



**VILLAGE COUNCIL
AGENDA FOR REGULAR MEETING OF MARCH 23, 2021
ASSEMBLY HALL
395 MAGNOLIA ROAD
PINEHURST, NORTH CAROLINA
4:30 PM**

1. Call to Order.

2. Reports:

Manager

Council

3. Motion to Approve Consent Agenda.

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

A. Public Safety Reports

February, 2021 Police Report

February, 2021 Fire Report

B. Approval of Village Council Meeting Minutes

March 9, 2021 Regular Meeting

March 9, 2021 Work Session

March 9, 2021 Closed Session

End of Consent Agenda.

4. Discuss and Consider Ordinance #21-06 for Proposed Amendment to the Pinehurst Development Ordinance

5. Audit Contract for Fiscal Year 2021.

6. Other Business.

7. Comments from Attendees.

8. 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



**PUBLIC SAFETY REPORTS
ADDITIONAL AGENDA DETAILS:**

February, 2021 Police Report
February, 2021 Fire Report

FROM:

Kelly Chance

CC:

Jeff Sanborn

DATE OF MEMO:

3/15/2021

MEMO DETAILS:

Attached are the February, 2021 Public Safety Reports.

ATTACHMENTS:

Description

- ❑ February 2021 Police Report
- ❑ February 2021 Fire Department Report

Police Department Monthly Report to Council February 2021

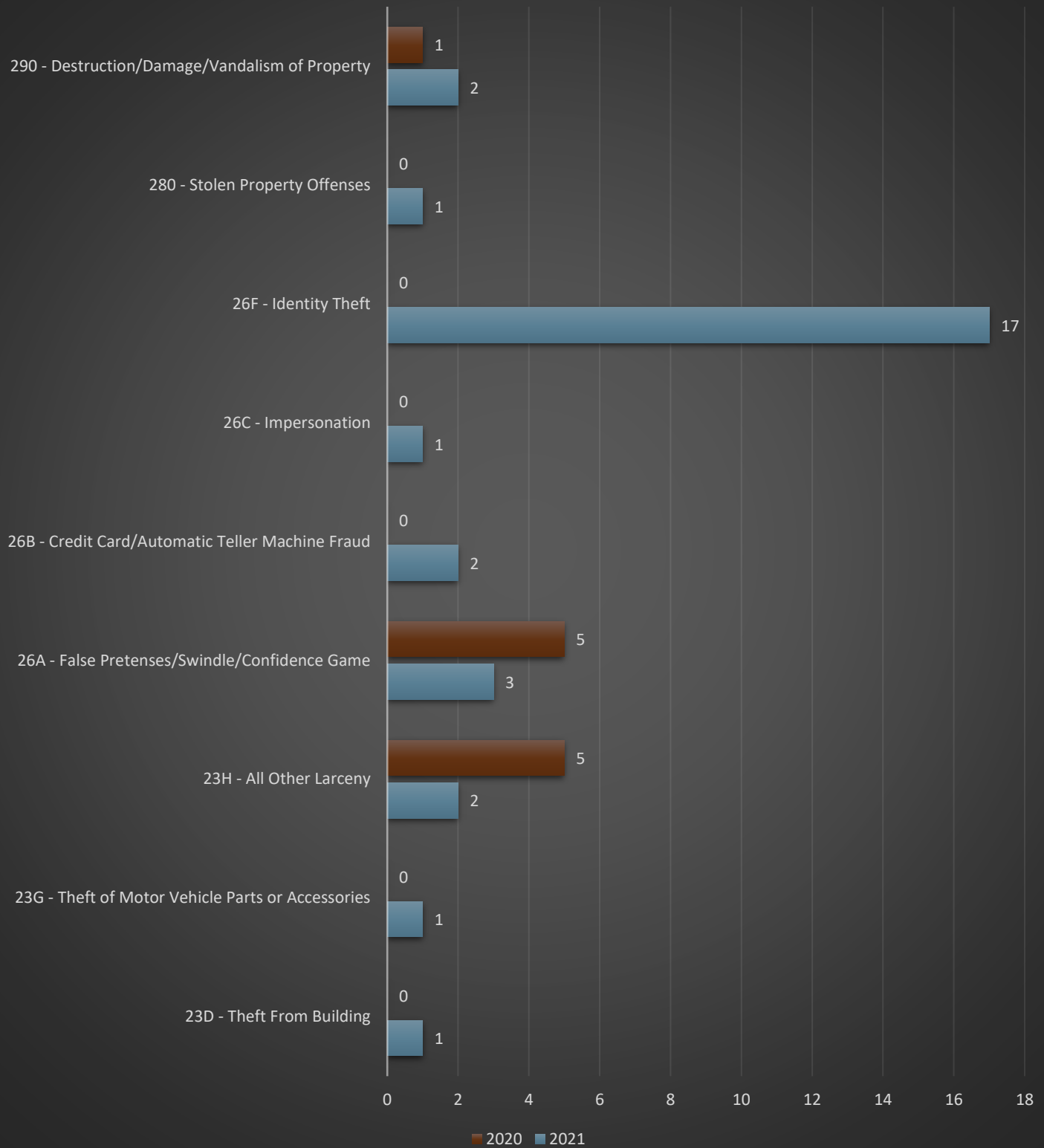


Prepared by
Chief Glen Webb

3.1.2021

Monthly Report February 2021 (With Previous Year / Same Month Range)

