complainant's name, address, and telephone number. Complaints received by fax or e-mail will be acknowledged and processed. Allegations received by telephone will be reduced to writing and provided to the complainant for confirmation or revision before processing. Complaints will be accepted in other languages, including Braille. (See DISCRIMINATION COMPLAINT FORM included below.)

COMPLAINT RECEIPT AND RESPONSE

1. The Village of Pinehurst will provide written acknowledgment of your complaint within ten (10) calendar days, by registered mail or email.
2. The Village of Pinehurst will review your complaint upon receipt to ensure the required information was provided, the complaint was timely filed, and jurisdictional requirements were met.
 - a. If the complaint is complete and no additional information is needed, the Village of Pinehurst will send you a letter of acceptance.
 - b. If the complaint is incomplete, you will be contacted in writing by mail or email or by telephone to obtain the needed information. **Note:** Failure to respond and/or provide the requested

information within 15 calendars days may be considered good cause for a determination of no investigative merit.

3. Within 15 calendar days of receiving your complaint, the Village of Pinehurst will determine its jurisdiction in pursuing the matter and whether the complaint has sufficient merit to warrant investigation. Within five (5) days of this decision, the Village of Pinehurst will notify you and Respondent (the person(s) against whom you have filed the complaint), by registered mail, stating the decision.
 - a. If the decision is to not investigate the complaint, the notification shall specifically state the reasons for the decision.
 - b. If the decision is to investigate the complaint, the notification shall state the grounds of Village of Pinehurst jurisdiction and require your and the Respondent's full cooperation in assisting the investigator.
 - c. Interviews may be recorded during the investigation. Consent to record may be required if the interviewee is located outside of NC.
4. Village of Pinehurst will attempt to resolve all discrimination complaints within 60 days of accepting the complaint for investigation. Every effort will be made to obtain early resolution of complaints at the lowest level possible. The option of informal mediation between the affected parties and Village of Pinehurst staff may be utilized for resolution.



VILLAGE OF PINEHURST DISCRIMINATION COMPLAINT FORM

Any person who believes that he/she has been subjected to discrimination based upon race, color, national origin, limited English proficiency, income-level, sex, sexual orientation, age, or disability, (and religion, where applicable) may file a written complaint with Jeff Batton, Assistant Village Manager for Operations or his successor within 180 days after the discrimination occurred.

Last Name:		First Name:		☐ Male
				☐ Female
Mailing Address:		City	State	Zip
Home Telephone:	Work Telephone:	E-mail Address		

Identify the Category of Discrimination:

- | | | | | |
|-----------------------------------|-------------------------------------|--|--|------------------------------|
| ☐ RACE | ☐ COLOR | ☐ NATIONAL ORIGIN | ☐ LIMITED ENGLISH PROFICIENCY | ☐ AGE |
| ☐ RELIGION | ☐ DISABILITY | ☐ INCOME LEVEL | ☐ SEXUAL ORIENTATION | ☐ SEX |

Identify the Race of the Complainant

- | | | | |
|--|---|---|---|
| ☐ Black | ☐ White | ☐ Hispanic | ☐ Asian American |
| ☐ American Indian | ☐ Alaskan Native | ☐ Pacific Islander | ☐ Other _____ |

Date and place of alleged discriminatory action(s). Please include earliest date of discrimination and most recent date of discrimination.

Names of individuals responsible for the discriminatory action(s):

How were you discriminated against? Describe the nature of the action, decision, or conditions of the alleged discrimination. Explain as clearly as possible what happened and why you believe your protected status (basis) was a factor in the discrimination. Include how other persons were treated differently from you. **(Attach additional page(s), if necessary)**

The law prohibits intimidation or **retaliation** against anyone because he/she has either taken action, or participated in action, to secure rights protected by these laws. If you feel you have been retaliated against, separate from the discrimination alleged above, please explain the circumstances below. Explain what action you took which you believe was the cause for the alleged retaliation. **(Attach additional page(s), if necessary)**

Names of persons (witnesses, fellow employees, supervisors, or others) whom we may contact for additional information to support or clarify your complaint: (Attached additional page(s), if necessary).

<u>Name</u>	<u>Address</u>	<u>Telephone</u>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____

DISCRIMINATION COMPLAINT FORM

Have you filed, or intend to file, a complaint regarding the matter raised with any of the following? If yes, please provide the filing dates. Check all that apply.

