

A TEXT AMENDMENT TO THE PINEHURST DEVELOPMENT ORDINANCE PROHIBITING THE OPERATION OF SHORT TERM RENTAL PROPERTIES IN ALL SINGLE FAMILY RESIDENTIAL ZONING DISTRICTS, CREATING AN AMORTIZATION PERIOD FOR ALL RESULTING NON-CONFORMING USES, AND ESTABLISHING SAFETY REQUIREMENTS AND REGULATIONS GOVERNING THE OPERATION OF SHORT TERM RENTAL PROPERTIES IN SINGLE FAMILY RESIDENTIAL DISTRICTS DURING THE AMORTIZATION PERIOD, AND CONTINUOUSLY THEREAFTER IN ALL OTHER ZONING DISTRICTS IN THE VILLAGE OF PINEHURST

CHAPTER __ SHORT TERM RENTALS

Preamble

WHEREAS, the Vision Statement of the Village of Pinehurst provides: “The Village of Pinehurst is a charming, vibrant community that reflects our rich history and traditions;” and

WHEREAS, in its Comprehensive Plan, adopted in October 2019, the Village of Pinehurst has established Guiding Principles to expand upon the Vision Statement and further clarify the goals of the community around specific topics critical to preserving and enhancing the high quality of life in Pinehurst; and

WHEREAS, These Principles embody the Village’s core philosophy of embracing and celebrating Pinehurst’s history; and

WHEREAS, Guiding Principal No. 1 in the 2019 Comprehensive Plan provides that Pinehurst shall retain the small-town charm, scale, and character of the community to ensure a high quality of life, and celebrate and preserve the historic Village and traditions that make Pinehurst desirable and unique; and

WHEREAS, Guiding Principle No. 3 in the Comprehensive Plan provides that Pinehurst shall protect and enhance the quality and character of existing residential neighborhoods; and

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

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

WHEREAS. Pursuant to the foregoing, Pinehurst has enacted the Pinehurst Development Ordinance ("PDO"), one of the goals of which is to "Preserve and enhance Pinehurst's residential neighborhoods while addressing the housing needs of current and future residents;" and

WHEREAS, a "short term rental" is the practice whereby the whole of a Dwelling (as that term is defined in the PDO) is rented to a third party unrelated to the Owner (hereinafter defined), and in the absence of the Owner. The term "Short term rental" is not defined in the PDO, and "short term rental" does not appear as a permitted use under the Table of Permitted and Special Uses and Special Requirements set forth in Section 8.5.1(a) of the PDO. Short term rentals were generally operated on a seasonal basis by a modest number of property owners in Pinehurst. Such activity remained modest and stable since before the incorporation of the Village and to that extent did not have a material adverse effect on the health, safety, atmosphere, character or culture of the single family neighborhoods in which they were located; and

WHEREAS, the aforementioned modest and stable short term rental activity in Pinehurst and around the country has, in the last several years, evolved into a large-scale commercial industry; and

WHEREAS, growing, significant numbers of Single Family Dwellings (hereinafter defined) have commenced rental operation in Single Family Residential Zoning Districts (hereinafter defined) which districts were planned, approved and constructed for single family occupancy by permanent residents, or as second homes; and

WHEREAS, these rental properties are often altered or constructed to increase tenant capacity, parking and impervious surfaces, recreational activities, etc., in ways that are inconsistent with the notion of family occupancy, and that more closely resemble commercial lodging businesses such as hotels, motels and resort properties; and

WHEREAS the commercial short term rental industry engages in internet-based marketing of these properties to the general public on a large scale, national basis, using Short Term Rental Hosting Platforms (hereinafter defined); and

WHEREAS, as a result of the foregoing, the majority of these short term rental properties are occupied by non-resident visitors to Pinehurst in a series of daily or weekly stays, over the majority of the year. Contrary to the past practice in Pinehurst, such properties are not occupied by tenants on a seasonal basis or by their owners as permanent or part-time residents; and

WHEREAS, the foregoing has significantly increased the number and concentration of short term rental properties in Pinehurst, from approximately 70 in 2015 to approximately 400 in 2022; and

WHEREAS, the above-described evolution of the commercial short-term rental industry has occurred without regulatory oversight with respect to: (i) the health, safety and welfare of the residents of Pinehurst; (ii) the character and culture of neighborhoods that were planned, approved, and constructed for Single Family Dwelling Units occupied by permanent residents; or (iii) the tenants of short term rental properties; and