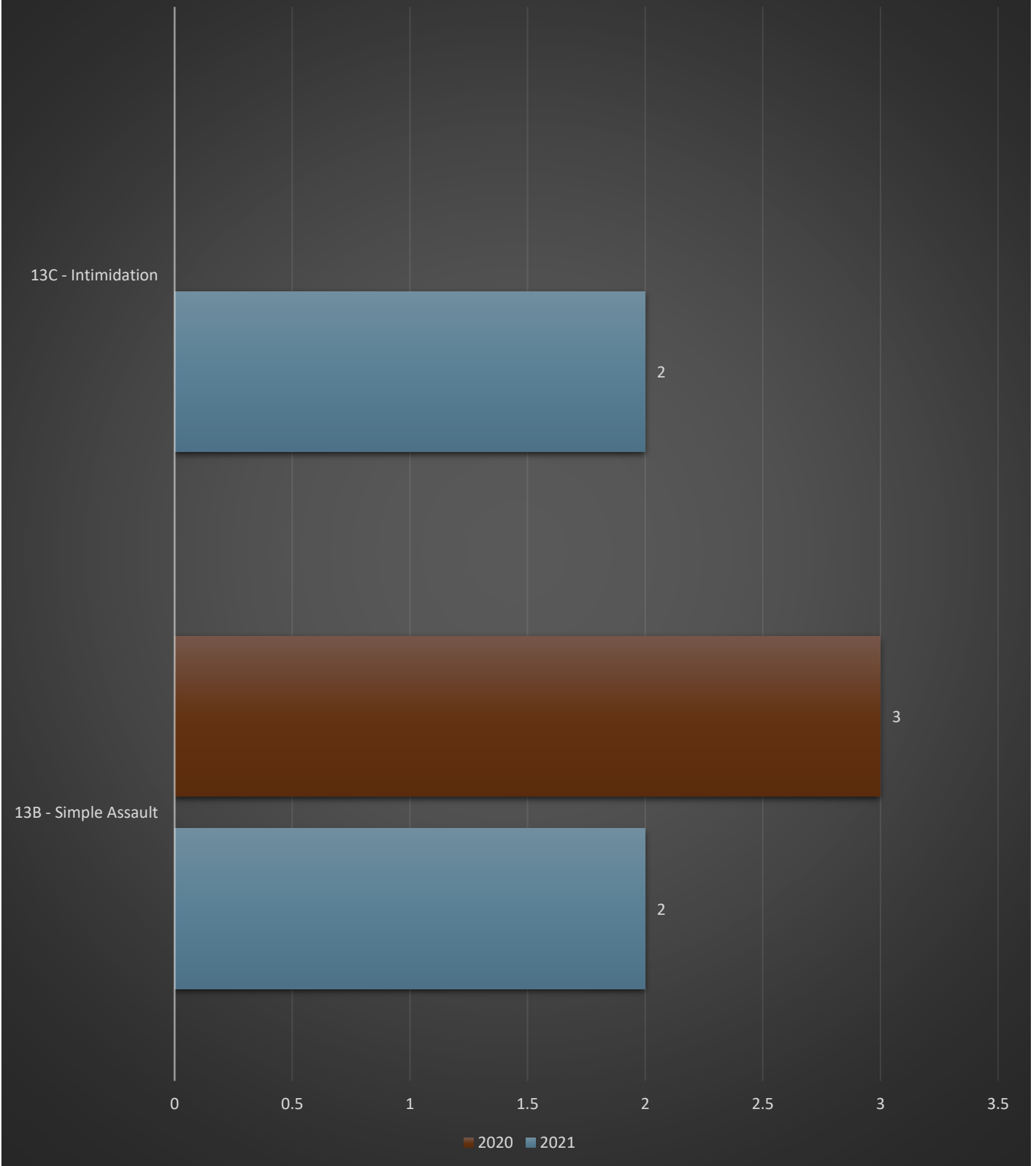
February 2021 Property Crime



Feb 2020 Total Property Crime: 11

Feb 2021 Total Property Crime: 30

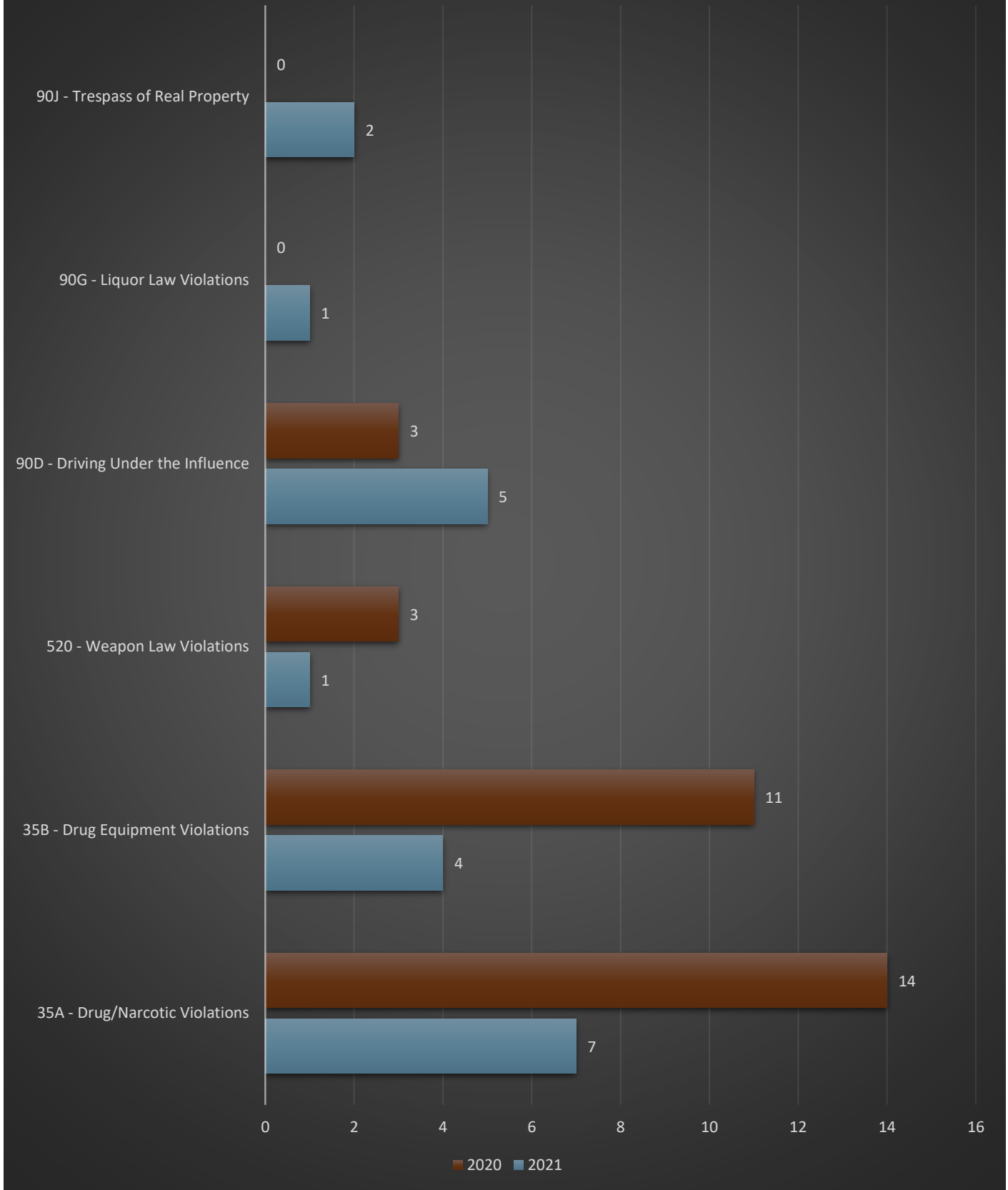
February 2021 Crimes Against Persons



Feb 2020 Total Crimes Against Persons: 3

Feb 2021 Total Crimes Against Persons: 4

February 2021 Crimes Against Society

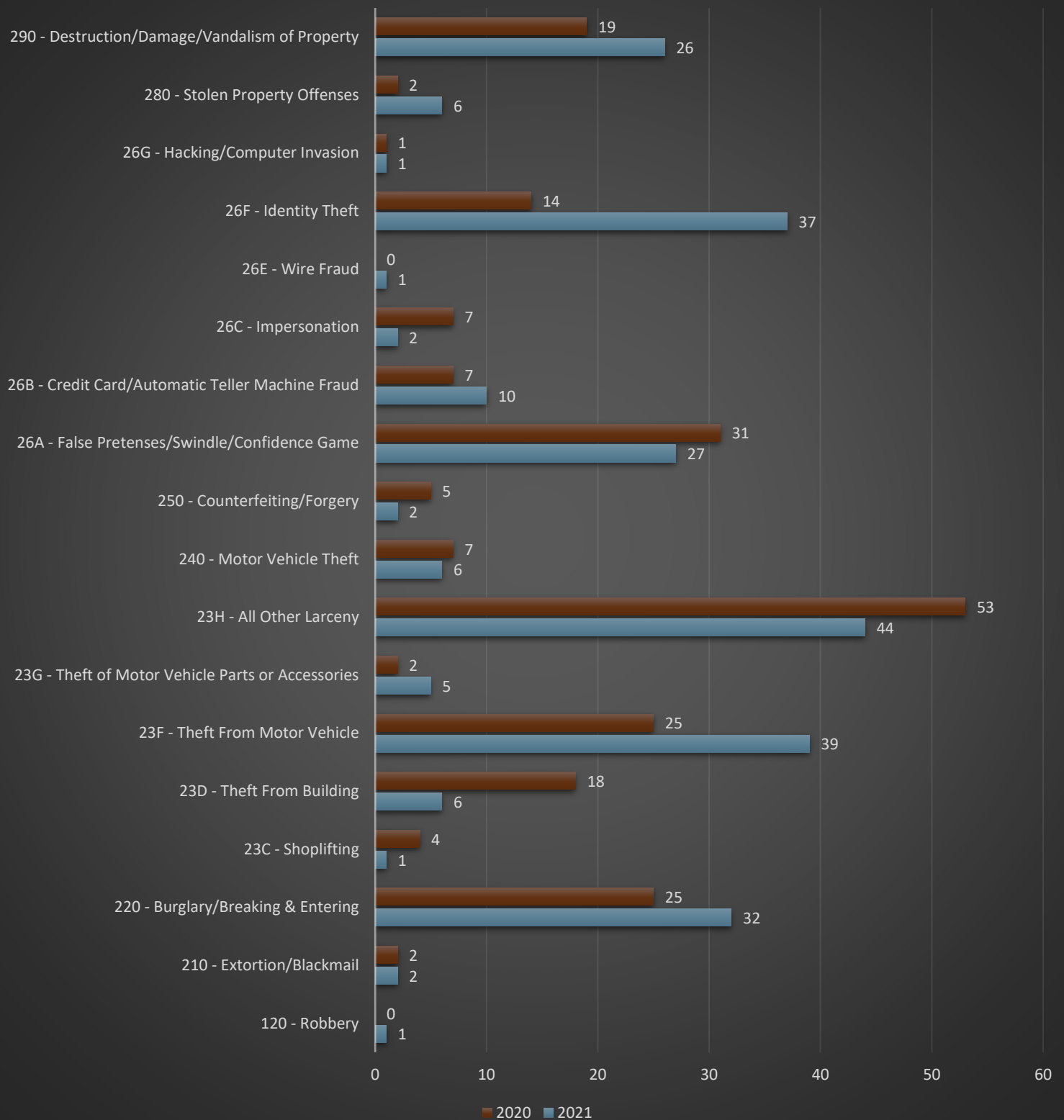


Feb 2020 Total Crimes Against Society: 31

Feb 2021 Total Crimes Against Society: 20

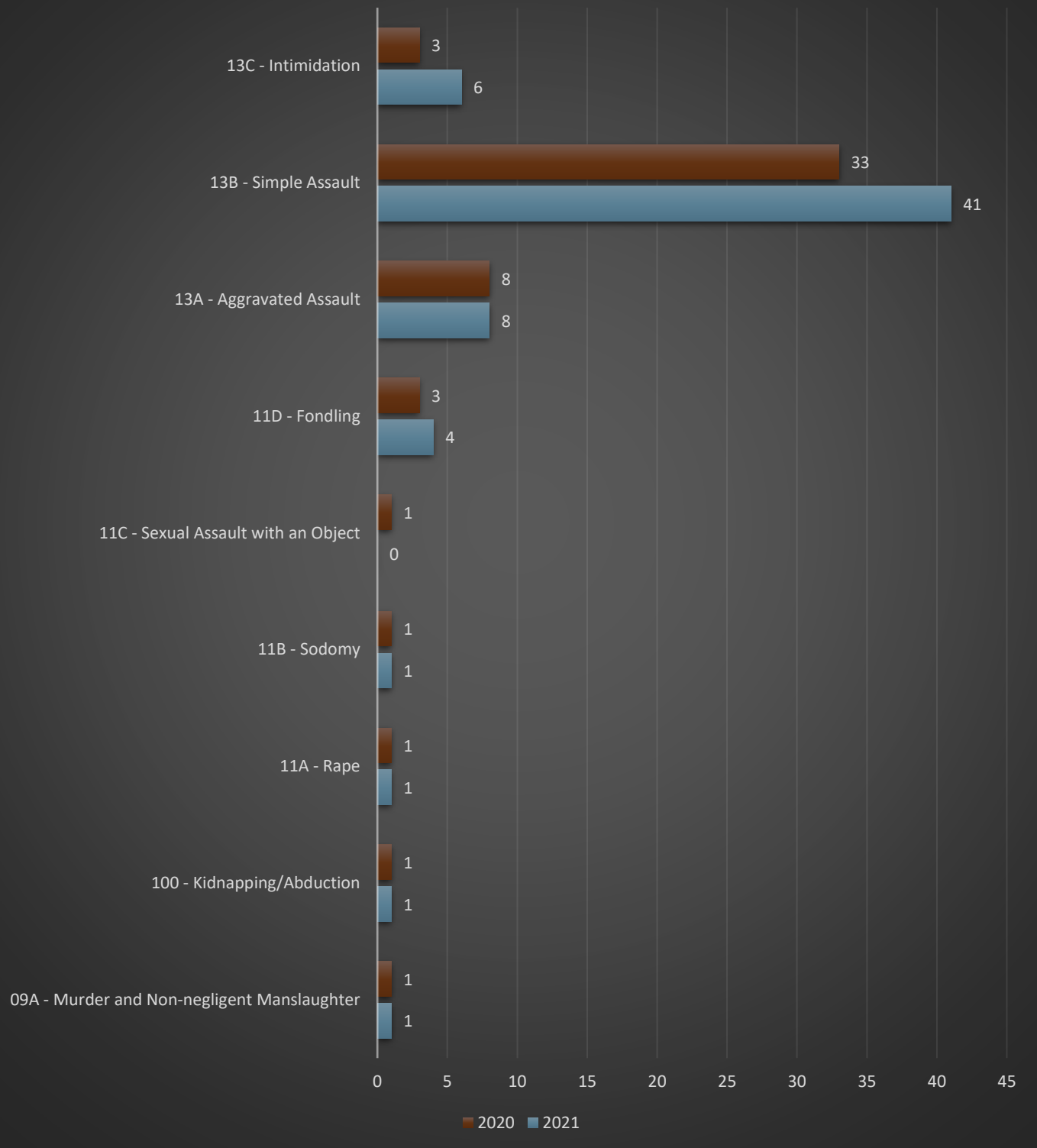
Rolling 12 Month Crimes Reported, March 1, 2020- February 28, 2021
(With Previous Year 12 Month Total)