- ☐ Federal Highway Administration _____
- ☐ Federal Transit Administration _____
- ☐ Federal Motor Carrier Safety Administration _____
- ☐ US Department of Transportation _____
- ☐ Federal or State Court _____
- ☐ Other _____

Have you discussed the complaint with any Village of Pinehurst representative? If yes, provide the name, position, and date of discussion.

Please provide any additional information that you believe would assist with an investigation.

Briefly explain what remedy, or action, you are seeking for the alleged discrimination.

****WE CANNOT ACCEPT AN UNSIGNED COMPLAINT. PLEASE SIGN AND DATE THE COMPLAINT FORM BELOW.**

As a complainant, I understand that in the course of the investigation it may become necessary for the Village of Pinehurst to reveal my identity to persons at the organization under investigation. I am also aware of the obligations of the Village of Pinehurst to honor requests under the North Carolina Open Public Records Act. I understand that it may necessary for the Village of Pinehurst to disclose information, including personal identifying details, which it has gathered as part of the investigation of my complaint. In addition, as the complainant I am protected by federal regulations for intimidation or retaliation for haven taken an action or participated in an action to secure rights that I have under nondiscrimination laws and regulations.

COMPLAINANT'S SIGNATURE

DATE

MAIL COMPLAINT FORM TO:

VILLAGE OF PINHURST
Jeff Batton, ASSISTANT VILLAGE MANAGER FOR OPERATIONS
395 MAGNOLIA ROAD
PINEHURST, NC 28374
910-295-1900

FOR OFFICE USE ONLY

Date Complaint Received: _____

Processed by: _____

Case #: _____

Referred to: ☐ FHWA ☐ FTA ☐ FMCSA

Date Referred: _____

Supplemental Information

Protected Categories	Definition	Examples	Pertinent Statutes and Regulations	
			FHWA	FTA
Race	An individual belonging to one of the accepted racial groups; or the perception, based usually on physical characteristics that a person is a member of a racial group	Black/African American, Hispanic/Latino, Asian, American Indian/Alaska Native, Native Hawaiian/Pacific Islander, White	Title VI of the Civil Rights Act of 1964; 49 CFR Part 21; 23 CFR 200; <i>(Executive Order 13166)</i>	Title VI of the Civil Rights Act of 1964; 49 CFR Part 21; Circular 4702.1B; <i>(Executive Order 13166)</i>
Color	Color of skin, including shade of skin within a racial group	Black, White, brown, yellow, etc.		
National Origin <i>(Limited English Proficiency)</i>	Place of birth. Citizenship is not a factor. <i>(Discrimination based on language or a person's accent is also covered)</i>	Mexican, Cuban, Japanese, Vietnamese, Chinese; Russian; French		
Income-Level	An individual or household determined to be low-income	Poverty status	Executive Order 12898	
Sex	The sex of an individual. <i>Note:</i> Sex under this program does not include sexual orientation.	Women and Men	1973 Federal-Aid Highway Act	Title IX of the Education Amendments of 1972
Age	Persons of any age	21 year old person	Age Discrimination Act of 1975	
Disability	Physical or mental impairment, permanent or temporary, or perceived	Blind, alcoholic, para-amputee, epileptic, diabetic, arthritic	Section 504 of the Rehabilitation Act of 1973; Americans with Disabilities Act of 1990	
Religion	Creed. An individual belonging to a religious group; or the perception, based usually on distinguishable characteristics that a person is a member of a religious group	Muslim, Christian, Sikh, Hindu, etc.	Title VIII of the Civil Rights Act of 1968 (Fair Housing Act); 49 USC 47123 (FAA); 49 USC 5332 (FTA)	

APPENDIX B

STANDARD SPECIAL PROVISION FOR CONTRACTORS WORKING FOR OR ON BEHALF OF THE VILLAGE OF PINEHURST

TITLE VI AND NONDISCRIMINATION

The Village of Pinehurst is committed to carrying out the U.S. Department of Transportation's policy of ensuring nondiscrimination in the award and administration of contracts.

The provisions of this section related to United States Department of Transportation (US DOT) Order 1050.2A, Title 49 Code of Federal Regulations (CFR) part 21, 23 United States Code (U.S.C.) 140 and 23 CFR part 200 (or 49 CFR 303, 49 U.S.C. 5332 or 49 U.S.C. 47123) are applicable to all Village of Pinehurst contracts and to all related subcontracts, material supply, engineering, architectural and other service contracts, regardless of dollar amount. Any Federal provision that is specifically required not specifically set forth is hereby incorporated by reference.