WHEREAS, concurrent with the unregulated growth of the commercial short term rental industry, Pinehurst has experienced material increases in incidents involving tenant misconduct, conditions of poorly maintained real property, and deterioration in the character, culture, and quality of life in Single Family Residential Districts; and

WHEREAS, the growth of commercial short term rental properties in Pinehurst is estimated to continue unabated; and

WHEREAS, the Village Council has taken note of the regulations governing short term rental properties adopted by neighboring communities such as Southern Pines, condominium associations, and gated communities in Pinehurst, including but not limited to Pinewild; and

WHEREAS, Village Council has undertaken to study the nature and extent of the commercial short term rental industry in Pinehurst, including but not limited to the following: (i) obtaining a detailed analysis of the industry, and how it is regulated, by the Village Planning and Inspection Department; (ii) consulting with counsel; (iii) reviewing regulatory legislation from communities comparable to Pinehurst; and (iv) conducting multiple public meetings and work sessions where the foregoing were reviewed and debated by Council and where: (a) representatives of the commercial short term rental industry provided data and advocacy on the growth of the industry, its purported effect on the Village of Pinehurst economy, and the importance to individual short term rental operators of the economic benefits they realize from their operations; and (b) complaints were received from Pinehurst citizens alleging serious incidents of tenant misconduct including drunkenness and rowdy behavior, and criminal activity including but not limited to disorderly conduct, trespass, importuning, and theft, unsafe overparking, deteriorated property conditions, and a general decline in the character and culture of the single family residential districts, which these Pinehurst citizens attribute to the intensified presence of short term rental properties; and

WHEREAS, the Village of Pinehurst has a legitimate governmental interest in: (i) safeguarding the life, health, safety, welfare, and property of Short Term Rental occupants, neighborhoods, and the general public; and (ii) minimizing the present and future adverse impacts resulting from the increase in transient rental uses in neighborhoods planned, approved, and constructed for Single Family Dwelling Units occupied by permanent residents;

NOW THEREFORE, be it ordained by the Village of Pinehurst as follows:

Section 1. Applicability. Except as otherwise provided herein, nothing in this Ordinance shall supersede existing Village law applicable to persons and/or property, including without limitation the Pinehurst Municipal Code, the PDO (as amended and restated by Section 3.1 hereof), Pinehurst Engineering Standards and Specifications Manual, or otherwise under Village law. However, in the event of a conflict between a provision of any of the foregoing and this Ordinance, the provisions of this Ordinance shall control. Nothing herein shall abrogate any easement, covenant, or private agreement including without limitation: (i) declarations of covenants, restrictions, or the like, of an allotment; (ii) homeowner association agreements; or (iii) any other encumbrance on the use of property imposed in connection with the creation of any allotment or subdivision, or entered into among property owners, or otherwise governing any property or group of properties.

Section 2. Definitions. The following terms have the meanings set forth below. Other terms are defined elsewhere in the body of this Ordinance. Capitalized terms not defined below, but which are defined in the Pinehurst Municipal Code, PDO, Pinehurst Engineering Standards and Specifications Manual, or otherwise under Village law shall have the meaning ascribed to them there. In the event of a conflict or ambiguity between a term as defined in this Ordinance and a term as defined in any of the foregoing, the definition set forth in this Ordinance shall control.

- 2.1 Single Family Residential Zoning District. Any of Village zoning districts RD, R-210, R-30, R-20, R-15, R-10, R-8, and R-5.
- 2.2 Short Term Rental. The use of a Dwelling whereby the whole of such Dwelling is rented to a third party unrelated to the Owner (hereinafter defined), and in the absence of the Owner for a period of less than 30 consecutive days at a time, for money or other consideration.
- 2.3 Long Term Rental. The use of a Dwelling whereby the whole of such Dwelling is rented to a third party for a term of more than 30 consecutive days, for money or other consideration.
- 2.4 Short Term Rental Hosting Platform. A public platform that allows a Short Term Rental.
- 2.5 Owner or Responsible Agent (hereinafter defined) to advertise a Single Family Dwelling for use as a Short Term Rental and facilitates the booking transaction between the Short Term Rental Owner or Responsible Agent, and the Primary Responsible Tenant.
- 2.6 Primary Responsible Tenant. The person executing, as tenant, the rental agreement for a Short Term Rental.
- 2.7 Short Term Rental Owner, or Owner. The owner of a Short Term Rental as recorded in the Moore County Register of Deeds.
- 2.8 Responsible Agent. a person or business entity providing services with respect to the operation of a Short Term Rental, and who or which is located or resides in North Carolina and holds a valid North Carolina real estate broker license issued under North Carolina General Statutes Chapter 93(A). If the Responsible Agent is a business entity, it shall be in good standing with and/or authorized to do business in the State of North Carolina. The Responsible Agent may be the Owner, in which event the licensing requirement set forth in the first sentence of this Subsection 2.5 shall not apply.
- 2.9 Single Family Dwelling. The definition of “Dwelling, Single Family” as set forth in Section 10.2 of the PDO is hereby amended and restated in its entirety as follows: “Single Family Dwelling: a free standing building designed for and occupied for living purposes, located on Property. Also includes factory-built, modular housing units that comply with North Carolina State Building Code.