Property Crime, March 1, 2020 - February 28, 2021



Rolling 12 Month Total Crimes Against Property 2020: 222
Rolling 12 Month Total Crimes Against Property 2021: 248

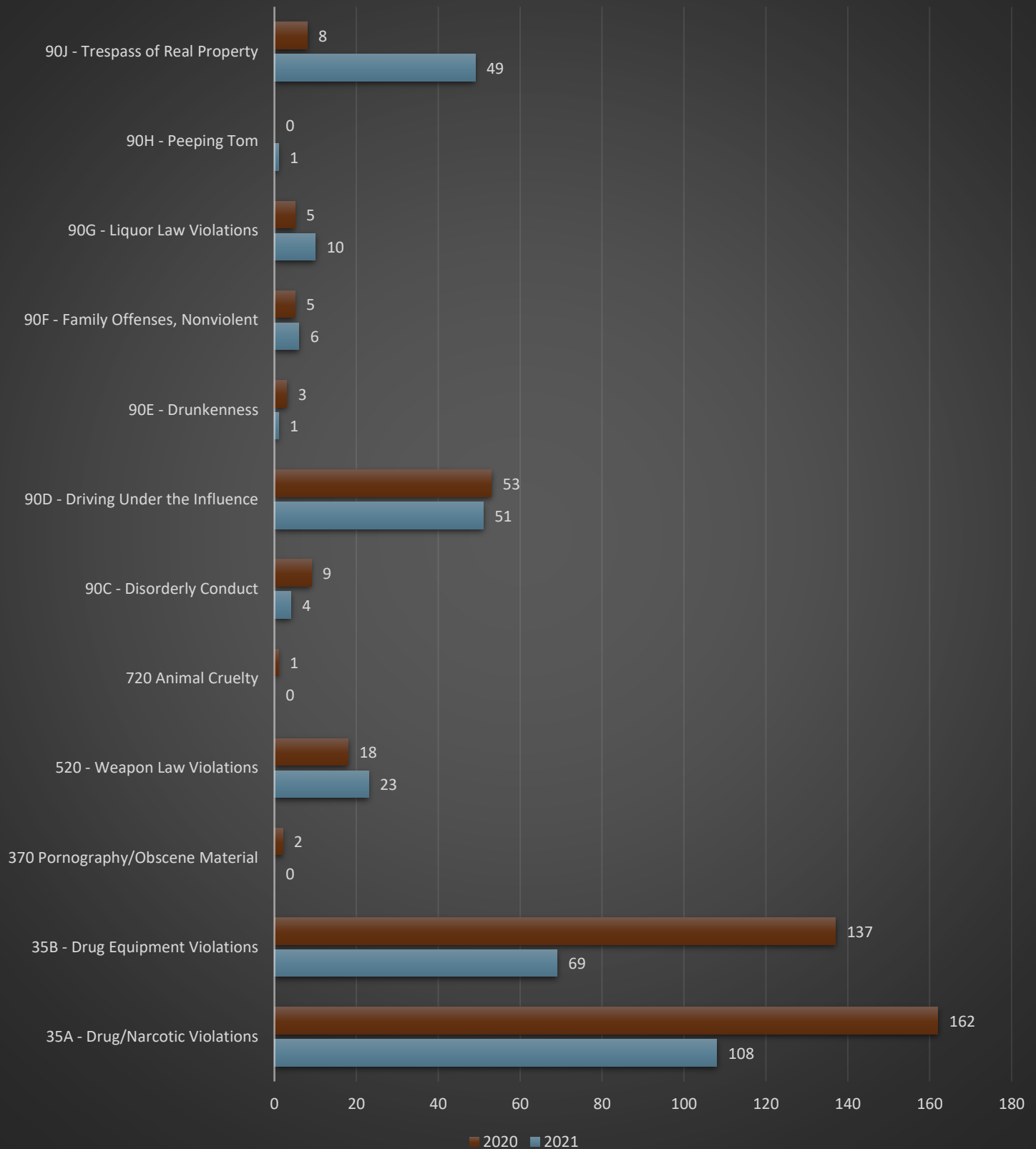
Crimes Against Persons, March 1, 2020 - February 28, 2021



Rolling 12 Month 2020 Total Crimes Against Persons: 52

Rolling 12 Month 2021 Total Crimes Against Persons: 63

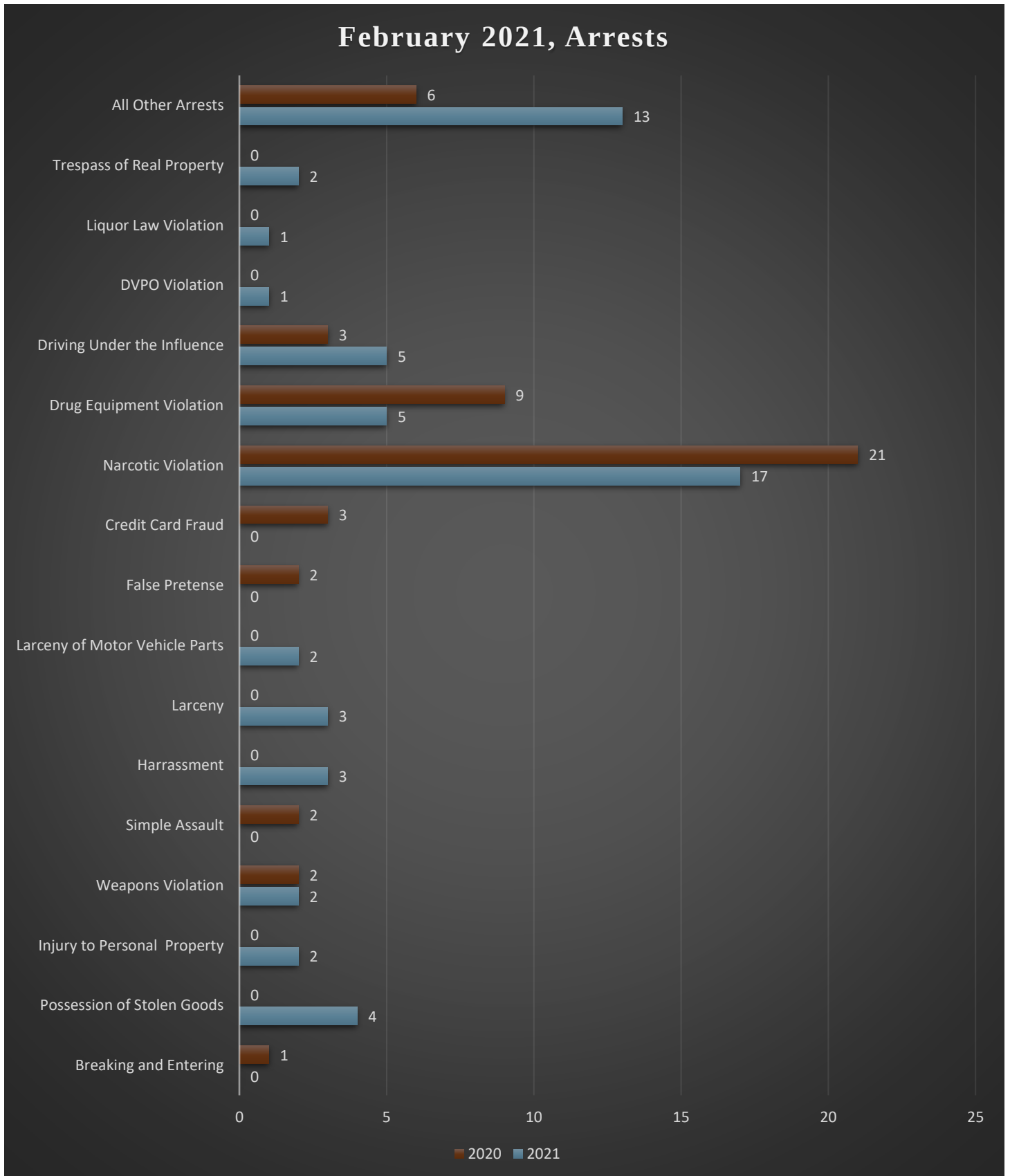
Crimes Against Society, March 1, 2020 - February 28, 2021