(1) Title VI Assurances (USDOT Order 1050.2A, Appendix A)

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

(a) Compliance with Regulations

The contractor (hereinafter includes consultants) shall comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

(b) Nondiscrimination

The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

(c) Solicitations for Subcontractors, Including Procurements of Materials and Equipment

In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.

(d) Information and Reports

The contractor shall provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Village of Pinehurst to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor shall so certify to the Village of Pinehurst and shall set forth what efforts it has made to obtain the information.

(e) Sanctions for Noncompliance:

In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Village of Pinehurst will impose such contract sanctions as it may determine to be appropriate, including, but not limited to:

- (i) Withholding payments to the contractor under the contract until the contractor complies; and/or
- (ii) Cancelling, terminating, or suspending a contract, in whole or in part.

(f) Incorporation of Provisions

The contractor shall include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor shall take action with respect to any subcontract or procurement as the Village of Pinehurst may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Village of Pinehurst to enter into any litigation to protect the interests of the Village of Pinehurst. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

(2) Title VI Nondiscrimination Program (23 CFR 200.5(p))

The Village of Pinehurst has assured the NCDOT that, as a condition to receiving federal financial assistance, Village of Pinehurst will comply with Title VI of the Civil Rights Act of 1964 and all requirements imposed by Title 49 CFR part 21 and related nondiscrimination authorities to ensure that no person shall, on the ground of race, color, national origin, limited English proficiency, sex, age, or disability (including religion/creed or income-level, where applicable), be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any programs, activities, or services conducted or funded by the Village of Pinehurst. Contractors and other organizations under contract or agreement with the Village of Pinehurst must also comply with Title VI and related authorities, therefore:

- (a) During the performance of this contract or agreement, contractors (e.g., subcontractors, consultants, vendors, prime contractors) are responsible for complying with the Village of Pinehurst Title VI Program. Contractors are not required to prepare or submit Title VI Programs. To comply with this section, the prime contractor shall:

1. Post the Village of Pinehurst Notice of Nondiscrimination and the Contractor's own Equal Employment Opportunity (EEO) Policy in conspicuous locations accessible to all employees, applicants and subcontractors on the jobsite.
 2. Physically incorporate the required Title VI clauses into all subcontracts on federally-assisted, state-assisted and Village-funded Village of Pinehurst projects, and ensure inclusion by subcontractors into all lower-tier subcontracts.
 3. Required Solicitation Language. The Contractor shall include the following notification in all solicitations for bids and requests for work or material, regardless of funding source:

“The _____ (name of Contractor), in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award. In accordance with other related nondiscrimination authorities, bidders and contractors will also not be discriminated against on the grounds of sex, age, disability, low-income level, creed/religion, or limited English proficiency in consideration for an award.”
 4. Provide language assistance services (i.e., written translation and oral interpretation), free of charge, to LEP employees and applicants. Contact Village of Pinehurst for further assistance, if needed.
 5. For assistance with these Title VI requirements, contact the Village of Pinehurst Title VI Nondiscrimination Coordinator at 910-295-1900 ext. 1102.
- (b) If reviewed or investigated by Village of Pinehurst, the contractor or subrecipient agrees to take affirmative action to correct any deficiencies found within a reasonable time period, not to exceed 90 calendar days, unless additional time is granted by Village of Pinehurst.
- (c) The Contractor is responsible for notifying subcontractors of Village of Pinehurst External Discrimination Complaints Process.
1. Applicability

Title VI and related laws protect participants and beneficiaries (e.g., members of the public and contractors) from discrimination by Village of Pinehurst employees, subrecipients and contractors, regardless of funding source.

2. Eligibility

Any person—or class of persons—who believes he/she has been subjected to discrimination based on race, color, national origin, Limited English Proficiency (LEP), sex, age, or disability (and religion in the context of employment, aviation, or transit) may file a written complaint. The law also prohibits intimidation or retaliation of any sort.

3. Time Limits and Filing Options

Complaints may be filed by the affected individual(s) or a representative and must be filed no later than 180 calendar days after the following:

- (i) The date of the alleged act of discrimination; or
- (ii) The date when the person(s) became aware of the alleged discrimination; or
- (iii) Where there has been a continuing course of conduct, the date on which that conduct was discontinued or the latest instance of the conduct.