Section 3. Express Prohibition of Short Term Rental Properties in Single Family Residential Zoning Districts; Amortization Period.

- 3.1 Express Prohibition. From and after the effective date of this Ordinance, and notwithstanding any inconsistent or contrary provision of the PDO, renting a Single Family Dwelling as a Short Term Rental or rooming house, or otherwise (except: (i) Long Term Rentals; and (ii) Bed and Breakfast Homes and then only in Zoning District R-210) is expressly prohibited in all Single Family Residential Zoning Districts.
- 3.2 Amortization Period. All Short Term Rentals operating in Single Family Residential Zoning Districts before and as of the effective date of this Ordinance (“Pre-Existing Short Term Rentals”) shall thereafter be Nonconforming Uses and may continue such operation, subject

to the Safety and Operational Regulations hereinafter set forth, and in accord with applicable law, until the earlier of (i) transfer of the record ownership of such Pre-Existing Short Term Rental or (ii) July 31, 2024, after which time all such Pre-Existing Short Term Rentals shall cease operation.

Section 4. Safety and Operational Regulations. Upon the effective date of this Ordinance, the ownership, maintenance and operation of all Short Term Rentals, including Pre-Existing Short Term Rentals shall be subject to the following Safety and Operational regulations:

- 4.1 Duties of Short Term Rental Owner And Responsible Agent. A Short Term Rental Owner or Responsible Agent, as the case may be, shall, with respect to the Short Term Rental owned, operated or managed by him, her or it shall:
 - 4.1.1 Be available 24 hours a day, 7 days a week, to respond (in real time with a natural person, including in-person if necessary) within two (2) hours to manage emergency or other time-sensitive situations stemming from the operation of such Short Term Rental.
 - 4.1.2 Ensure that the operation of such Short Term Rental complies with the provisions of this Ordinance and otherwise with applicable law;
 - 4.1.3 Keep accurate books and records with respect to the operation of such Short Term Rental;
 - 4.1.4 Perform all of the duties and meet all of the requirements imposed upon a landlord under Titles 42 and 42(a) of the North Carolina General Statutes;
 - 4.1.5 Register for and timely remit all taxes payable on account of the operation of such Short Term Rental to the appropriate taxing authorities;
 - 4.1.6 Deliver to the Primary Responsible Tenant of such Short Term Rental the Good Neighbor Guide described below.
- 4.2 Allocation of Duties. The foregoing Duties may be allocated among the Short Term Rental Owner and the Responsible Agent by agreement between them, however in that event liability hereunder to the Village or third parties for the performance of these Duties shall be joint and several.
- 4.3 Maximum Overnight Occupancy. The overnight occupancy of a Short Term Rental shall not exceed 2 persons per bedroom. The occupancy limit shall be a provision of the agreement governing occupancy of the Short Term Rental, posted prominently within the Property and included in advertisements, property listings, or on Short Term Rental Hosting Platforms.
- 4.4 Parking.
 - 4.4.1 Overnight parking within the public right of way is prohibited in all Single Family Residential Zoning Districts;
 - 4.4.2 One parking space for each bedroom, plus one additional parking space, shall be provided for each Short Term Rental;
 - 4.4.3 All parking on Single Family Dwellings shall be in the garage and/or driveway and there shall be no parking in any yard areas or setbacks;
 - 4.4.4 The impervious surface area of a Short Term Rental shall not be increased for parking purposes;
 - 4.4.5 Notwithstanding Section 8.3.3.6 of the PDO, no variances may be granted to increase the impervious surface area of a Short Term Rental.