Rolling 12 Month Total Crimes Against Society 2020: 403

Rolling 12 Month Total Crimes Against Society 2021: 322

Arrest Totals February 2021 (With Previous Year / Same Month Range)



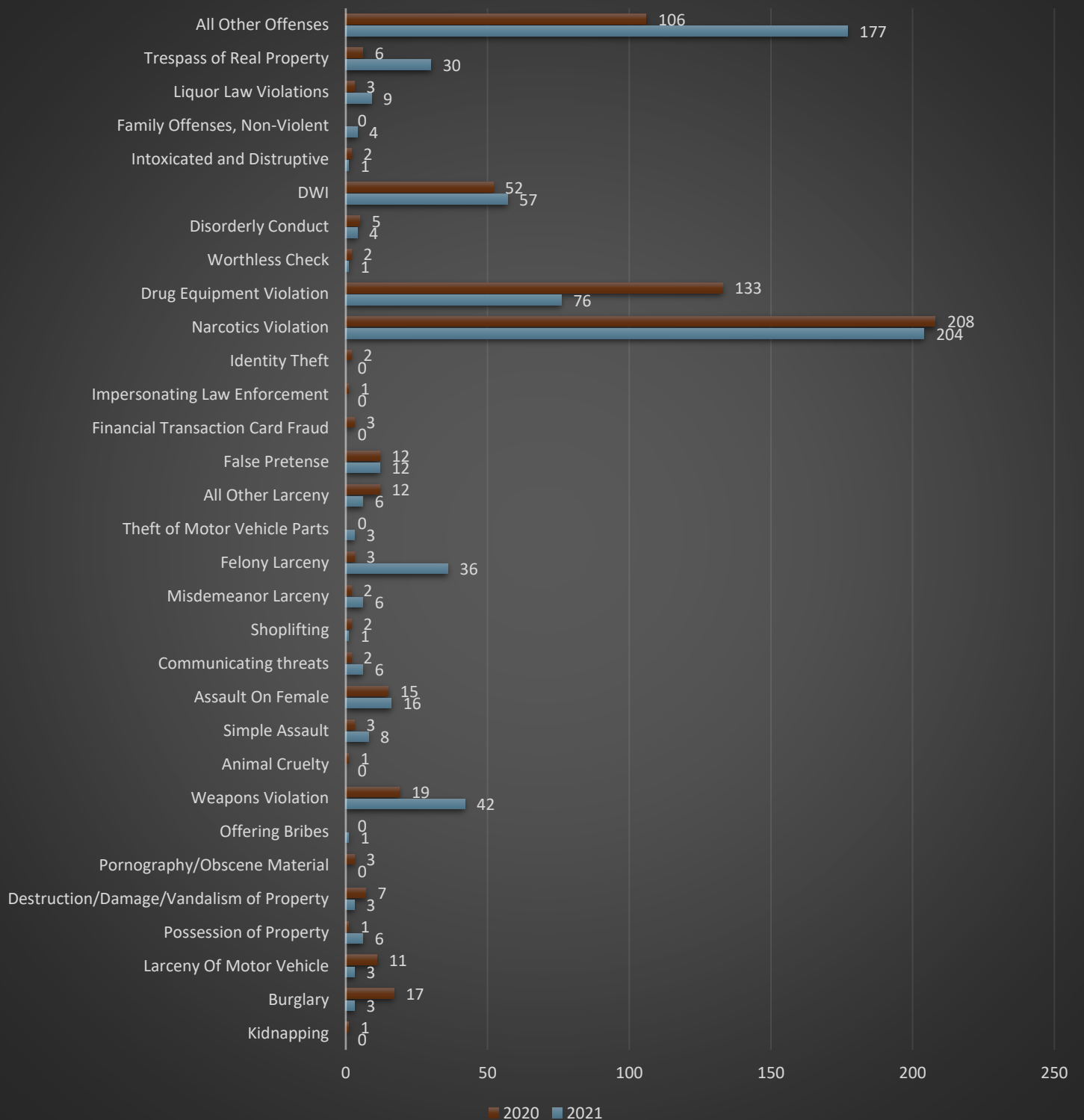
Feb 2020 Total Arrests: 48

Feb 2021 Total Arrests: 60

Rolling 12 Month Arrest Totals: March 1, 2020-February 28, 2021

(With Previous Year Same 12 Month Range):

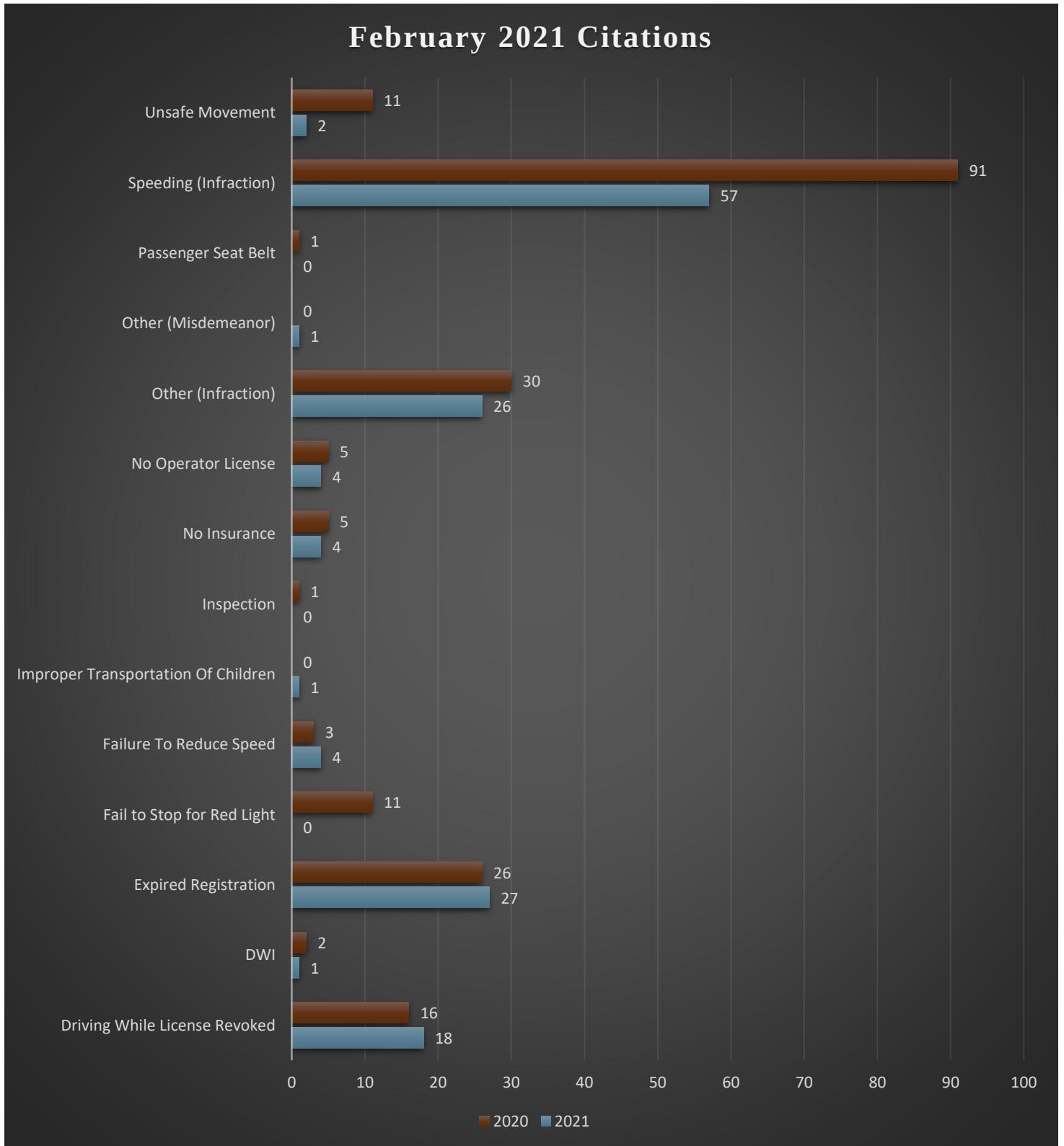
Arrests, March 1, 2020 - February 28, 2021