Title VI and related discrimination complaints may be submitted to the following entities:

- Village of Pinehurst, Title VI Coordinator, 395 Magnolia Road, Pinehurst, N.C. 28374; 910-295-1900
- North Carolina Department of Transportation, Office of Civil Rights, Title VI Program, 1511 Mail Service Center, Raleigh, NC 27699-1511; toll free 1-800-522-0453
- Federal Highway Administration, North Carolina Division Office, 310 New Bern Avenue, Suite 410, Raleigh, NC 27601, 919-747-7010
- US Department of Transportation, Departmental Office of Civil Rights, External Civil Rights Programs Division, 1200 New Jersey Avenue, SE, Washington, DC 20590; 202-366-4070

4. Format for Complaints

Complaints must be in writing and signed by the complainant(s) or a representative, and include the complainant's name, address, and telephone number. Complaints received by fax or e-mail will be acknowledged and processed. Allegations received by telephone will be reduced to writing and provided to the complainant for confirmation or revision before processing. Complaints will be accepted in other languages, including Braille.

5. Discrimination Complaint Form

Contact Village of Pinehurst Title VI Coordinator to receive a full copy of the Discrimination Complaint Form and procedures.

6. Complaint Basis

Allegations must be based on issues involving race, color, national origin (LEP), sex, age, disability, or religion (in the context of employment, aviation or transit). "Basis" refers to the complainant's membership in a protected group category.

TABLE 103-1
COMPLAINT BASIS

Protected Categories	Definition	Examples	Applicable Nondiscrimination Authorities
Race and Ethnicity	An individual belonging to one of the accepted racial groups; or the perception, based usually on physical characteristics that a person is a member of a racial group	Black/African American, Hispanic/Latino, Asian, American Indian/Alaska Native, Native Hawaiian/Pacific Islander, White	Title VI of the Civil Rights Act of 1964; 49 CFR Part 21; 23 CFR 200; 49 U.S.C. 5332(b); 49 U.S.C. 47123. <i>(Executive Order 13166)</i>
Color	Color of skin, including shade of skin within a racial group	Black, White, brown, yellow, etc.	
National Origin <i>(Limited English Proficiency)</i>	Place of birth. Citizenship is not a factor. <i>(Discrimination based on language or a person's accent is also covered)</i>	Mexican, Cuban, Japanese, Vietnamese, Chinese	
Sex	Gender. The sex of an individual. <i>Note:</i> Sex under this program does not include sexual orientation.	Women and Men	1973 Federal-Aid Highway Act; 49 U.S.C. 5332(b); 49 U.S.C. 47123.
Age	Persons of any age	21-year-old person	Age Discrimination Act of 1975 49 U.S.C. 5332(b); 49 U.S.C. 47123.
Disability	Physical or mental impairment, permanent or temporary, or perceived.	Blind, alcoholic, para-amputee, epileptic, diabetic, arthritic	Section 504 of the Rehabilitation Act of 1973; Americans with Disabilities Act of 1990

Religion (in the context of employment) <i>(Religion/ Creed in all aspects of any aviation or transit-related construction)</i>	An individual belonging to a religious group; or the perception, based on distinguishable characteristics that a person is a member of a religious group. In practice, actions taken as a result of the moral and ethical beliefs as to what is right and wrong, which are sincerely held with the strength of traditional religious views. Note: Does not have to be associated with a recognized religious group or church; if an individual sincerely holds to the belief, it is a protected religious practice.	Muslim, Christian, Sikh, Hindu, etc.	Title VII of the Civil Rights Act of 1964; 23 CFR 230; FHWA-1273 Required Contract Provisions. (49 U.S.C. 5332(b); 49 U.S.C. 47123)
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(3) Pertinent Nondiscrimination Authorities

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities, including, but not limited to:

- (a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- (b) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- (c) Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- (d) Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability) and 49 CFR Part 27;
- (e) The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- (f) The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- (g) Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- (h) Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures Nondiscrimination against

minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

- (i) Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- (j) Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).
- (k) Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e et seq., Pub. L. 88-352), (prohibits employment discrimination on the basis of race, color, religion, sex, or national origin).