- 4.4.6 All Properties in all Single Family Residential Zoning Districts shall be and remain subject to all other Village parking regulations.
- 4.5 Certificate of Occupancy. A Short Term Rental shall meet all of the requirements for the issuance of a certificate of occupancy under Village and/or North Carolina law, and shall have a valid and current Certificate of Occupancy.
- 4.6 Signs. Signs on a Short Term Rental advertising it as such are prohibited.
- 4.7 Taxes. Each Short Term Rental shall be timely registered for all taxes assessable in connection with its operation, including without limitation state sales tax, real and personal property taxes, and transient occupancy taxes, and all such taxes shall be timely paid to the appropriate agency.
- 4.8 Safety. Each Short Term Rental shall comply with all local, state and federal laws applicable to occupancy, health, and safety of the Property based on its use as a Short Term Rental. At a minimum, a Short Term Rental shall be equipped as follows: (i) one smoke alarm meeting Underwriters Laboratory UL 217 standards inside each sleeping room, outside of and within 15' of each sleeping room, and otherwise on each floor, including basements; (ii) one NFPA 720-2015 carbon monoxide detector within 15 feet of all sleeping rooms; (iii) one 2-A:10-B:C rated fire extinguisher on each floor.
- 4.9 Primary Responsible Tenant; Responsibilities and Minimum Rental Age. There shall be only one Primary Responsible Tenant for any booking transaction for a Short Term Rental and the Primary Responsible Tenant shall be responsible for the conduct of all occupants of the Short Term Rental during the tenancy. The Primary Responsible Tenant shall be at least twenty-one (21) years old.
- 4.10 Minimum Rental Duration. Short Term Rentals shall not be rented for a period of less than 18 hours, which period shall include the hours between 9:00 p.m. and 10: a.m.
- 4.11 Insurance. Each Short Term Rental shall be covered by a commercial general liability policy of insurance ("all risk") with a total limit of not less than \$1,000,000 each occurrence for bodily injury and property damage (including without limitation coverage for damages arising out of or related in any manner to the simple or gross negligence, recklessness or intentional misconduct of any tenant) which insurance shall remain in full force and effect at all times.
- 4.12 Neighborhood Notice. Written notice shall be given to the record owners of properties within a 300 foot radius of a Short Term Rental, providing the occupancy limit of such Short Term Rental, the identity and Internet address of each Short Term Rental Hosting Platform upon which such Short Term Rental is advertised, and the name and contact information of the Short Term Rental Owner and Responsible Agent. This notice shall be updated in the event any of this information changes.
- 4.13 No Variances or Administrative Modification. The Zoning Board of Adjustment may not, pursuant to Chapter 5 of the PDO, grant any variances to any Short Term Rental. The Village Planner may not grant any Administrative Modification to any Short Term Rental pursuant to Section 5.2 of the PDO.
- 4.14 No Expansion of Pre-Existing Short Term Rental Properties. Pre-Existing Short Term Rentals shall not be enlarged or expanded, either externally or internally, so as to increase the maximum occupancy permitted for such Short Term Rental pursuant to Section 4.3, as of the effective date of this ordinance.

- 4.15 Damage or Destruction. Short Term Rentals damaged or destroyed in whole or in part may be repaired or reconstructed only as provided by the provisions of Section 2.3 of the PDO.
- 4.16 Other Applicable Law. Each Short Term Rental shall at all times be and remain in compliance with all federal, state, and local laws, including, North Carolina State Building Code, fire code, and environmental health regulations for operation as a rental property.
- 4.17 Good Neighbor Guide. A copy of the Pinehurst “Good Neighbor Guide” shall be delivered to the Primary Responsible Tenant of a Short Term Rental.

Section 5. Voluntary Registration Program. The Village of Pinehurst Department of Planning and Inspections (“Department”) shall create and administer a voluntary registration program for Short Term Rentals (“Program”). Participation in the Program shall be at the sole discretion of Short Term Rental Owners and Responsible Agents, and no inference shall be drawn with respect to the ownership or operation of any Short Term Rental based on whether or not it participates in the Program.

5.1 Program Requirements. Short Term Rental Owners seeking to participate in the Program shall:

5.1.1 Provide to the Department the name, address and telephone number of the Short Term Rental Owner of such Short Term Rental. If the Owner is a business entity, it shall provide to the Department the name, address and telephone number of a natural person designated by such Owner who will respond to inquiries about the Short Term Rental.

5.1.2 Provide to the Department the name, address, and 24 hour emergency and non-emergency telephone numbers of the Responsible Agent for such Short Term Rental. If the Responsible Agent is a business entity, it shall provide to the Department the name, address and telephone number of a natural person designated by such Responsible Agent business entity who will respond to inquiries about the Short Term Rental.

5.1.3 Provide such documentation as may be necessary in the reasonable discretion of the Department, and consent to an inspection of the Short Term Rental to confirm it complies with the Safety and Operational Regulations set forth in Section 4 of this Ordinance, and as required by applicable law.