Rolling 12 Month Arrest Totals 2020: 633

Rolling 12 Month Arrest Totals 2021: 715

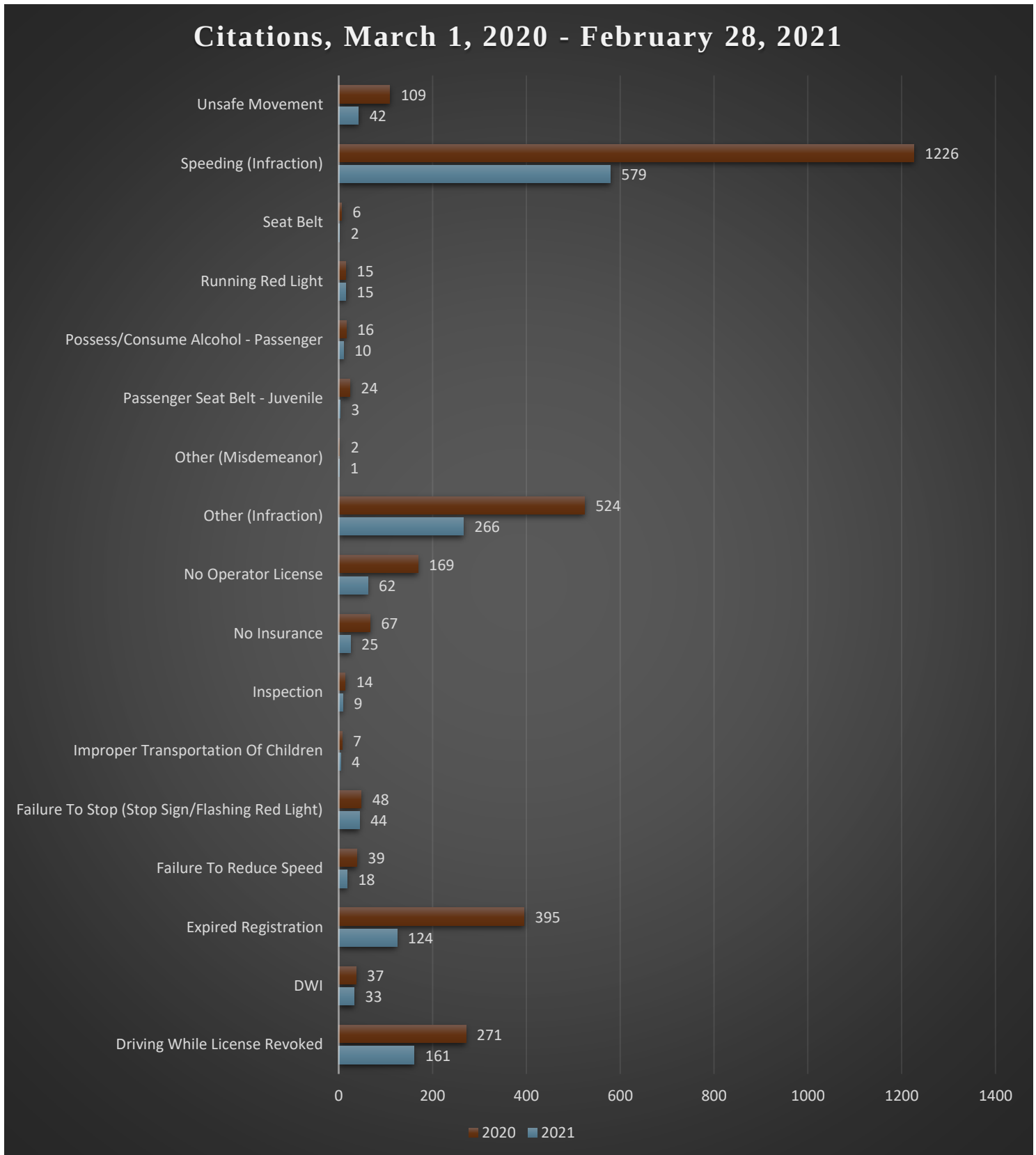
Citation Totals February, 2021 (With Previous Year / Same Month Range)



Feb 2020 Total Citations: 202

Feb 2021 Total Citations: 145

Rolling 12 Month Citation Totals: March 1, 2020- February 28, 2021
(With Previous Year Same 12 Month Range):



Rolling 12 Month 2020 Total Citations: 2969

Rolling 12 Month 2021 Total Citations: 1398

Notes

Property Crimes: Generally flat with property crimes. The one noticeable increase was reports of identity theft. This is connected to the Chase Card frauds that are occurring. This is a nationwide phenomenon and has been referred to the FBI. Our method for handling these now is to refer victims to the federal authorities to report it for a few reasons. The first is, the crime is not actually occurring here. The second is, at this time, none of our residents have lost any money. They are encouraged to check with the three credit agencies to make sure the cards aren't used, and if they are then we will complete a credit card fraud report. This is believed to have been made possible by a large data breach due to the scale of the fraud. The suspects are using information to open an account where Chase was giving a \$200 credit. They open the account with the victim's information and then withdraw the money. The cards are showing up to the address of the victim but are unused. So far only Chase is out any cash. Officers are providing contact information to anyone who reports this so they can notify the proper authority and we are logging the calls in the CAD for our records but just to reiterate, with no crime actually occurring here, we are no longer taking reports for this particular incident.

Crimes Against Persons: Generally flat, but as discussed last month, our officers are sensitive to Domestic Violence and make sure to take action where they can and offer to plug victims into services where possible.

Crimes Against Society: This again reflects good proactive work on the part of our officers. These results are almost always from traffic stops. 90J is listed in Society, however as discussed before this is essentially the NIBRs wording for entering an unlocked Motor Vehicle, better known as Breaking and Entering. I am working with Southern Software to move that category to the property tab.

Arrests: Arrests continue to be up, which reflects both self-initiated activity and more seasoned officers recognizing violations and making arrests. Based on the types of crimes being charged, I don't believe this indicates any specific shift in our population, but is part of the overall growth of the surrounding areas, as well as the hospital attracting more people from out of town.

Citations: We continue to focus our efforts within the Village Limits with a premium on quality of citation v. quantity of citation. Several of our newer officers are attending radar school soon to assist in our efforts at traffic enforcement. Efforts are also being made to be more visible. Though citations are a good tool, if the goal is to reduce speeds and traffic crashes, a balance of high visibility patrols paired enforcement can accomplish the goal of safer roads without relying solely on writing tickets.



HISTORY, CHARM, AND SOUTHERN HOSPITALITY

SUMMARY FOR THE MONTH OF FEBRUARY 2021

SUMMARY OF INCIDENT CALLS

	<i>NUMBER THIS MONTH</i>	<i>NUMBER FYTD</i>	<i>NUMBER THIS MONTH LAST YEAR</i>	<i>NUMBER FYTD LAST YEAR</i>	<i>PERCENTAGE YTD</i>
TYPE OF INCIDENT					
Fire	3	42	3	32	31%
Overpressure Rupture, Explosion, Overheat - no fire	0	5	0	4	25%
Rescue & EMS Incidents	64	439	53	383	15%
Hazardous Conditions - no fire	3	69	17	111	-38%
Service Call	25	242	27	237	2%
Good Intent Call	25	174	21	205	-15%
False Alarm & False Call	24	256	26	231	11%
Severe Weather & Natural Disaster	0	5	0	7	-29%
Special Incident Type	0	0	0	1	-100%
TOTAL INCIDENTS	144	1232	147	1211	2%

SUMMARY OF INSPECTION

	<i>NUMBER THIS MONTH</i>	<i>NUMBER FYTD</i>	<i>NUMBER THIS MONTH LAST YEAR</i>	<i>NUMBER FYTD LAST YEAR</i>	<i>PERCENTAGE YTD</i>
TYPE OF INSPECTIONS					
Residential	15	115	4	92	25%
Residential New Systems	0	0	0	0	0%
Residential Fire Sprinkler	12	32	0	0	3200%
Commercial	24	268	40	76	253%
Plan Review/Site Inspections	18	137	10	15	813%
Reinspection	17	175	4	99	77%
Occupancy Certificates	0	28	8	8	250%
TOTAL INSPECTIONS	86	755	66	290	160%
Violations Found:	17	356	35	113	215%
YTD Violations to be Corrected:		339		78	
YTD Violations Corrected:		340		65	
Correction Percentage:		100%		83%	

March 3, 2021

J. Carlton Cole, Fire Chief

FIRE DEPARTMENT

395 Magnolia Road • Pinehurst, NC 28374 • Telephone (910) 295-5575 • Fax (910) 295-4861 • www.vopnc.org



PINEHURST FIRE DEPARTMENT

By The Numbers - February 2021



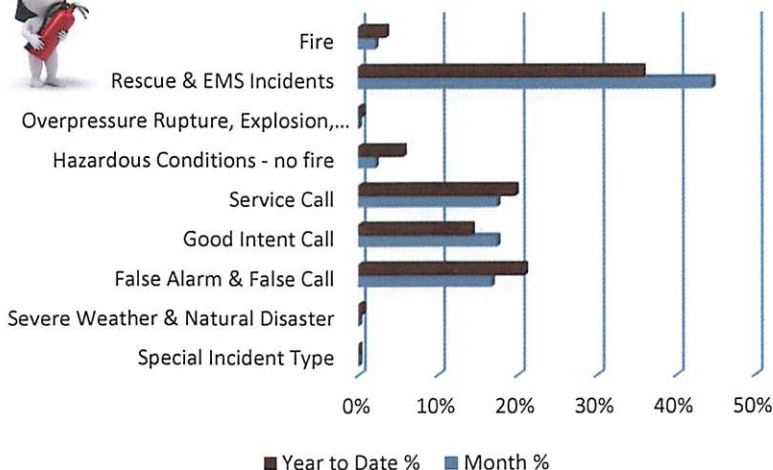
Month

Calls for Service **144**
 % Overlapping Incidents **15.97%**
 Busiest Day of Week **MON**
 Busiest Hour of Day **9AM/3PM**
 # of Times Staff Recalled **1**

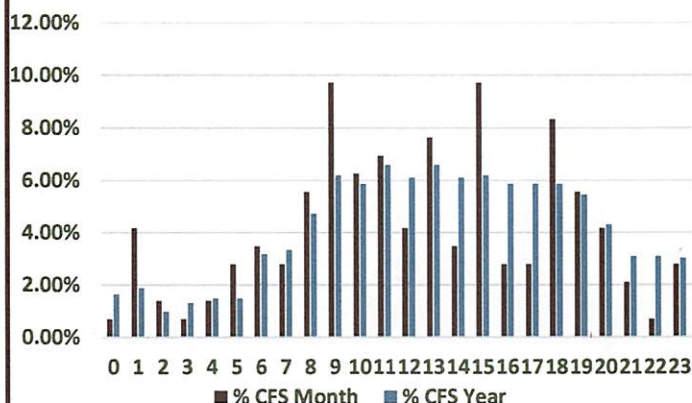
Year

Calls for Service **1232**
 % Overlapping Incidents **16.07%**
 Busiest day of Week **WED**
 Busiest Hour of Day **11AM/1PM**
 # of Times Staff Recalled **8**