The Village Of Pinehurst

Title VI Compliance Review Report 2021

Prepared For

United States Department of Transportation
Federal Highway Administration
North Carolina Division Office

Prepared By

North Carolina Department of Transportation
Office of Civil Rights – External Civil Rights
Title VI Nondiscrimination Program



I. General Information

Organization Name:	The Village of Pinehurst 395 Magnolia Road Pinehurst, North Carolina 28374
Title VI Coordinator:	Jeff Batton jbatton@vopnc.org (910)295-1900
Report Prepared by:	Ashley C. Council, J.D., Title VI Officer North Carolina Department of Transportation Office of Civil Rights – External Civil Rights Title VI Nondiscrimination Program 1511 Mail Service Center Raleigh, NC 27699
Reporting Period:	Federal Fiscal Year (FFY) 2020
Review Date(s):	June 4, 2021
Compliance Reviewer(s):	Ashley C. Council, J.D.

II. Jurisdiction and Authorities

Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d)) states that, “No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” As a recipient of Federal funds, all operation of the North Carolina Department of Transportation (NCDOT) and its federal aid subrecipients and contractors must comply with Title VI and related non-discrimination authorities. Other related statutes, regulations and guidelines pertinent to the Title VI Nondiscrimination Program include:

- 49 C.F.R. 21: Nondiscrimination in Federally-Assisted Programs of the Department of Transportation;
- 23 C.F.R. 200: Title VI Program and Related Statutes regarding Implementing and Review Procedures;
- 29 U.S.C. 5332: Nondiscrimination;
- The Civil Rights Restoration Act of 1987;
- Section 504 of the Rehabilitation Act of 1973/Americans with Disabilities Act of 1990 (Disability);
- Federal-Aid Highway Act of 1968, as amended;
- Age Discrimination Act of 1975 (Age);
- The 1973 Federal-Aid Highway Act (Sex);
- FTA Circular 4702.1B: Title VI Requirements and Guidelines for Federal Transit Administration (FTA) Recipients;
- FTA Circular 4703.1: Environmental Justice Policy Guidance for Federal Transit Administration (FTA) Recipients;
- DOT Order 5610.2A: Department of Transportation Actions to Address Environmental Justice in Minority Populations and Low-Income Populations;
- FHWA Order 6640.23A: FHWA Actions to Address Environmental Justice in Minority Populations and Low-Income Populations;
- Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations;
- Executive Order 13166: Improving Access for Service to Persons with Limited English Proficiency; *and*
- Policy Guidance Concerning Recipient’s Responsibilities to Limited English Proficient (LEP) Persons.

III. Purpose and Objectives

The NCDOT’s Title VI Nondiscrimination Program (“Title VI Program”) is located within the Office of Civil Rights (OCR) – External Civil Rights (ECR). The Title VI Program has the responsibility to conduct Title VI reviews of Local Government Agencies to ensure compliance with Title VI program requirements as set forth in 49 C.F.R. § 21, FTA Circular 4702.1B and 23 C.F.R. § 200. In keeping with these Federal guidelines, the NCDOT has selected The Village of Pinehurst for a Title VI compliance review.

The purpose of this Title VI compliance review process is to:

- Discuss the municipality’s Title VI obligations with its officials;
- Determine the municipality’s level of compliance with Title VI and nondiscrimination requirements;
- Provide technical assistance and guidance where Title VI-related implementation is deficient;
- Identify opportunities for Title VI- related training for municipality staff; *and*
- Assure nondiscrimination in municipality programs and activities.

IV. Title VI Assurances

In accordance with 49 CFR § 21.7(a), every subrecipient of Federal funds must provide assurances that it will carry out its programs in compliance with DOT's Title VI regulations. The subrecipient is required to submit annual assurances and certifications to the NCDOT prior to passing through FTA funds. A copy of these assurances are attached hereto, marked as "Addendum A" and are incorporated herein by reference. By signing this review on behalf of the municipality the Title VI Liaison (or other designated signatory) satisfies this year's assurance requirements if no other assurances have been signed for any other division of the NCDOT. If the municipality has already signed assurances for another NCDOT Division, this set of assurances will be used for record keeping purposes within the Title VI Division.

V. Compliance Review Methodology

Local Government Agencies typically receive FHWA funds; therefore Section VI of this compliance review report was developed based on the general Title VI requirements of the aforementioned agency. The review consists of the following phases: Review Notification, Preliminary Analysis, On-Site or Virtual Verification, Compliance Determination and, if needed, Corrective Action and Follow-Up. The review was conducted by the Title VI Nondiscrimination Program which began by emailing a notification letter to the municipality with a Title VI Compliance Review Checklist for the municipality to complete and return. The municipality's completed Checklist, supporting documentation and on-site or virtual responses were carefully reviewed by NCDOT to issue a compliance determination.