5.1.4 Provide to the Department an attestation by the Short Term Rental Owner and Responsible Agent, jointly and severally and upon their personal knowledge after inquiry, that: (i) the Short Term Rental and its operation shall comply with all of the requirements set forth in this Ordinance and in conformity with other applicable law; (ii) they consent to periodic inspection of the Short Term Rental upon reasonable notice as set forth in North Carolina General Statutes Section 160(D)-1207; (iii) they consent to inspection of the Short Term Rental upon its receipt of any complaint regarding the operation, maintenance, management, or safety of a Short Term Rental as provided in Section 5.4.1; (iv) the Short Term Rental is otherwise in compliance with all federal, state, and local laws, including: (x) the then-current North Carolina State Building Code: Residential Code; (y) fire code; and (z) environmental health regulations; and (vi) the appropriate tax registration and remittances applicable to such Short Term Rental have and will be timely made.

5.1.5 Pay a one-time fee of \$300.00 ("Fee") shall be assessed by the Department in order for a Short Term Rental to participate in the Program.

5.2 Seal of Compliance. Upon satisfaction of the requirements set forth in this Section 5, participants in the Program shall receive a Seal of Compliance certifying that the Short Term Rental is compliant with the Program. The Seal of Compliance may be posted in the Short Term Rental and displayed in advertisements for such Short Term Rental. The Seal of Compliance shall be renewed every two years at a renewal fee established by the Department.

5.3 Copies Available Upon Request. Copies of the Seal of Compliance with respect to any Short Term Rental shall be available to any person from the Office of the Village Clerk upon request.

5.4 Immunity From Civil Action. Short Term Rental Owners and Responsible Agents participating in the Program shall be immune from Civil Enforcement Actions as described in Section 6.4 of this Ordinance. Other than with respect to complaints involving exigent circumstances as set forth in Section 6.1, enforcement of this Ordinance with respect to Short Term Rentals, Short Term Rental Owners and Responsible Agents participating in the Program shall be as set in Sections 6.1, 6.2, and 6.3.

Section 6. Enforcement and Penalties.

6.1 Enforcement, Exigent Circumstances. Exigent circumstances include, but are not limited to events, conditions, or conduct involving imminent threat to life or property, or continuing nuisance conduct (i.e., noise, lighting, unruly behavior), parking violations contrary to Section 4.4, and the like, or other violations of this Ordinance or applicable law requiring immediate attention. Complaints involving exigent circumstances may be made to the Pinehurst Police Department, which shall respond in accord with its practices and procedures. The Police Department shall keep and maintain written records of all calls regarding Short Term Rentals, whether or not involving exigent circumstances.

6.2 Enforcement, Non-Exigent Circumstances. Non-exigent circumstances include, but are not limited to events, conditions, or conduct not involving imminent threat to life or property, and do not, in the determination of the complainant, require immediate attention, and include, but are not limited to: (i) nuisances pursuant to Section 92.01 of the Pinehurst Municipal Code; (ii) failure to meet minimum standards for dwellings and dwelling units as set forth in Sections 153.16 *et seq* of the PDO; (iii) failure to comply with the Village solid waste disposal program); (iv) violations of this Ordinance or other applicable law; and (v) complaints to the Pinehurst Police Department not deemed by it to involve exigent circumstances. Complaints involving non-exigent circumstances shall be made to the Code Compliance Specialist through MyVop (<https://www.vopnc.org/our-community/living-in-pinehurst/service-request-center-my-vop>).

6.3 Penalties. 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 this Ordinance 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).

6.4 **Civil Enforcement Action.** In addition to the procedure set forth in Section 6.3 above, a resident of the Village of Pinehurst may, at his or her election and expense, bring a civil action for the violation of this Ordinance by filing a complaint, verified as provided in Rule 11(b) of the North Carolina Rules of Procedure, in the District Court for Moore County, against any Short Term Rental Owner or Responsible Agent, or against both of them jointly and severally, who violates, or whose Short Term Rental fails to comply with, this Ordinance. If the complaining party prevails in an action brought under this Section 6.3, the Court shall award: (i) injunctive relief sufficient to cause the defendants to cure all established violations of this Ordinance and prevent the defendants from violating it thereafter; (ii) prohibiting the operation of the Property as a Short Term Rental until Court determines the defects have been cured; and (iii) statutory damages in an amount not less than Two Thousand Dollars (\$2,000.00) plus costs and reasonable attorney fees. Notwithstanding any other law, ignorance or mistake of law shall not be a defense to an action brought under this section.

Section 7. Effective Date. This Ordinance shall be effective as provided in Section 10.15 of the Pinehurst Municipal Code.