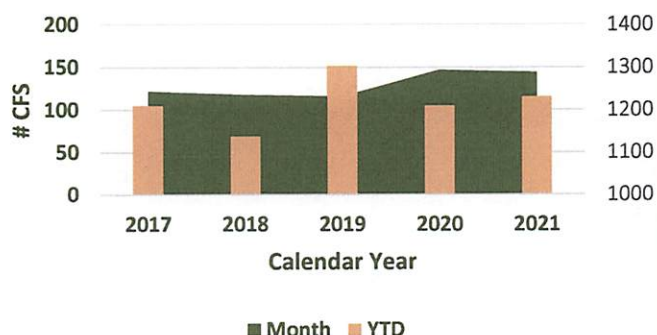
% of Calls for Service (CFS)



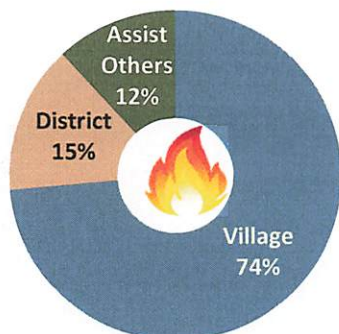
% CFS BY HOUR OF DAY



5 Year Comparison Through this Month of Year



LOCATION OF CFS FOR FY20



Inspections Completed this

MONTH **86**
 YEAR **755**

Code Violations Found this

MONTH **17**
 YEAR **356**

Percentage of Violations

Corrected YTD **100%**



Days Since Last Lost Time Accident in FD **381**

YTD Training Hours

IN HOUSE **3955**
 OUTSIDE **1472**



Public Awareness Contacts



MONTH **8,835**
 YTD **94,786**



APPROVAL OF VILLAGE COUNCIL MEETING MINUTES
ADDITIONAL AGENDA DETAILS:

March 9, 2021 Regular Meeting
March 9, 2021 Work Session
March 9, 2021 Closed Session

FROM:

Kelly Chance

CC:

Jeff Sanborn

DATE OF MEMO:

3/15/2021

MEMO DETAILS:

Attached are the draft minutes from the March 9th Regular meeting, Work session, and Closed Session.

ATTACHMENTS:

Description

- ☐ March 9, 2021 Regular Meeting
- ☐ March 9, 2021 Work Session



**VILLAGE COUNCIL
MINUTES FOR REGULAR MEETING OF MARCH 9, 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, March 9, 2021 in the Assembly Hall of Pinehurst Village Hall, 395 Magnolia Road, Pinehurst, North Carolina and via the electronic meeting platform ZOOM. The meeting was streamed in real time on the Village's website.

The following were in remote attendance:

Ms. Judy Davis, Mayor Pro Tem
Ms. Lydia Boesch, Councilmember
Mr. Kevin Drum, Councilmember
Ms. Jane Hogeman, Councilmember
Mr. Jeffrey M. Sanborn, Village Manager

The following were in attendance in Assembly Hall:

Mr. John C. Strickland, Mayor
Ms. Kelly Chance, Village Clerk

And approximately 28 attendees, including 3 staff and 0 press.

1. Call to Order.

Mayor Strickland, called the Village Council meeting to order.

2. Reports:

Village Manager

- All staff who wanted to take advantage of the Covid vaccine have now had their first dose. Current focus is on budget development and we are about two weeks out on internal review.

Village Council

- Mayor Strickland introduced Kelly Chance, the new Village Clerk and thanked Beth Dunn for the great job she has done and congratulated her on her new role in Human Resources. He stated the Covid situation continues to be severe, but is showing some improvement as we appear to be heading toward the 5% goal. He encouraged everyone to continue to wear masks, wash their hands, and stay distanced while we continue to follow state guidelines. Mayor Strickland and Councilmember Drum attended a meeting with the Aberdeen Carolina Western Railroad on Monday and stated we have an interest in their usage of rail passenger cars and may have future opportunities to partner with them during special events. He added that Rails and Trails had received a grant to improve their infrastructure and this would include adding a rail site in Pinehurst in a few months, which would indeed allow for their presence during special events.
- Mayor Pro Tem Davis stated she had no comments at this time.
- Councilmember Drum stated the Aberdeen Carolina Western Railroad did have quite an impressive operation at Candor and he appreciated the time and attention they were shown during their visit. He provided a Partners in Progress update, which

detailed a lot of interest in data and analytics around the aging work force. Councilmember Drum said the work force dynamics are changing due in part to more people working from home due to the Covid-19 pandemic, as well as an increased number of people retiring. He stated that we need to look further into early work force development for graduating students due to the upsweep of jobs that are coming to our area in the near future. He reported that data shows we have weaknesses in workforce development and working more closely with middle and high school students may be a great place to start.

- Councilmember Hogeman stated she had no comments at this time.
- Councilmember Boesch reported she recently presented to an area women's group about the Pinehurst Historic District and she looks forward to having more opportunities to share information with other interested groups.

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.

- Approval of Village Council Meeting Minutes.
 - February 18, 2021 Special Meeting
 - February 23, 2021 Regular Meeting
 - February 23, 2021 Work Session

End of Consent Agenda.

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

4. **Motion to Recess Regular Meeting and Enter into a Public Hearing.**

Upon a motion by Councilmember Hogeman, seconded by Councilmember Drum, Council unanimously approved to recess the regular meeting and enter into a public hearing, by a vote of 5-0.

5. **Public Hearing No. 1.**

Village Manager Jeffrey Sanborn stated there have been some changes to the Tree Ordinance the last discussion and stated that Darryn Burich, the Village of Pinehurst Planning and Inspections Director and his staff have been diligently working to develop a solid ordinance.

Darryn Burich, Planning and Inspections Director stated the Public Hearing No. 1 is a legislative public hearing per North Carolina General Statutes as it relates to the amendment of zoning regulations within the Village's jurisdiction. The purpose of these hearings are to solicit public comment on the proposed amendment. The public hearing was duly published and the record of this is on file in the Village Clerk's office. The proposed text amendments are to Section 9.5, Section 9.14 and Chapter 10 of the Pinehurst Development Ordinance (PDO) to address landscaping development standards. Definitions of the PDO updates are: **Section 9.5** will provide for purpose, definitions, clearing and grading applications and permits, tree survey requirements, tree removal standards, tree preservation credits, tree removal, exemptions and violations. (Undeveloped Lots) **Section 9.14** establishes buffer yard requirements for single family development versus existing tree requirements. **Chapter 10** most significant change relative to the definition of "development" which adopts the 160D standard.

Mr. Burich cited the VOP Original Land Use Policy (7/16/1981) states... The preservation of the environmental and aesthetic character of Pinehurst as it grows and develops will be controlled and accomplished by land use regulations made with reasonable consideration given to, among other things, the character of various areas of the Village and its environs and the unique suitability of these areas for particular uses, conservation and enhancement of property values, and encouraging the use of land in a manner which is most appropriate in view of the primary goal. He also shared how the Comprehensive Plans dating back to the 1995 Land Use Plan through the current 2019 Comp Plan has worked to enhance the character and charm of the landscaping throughout Pinehurst.

Mr. Burich stated the Planning & Inspections department has spent a lot of years working toward where we are now and this work continues to play a large role within the FY 2021 VOP Strategy Map for Planning & Inspections. He said current objectives under the plan are to enhance the current landscaping/buffering requirements with the PDO in line with the recently adopted 2019 Comprehensive Plan and specifically within the following areas: creating buffer yards for development, maintaining tree lined

streets, updating landscaping standards for single-family development, allowing credits for existing qualifying trees to meet the landscaping requirements, and allowing tree removal to continue. Mr. Burich pointed out that the Village does currently have a landscaping requirement, (SFD) 9.14.6 (A).

Alex Cameron, Village of Pinehurst Senior Planner explained that there were several NC General Statutes (NCGS) that outlined Enabling Grant of Power (Chapter 160D of the NC General Statutes (NCGS) and 160D-701) He stated that Statute 160D-702 specifically, states that a local government may adopt zoning regulations with specific exceptions, one of which is “*building design elements*.” In line with the explicit purpose and grant of power from the enabling legislation, staff specified the purpose and scope of the proposed ordinance located in Section 9.5.1. Mr. Burich and Mr. Cameron showed several illustrations depicting areas in Pinehurst with visual character vs. some new development areas with little to no tree and landscape buffer. Requirements for landscaping will be determined by the yard type, defined as front, side, Side Street, or rear and credits will be used to incentivize retention of existing, mature vegetation. Existing developed lots that do not exceed 50% of the Principal building floor area will have different requirements than proposed development lots that will exceed 50% of the Principal building floor area. How do we handle existing developed lots – proposed development doesn’t exceed 50% of the Principal building floor area.

The proposed ordinance creates a new section specifically to address clearing and grading of vacant parcels. It will require a “Clearing and Grading Permit” when there is no active application for a development permit as required by the PDO. The requirements of the information to be provided include a tree survey, proposed construction entrance and how the required standards will be met. Administrative Modifications may occur to satisfy tree preservation credits, to allow the preservation of trees within the building envelop if they are within a distance no greater than the required yard depth when insufficient trees are available for preservation, small trees may be used to avoid conflicts with overhead infrastructure, and may allow for credit of trees smaller than 8” DBH. Mr. Burich stated he felt the proposed ordinance is consistent with the 2019 Comprehensive Plan and cited page 124 under Guiding Principle 3 “Places to Live”, and page 204 under Guiding Principle 7 “All things Green: Parks, Open Spaces & Natural Resources” as his measuring standards. He stated the Planning and Zoning Board recommended approval of the ordinance and adopted the Statement of Consistency with the 2019 Comprehensive Plan.

Mayor Strickland stated that concludes the end of the staff report and opened the floor for Public Comments.