This report issues a determination of **Deficiencies** or **No Deficiencies** based on compliance factors listed in the Title VI Review Checklist and *Significant Observations and Comments* (Section VI). Overall, Section VI documents the reviewer's assessment of components applicable to your Title VI Program. Any deficiencies identified must be corrected **within 90 calendar days**. If applicable, the Corrective Action Plan (CAP/Section VII) provides the remedial actions and specific dates by which deficiencies will be corrected.

Note: A determination of **Deficiencies** in this report places your organization in a "deficiency status." Satisfactory completion of all corrective actions within 90 calendar days will move your organization to an "in compliance" status, while unsatisfactory performance will result in a finding of noncompliance.

VI. On-Site or Virtual Review

The attendees during the on-site or virtual review were as follows:

NAME	TITLE	ORGANIZATION
Ashley C. Council	Title VI Officer	NCDOT-Office of Civil Rights
Jeff Batton	Title VI Liaison	Village of Pinehurst

VII. Compliance Review Checklist

The findings below are based on the on-site or virtual meeting and documentation provided by the Village of Pinehurst.

TITLE VI MUNICIPALITY REQUIREMENTS Village of Pinehurst	YES	NO
1. Does this municipality receive Federal funds?	X	
2. Does the municipality acknowledge the current Standard Title VI Assurances which are attached hereto, marked as "Addendum A" and are incorporated herein by reference?	X	
3. Has the municipality produced a Title VI Policy Statement?	X	
4. Has the municipality posted its Title VI Policy Statement conspicuously within its places of business?	X	
5. Has the municipality designated a Title VI Liaison? If so, list their name: Jeff Batton	X	
6. Are the Title VI Liaison's duties incorporated within the Liaison's official job description?	X	
7. Has the municipality developed a Title VI Grievance Procedure and made said procedure easily accessible to and comprehensible by the general public?	X	
8. Does this municipality have a procedure established for the recording of Title VI Complaints?	X	
9. Has this municipality received any Title VI complaints or been the subject of any Title Vi investigations within three (3) years of the date of this review?		X
10. Has this municipality received any Title VI training from any agency within three (3) years of the date of this review?		X
11. Does this municipality maintain a demographic profile of its service area that includes identification of the locations of minority, low-income, LEP and/or other underserved populations?	X	
12. Does the municipality maintain the demographic information referenced in Number Eleven (11) above for use in its Language Assistance Programs and in areas of environmental justice?	X	

Specific Observations and Comments:		
*The Village of Pinehurst is to be commended for their diligent work in demonstrating their compliance with Title VI requirements.		
NCDOT'S Compliance Determination	DEFICIENCIES	NO DEFICIENCIES

Title VI Officer, Office of Civil Rights: Ashley C. Council, J.D. Date:	Signature:
Municipality Representative Title: Date:	Signature:

ADDENDUM A

TITLE VI ASSURANCES

The provisions of this section related to United States Department of Transportation (US DOT) Order 1050.2A, Title 49 Code of Federal Regulations (CFR) part 21, 23 United States Code (U.S.C.) 140 and 23 CFR part 200 (or 49 CFR 303, 49 U.S.C. 5332 or 49 U.S.C. 47123) are applicable to all North Carolina Department of Transportation (NCDOT) contracts and to all related subcontracts, material supply, engineering, architectural and other service contracts, regardless of dollar amount. Any Federal provision that is specifically required not specifically set forth is hereby incorporated by reference.

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX B: CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the *North Carolina Department of Transportation (NCDOT)* will accept title to the lands and maintain the project constructed thereon in accordance with the *North Carolina General Assembly*, the Regulations for the Administration of the Federal-Aid Highway Program, and the policies and procedures prescribed by the Federal Highway Administration of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A,

Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the *NCDOT* all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto the *North Carolina Department of Transportation (NCDOT)* and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the *NCDOT*, its successors and assigns.

The *NCDOT*, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the *NCDOT* will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

APPENDIX C: CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the *North Carolina Department of Transportation (NCDOT)* pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination covenants, the *NCDOT* will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above Nondiscrimination covenants, the *NCDOT* will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the *NCDOT* and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX D: CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by the *North Carolina Department of Transportation (NCDOT)* pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.

- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non discrimination covenants, the *NCDOT* will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*
- C. With respect to deeds, in the event of breach of any of the above Nondiscrimination covenants, the *NCDOT* will there upon revert to and vest in and become the absolute property of the *NCDOT* and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

Pertinent Nondiscrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures Nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).