Public Comments:

- John Hoffman, present in-person, encouraged Mayor Strickland and the Members of Council, strongly support this effort to strengthen the effort and address tree preservation. Mr. Hoffman stated that builders and the Village must both absorb the blame for current conditions. He remarked about the wonderful memories of sand-clay pathways and alternating Magnolia and Holly trees and encouraged everyone to drive around the area of the New Pinehurst Elementary School and see the damage that has occurred. He encouraged Council to fix some of these barren areas and develop a TreeScape Plan
- Bart O'Connor of Donald Ross Drive, present in-person, submitted questions for review prior to the Council Meeting to all Councilmembers, the Town Manager, and Assistant Town Managers. Mr. O'Connor, a landscape designer who developed and worked on over 1000 landscape designs in Pinehurst, expressed his agreement with the objectives, and stated that he met with Alex Cameron and was provided with a better understanding of the proposed ordinance. He suggested that a landscape designer should have been part of the process and was ensured by Alex, this was not intentional. He further asks if the language could be made clearer, that a provision for circular drives be added, that language be included addressing newly planted trees that die, and that less strict mandates be included. Mr. O'Conner summarized his suggestions as, “Less verbiage, less direction, and less direction.” Mayor Strickland thanked him for his many years of service to the Village as a landscaper.
- Leo Santowasso, present in-person, stated he saw this ordinance amendment proposal essential for the preservation of existing trees. He stated that in prior meetings it has been discussed and examples of instances of clear-cutting noted. Mr. Santowasso stated he would like to see some new material added to affect the manner in which trees are removed from residential properties. He noted that in years prior the Village of Pinehurst charged the Planning and Zoning Board to find a solution, and work through a subcommittee had been started. He stated that following a rule implemented by Senator McGinnis, the subcommittees work was ceased. Mr. Santowasso stated that in the Fall of 2018, a Tree preservation committee formed to take on this task again, by requiring areas to keep screening and buffering purposes gives the village its ambience and charm and helped protect the existing trees as well as help add to the charm and life in the Village. A great

deal of research was done and a study of other areas, including Hilton Head, Charleston SC, and Aberdeen provided many items to consider for our Village. He argued it is essential to have a well thought out plan to help accomplish our goal, and because of this newness there must be jurisdiction to be able to take instances case by case (for example, circular driveways) by a local administrator. Administration should have the ability to make that change without going back through the whole process. Lastly, Mr. Santowasso agreed the proposed ordinance does compliment the 2019 Long Term Plan and he strongly urges Council to approve it and he thanked all the folks at Pinehurst Inspections and Planning and Natalie Hawkins for putting so much time into this.

- Mayor Strickland, read from a public comment, submitted via email, by Larry Johnson. Mr. Johnson wrote, "I recently was informed about the upcoming vote on the new tree ordinance that would create a fee from the village if the homeowner has a tree removed. I understand the concern to keep the look of Pinehurst intact. However, with that said, this seems to be just a way to generate more revenue. First, the trees are part of the property which the homeowner owns, and are not owned by the village. So for the village to charge the homeowner a fee to remove something that belongs to the homeowner seems unfair. Second and more importantly, more homeowners have a tree removed either when the tree is not healthy or is a threat to property or life. It will be the homeowners who has to bear the responsibility of the damage that a fallen tree causes. I do not see the village standing up to take that roll. Lastly I will be following to see which members of the village council vote yes on this ordinance. It will help me make my decision on how to cast my vote the next election. I would encourage all other residents of Pinehurst to feel the same way when they go to the polls next time." Mayor stated the Village of Pinehurst will reach out to those making public comments and clarify and correct any misunderstandings about the purpose and content of the ordinance.
- Kelly Chance, Village Clerk, read from a public comment, submitted via email, by Allen Ashdown. Mr. Ashdown wrote, "I propose a definite NO to this Proposal."
- Kelly Chance, Village Clerk, read from a public comment, submitted via email, by Paula Nash. Ms. Nash, Executive Officer with the Moore County Home Builders Association stated, "The official comment from the Moore County Home Builders Association is, we appreciate our working relationship with the current staff and the Village Council. We have met and discussed the proposed ordinance at length. Alex and Darryn have been very helpful fostering a better relationship with our association. We would like to request that the ordinance be placed on hold to allow VOP staff to work with our association to come up with a solution that will prevent broad stroke clear cutting of lots mainly by large developments and not place the burden on our builders developing single lots. We understand that most of the issues come from major subdivisions and those are few and far between in our Pinehurst area. The single lot development will suffer the most when we do not feel this is the intent of the ordinance. We stand with staff on saving trees and preserving the appearance of Pinehurst. We request the Village Council help us build our community by working together. Please table the ordinance and let's find a way to accomplish the end goal without punishing the innocent builders that work hard to preserve our Pinehurst image. Again, we thank Alex, Cameron and Jeremy Hooper for their willingness to foster a beneficial partnership with our association and its members."
- Mayor Strickland paraphrased a lengthy public comment, submitted via email, by Bob Van Houten. Mr. Van Houten, President of BVH Construction said, "The bottom line is, I do believe as a builder we should do our best to preserve trees and the aesthetics of Pinehurst and surrounding areas where we can. I see few reasons for a clear cut lot outside of a lot that just had all Black Jack Oaks on it. If that is the case, then the owner should not be penalized for what Mother Nature gave them by having to plant thousands of dollars' worth of trees." Mr. Van Houten stated he found the new regulations confusing and cumbersome, and his main concerns were for the new potential of development in the ETJ, and for the added cost this is going to impose on the taxpayer and consumers. He noted we can't stop progress, but we can certainly work together to control it in a positive light that not only protects the current investments in our homes, but also that of the folks that want to move here and enjoy what we have.
- Mayor Strickland paraphrased a lengthy public comment, submitted via email, by Densel Williams. Mr. Williams, of Integrity Builders of the Sandhills LLC, expressed his concern about how a tree ordinance fits into the powers granted by a Municipality Charter, which he stated in its simplest form, empowers the Municipality to provide for the health and safety of its citizens, while providing the necessary services. He noted he felt the ordinance, as proposed, was more than a "minor" change to the existing landscape guidelines and it appears to be a "one size fits all." Mr. Williams stated this could interfere with safe and sound construction practices and that engineers do not suggest large trees any closer than 15 feet to the foundation, especially pines, as their root system can cause damage to the foundation. He stated the amendments do not address the issue of drainage or legality issues, such as damage caused by a tree that a municipality requires to be left.

Lastly, Mr. Williams stated it is illegal under current state law as Pinehurst has not received authority for a Tree Ordinance from the North Carolina legislature and our two state legislators are on record as opposed to the proposed ordinance. He asks that the vote be delayed to allow all affected parties time to study, if the real intent is to provide esthetic buffers on our streets.

Mayor Strickland asked if there were any questions from Councilmembers to staff. Councilmember Hogeman stated she had a question on 9.14.6, on page 20, which speaks to the spacing of trees. She inquired that if you needed a tree every 15 feet and if so, why do we space them at 7.5 feet. Staff explained that due to the tree's expansion width equaling 15 foot, they require planting at 7.5' on center to allow for this expansion to create a closed buffer. Councilmember Hogeman stated there are some neighborhoods, such as Pinewild, who have covenants in place already that do not want trees along the property line to look like a fence line, and they want to preserve lake and golf course views. She stated they also have actual easements on certain lots that keep owners from blocking their neighbor. She asked if the Village Planner could do a modification that states a subdivision with existing covenants are exempt so homeowners do not get caught in the middle. Darryn Burich acknowledged that they have not come to a definitive answer on addressing subdivisions with covenants. Councilmember Boesch said she has spoken to Pinewild representatives and she will forward those comments to him. Darryn stated that because subdivision lots are typically zoned R30, he did not feel they will be affected because of the size allocations.

6. Motion to Adjourn Public Hearing and Re-Enter Regular Meeting.

Upon a motion by Mayor Pro Tem Davis, seconded by Councilmember Boesch, Council unanimously approved to adjourn the public hearing and re-enter the regular meeting, by a vote of 5-0.

Village Manager Sanborn suggested we pause the discussion on the Tree Ordinance to give staff time to look at the comments and review and address any misunderstandings about the ordinance. Mayor Strickland agreed and said we do need to reach back out to those who have commented to clear up those misunderstandings. Alex, Senior Planner stated that a lot of the comments are really regulations that they did not look at because they were not part of the conversation. Mayor Pro Tem Davis said she is grateful for the robust community comments and input and stated she would like Council to consider looking at areas that may need trees planted, such as along Midland Road, along our ride-away.

Councilmember Drum praised the innovative idea of giving quadruple credit for a large (Legacy) tree, which means if a property owner currently has large trees on their lot, they may not have to do anything. He agreed the proposed ordinance needs to be more simplified and clearer. Staff said they will take a look at it again and try to simplify a few suggestions but to do all sections will take several months. Councilmember Drum suggests that staff maybe do a summary document to better clarify the ordinance. Mayor Pro Tem Davis said she admires the work that has gone into the ordinance, with protecting the parameters and allowing the owners to use the entire building envelope. Mayor Strickland said we should all acknowledge the amount of work the Planning and Zoning Board has put into this proposal over the past two or three years.

Council all agreed to place the proposed Tree Ordinance on the agenda for the next regularly scheduled Council meeting.

7. Consider Budget Amendment for Potential Land Acquisition.

Village Manager Sanborn stated the purpose of this item is to discuss adding funds to the Fire Department's Capital Budget to potentially acquire land for a future Fire Station.

Brooke Hunter, VOP Financial Services Director stated the amendment is to move \$162,000 from Fund Balance to the Fire Department's capital budget to increase the available funds for potential land acquisition to \$180,000. She noted that the Village had originally budgeted funds in the Fire Department's budget in the event we found an appropriate parcel of land to acquire however, we transferred most of those funds to the Parks and Recreation Department earlier this year to purchase seven (7) acres adjacent to West Pinehurst Park. This action would restore those funds to the Fire Department's budget.

Upon a motion by Councilmember Boesch, seconded by Councilmember Hogeman, Council unanimously approved ordinance 21-05 amending the ordinance appropriating funds for operations, regarding revenues and expenditures of the General Fund for the Village of Pinehurst, by a vote of 5-0.

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

Village Manager Sanborn stated the purpose of this item is to discuss the sale of surplus assets.

Brooke Hunter, Financial Services Director, stated Village Ordinance #17-02 authorizes the Village Manager to sell surplus assets with an estimated market value of less than \$10,000. The two items listed on the attached resolution could potentially bring over \$10,000 at auction. These items include a 2004 Ford F-650 (formerly used as Fire Department rescue truck) and a 2006 Harley Electra Glide motorcycle (formerly used in Police Department). We are requesting that the Council adopt the attached resolution authorizing the sale of the listed assets. These items will be listed on the Village's GovDeals electronic auction website.

Upon a motion by Councilmember Boesch, seconded by Councilmember Hogeman, Council unanimously approved resolution 21-06 authorizing the Village Manager to dispose of certain surplus capital assets for the Village of Pinehurst, by a vote of 5-0.

9. Other Business.

- Councilmember Drum suggested we follow up on Mayor Pro Tem Davis's recommendation to plant trees in those locations that need them and to work with staff to ensure we follow any existing procedures.

10. Comments from Attendees.

- Kelly Chance, Village Clerk, read from a public comment, submitted via email, by Linda Vandercook. Ms. Vandercook of Whispering Pines wrote, "Dear Village Council, Thank you for the opportunity to submit a public comment. Lydia Boesch represents the vast, and long-standing, majority of local residents in her efforts to expose the state mask mandate abuse. We support her fully and wish the council to join her in her efforts, guaranteeing us our constitutional rights."
- Kelly Chance, Village Clerk, read from a public comment, submitted via email, by James Huggins. Mr. Huggins of the Donald Ross neighborhood wrote, "Councilmembers, please consider incentives to private property owners when you consider Text Amendments to Section 9.5, Section 9.14, and Chapter 10 of the Pinehurst Development Ordinance to address landscaping and buffering standards. Frustrations must not lead to rules that seek to take away the rights of private property owners. If property restrictions are to be imposed, then any such restriction(s) should be placed before the Citizens of this great Village for their vote. Thank you for your consideration of our comment with Kind Regards."
- Kelly Chance, Village Clerk, read from a public comment, submitted via email, by Kevin Lewis. Mr. Lewis of Carthage wrote, "Village Council, I lived in Pinehurst for twenty five years and wrote over 600 articles on the village and county for over 10 years for The Fayetteville Observer and the Sandhills Citizen. I now live in the County Seat of Moore County, but I am proud of our tourist industry. Therefore, I was saddened to see the Village Councilwoman Lydia Boesch put her allegiance to Steven Woodward and the Moore County Republican newsletter over her oath to protect and serve the Village of Pinehurst and its merchants. She put her name as the point of contact on a false statement proclaiming that the mask mandate and social distancing is over. The merchants of Pinehurst and neighboring towns were threatened with economic ruin by Republican volunteers if they did not take the poster and display it on March 1. She overrode a state mandate on masks at the direction of Steven Woodward and his unnamed allies. If visitors to Pinehurst saw businesses not complying with health directives, our standing as a tourist destination would be compromised in travel publications. After The Pilot in April published the photo of Lydia Boesch handing over hundreds of handmade masks to First Health, I called her to applaud her only to be told that she herself didn't wear a mask on her trips to the hardware and supermarket stores. I asked her why she publicly participated in a photo opportunity when she didn't believe in the mask herself, only to be told "Oh well" and concluded the call. Lydia Boesch did not succumb to COVID, but I hope she remembers, as we should, the Villagers who did."
- Kelly Chance, Village Clerk, read from a public comment, submitted via email, by Steve Woodward. Mr. Woodward wrote, "Good evening. Mask enforcers do all of us a favor by concealing their expressions of self-righteous indignation. But consider their persistent disregard for the damage caused by capacity limits on restaurants and bars; by classroom closures, disregarding their dire consequences for children; and by the dangerous psychological effects of the stay-at-home mentality. These, sadly, are on full display even now, even as many states and communities are saying, simply, enough. I support Lydia Boesch of this Council, and Mitch Lancaster of Southern Pines, and the volunteers who lead Freedom Matters NC. The Pilot's characterization of Lydia, Mitch and their fellow patriots as bullies seeking to shame business owners is outright fiction. Lydia has repeated many times that we all need to behave responsibly. Responsibility is making an effort to separate truth from those peddling politicized falsehoods. Freedom is God given, enshrined in our Constitution and, thus, we must never yield to those driven by political agendas disguised as public safety campaigns."
- Justin Bradford, Pinehurst resident, present in-person, stated he wanted to speak on misinformation tonight. I want to point out that we are existing in a time where white privilege is prevalent, for example, I ask this gentleman to give me some space and he refused. I have never lived in a place where you can break a law and there is nothing done. I think it is appropriate that Mr. Woodward submitted comments tonight, as I have a degree in the same area as Mr. Woodward. This group

"Freedom Matters" has a marketing campaign spreading propaganda. Steve Woodward uses words such as uprising and Councilmember Boesch put her name to it and she and this group went out and distributed flyers. I had a conversation with Village Manager Sanborn about it. The people I spoke with don't want their names out, but also don't want to be inconvenienced. 500,000 American's are dead and I deal with clients that I want to protect so I wear a mask. I don't have the luxury to stay home and work. One of the businesses I owned was completely destroyed. I have empathy for people who have lost businesses. At the same time, I have a Councilmember who has distributed propaganda flyers against mask wearing in Southern Pines. If we talk about the values and mission statement for here in Pinehurst, how are we being a good team member if we have an elected city council official partnering with this group, handing out disinformation with no citations? I am going to keep wearing a mask. This is not a place I want to live anymore.

- Mayor Strickland reminded those in attendance in-person of the requirement to wear a mask for the safety of others and that if a mask is needed, there were some located at the back table.
- David Peter Green, Freedom Matters representative, present in-person, stated my wife and I live on Linden Road and have been here about six years and have had several businesses. I am a master mason I also work for Moore County school system. I am here tonight to declare that Freedom Matters is a peaceful bi-partisan group and our only goal is to stand up for the freedoms our constitution has provided us. We are peaceful and not insurrectionists. We feel it is our responsibility to educate when our civil liberties are being inhibited by one man in Raleigh. On behalf of the Freedom Matters, we would like to share our support for Councilmember Lydia Boesch. She has been degraded in our county and has been vilified in the Pilot. I have listened to the half-truths, which I know are not true because I know what goes on at these meetings. I would like to see the Mayor and the council stand with Boesch. It seems to me that we are letting Raleigh dictate how Pinehurst needs to be run. We have failed to put our kids back in school, let long-standing businesses disappear. There are mandates that there are provisions in the mask mandate that allow for medical reasons for not wearing a mask. It is sad that the community has come to allow bullying. We would like to see council to concentrate more on moving our community back to safety and economical security instead of a tree ordinance. I hope that just because you have councilmember in front of your name you do not think you are infallible. Do not let one man in Raleigh dictate what we do in our community.
- Mayor Strickland again reminded those in attendance in-person of the requirement to wear a mask for the safety of others but, it is noted that many present refused to comply.
- Alan Bench, Freedom Matters representative, present in-person, stated Justin was right about one thing. There is a lot of misinformation on both sides. What is right, is getting everything back to normal. The numbers show other areas are opening up. Why are we not doing the same thing here?
- Sue Forsythe Green, Freedom Matters representative, present in-person, read from a statement from Mr. Rayes, another Freedom Matters representative that stated, Village Council must see the harmful and unconstitutional restrictions that have been imposed on us. Covid-19 restrictions have placed a heavy burden on our community and our school children are suffering from depression. There is an increase in alcohol abuse and domestic violence. We the people are fully capable of assessing the risks and I ask you to hold a public meeting and get the community's input. I would like to see the Council declare Pinehurst a sanctuary and uphold your constitutional duties.

Mayor Strickland advised that Council will take all comments into consideration.

11. Motion to Adjourn the Regular Meeting.

Upon a motion by Mayor Pro Tem Davis, seconded by Councilmember Drum, Council unanimously approved to adjourn the regular meeting, by a vote of 5-0 at 7:09 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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**VILLAGE COUNCIL
MINUTES FOR WORK SESSION OF MARCH 9, 2021
ASSEMBLY HALL
395 MAGNOLIA ROAD
PINEHURST, NORTH CAROLINA**

IMMEDIATELY FOLLOWING THE REGULAR MEETING

The Pinehurst Village Council held a work session at 7:16 p.m., Tuesday, March 9, 2021, in the Assembly Hall of Pinehurst Village Hall, 395 Magnolia Road, Pinehurst, North Carolina and via the electronic meeting platform ZOOM. The meeting was streamed in real time on the Village's website.

The follow were in remote attendance:

Ms. Judy Davis, Mayor Pro Tem
Ms. Lydia Boesch, Councilmember
Mr. Kevin Drum, Councilmember
Ms. Jane Hogeman, Councilmember
Mr. Jeffrey Sanborn, Village Manager
Mr. Mike Newman, Village Attorney

The following were in attendance in Assembly Hall:

Mr. John C. Strickland, Mayor
Ms. Kelly Chance, Village Clerk

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 Local Bill Request.

Mayor Strickland explained that on February 23rd, some received a letter from Senator McGinnis's office indicating submission of local bills for state senate was due to be in place by February 25th. We chose not to do anything about that deadline because we had a meeting prearranged with Representative Boles. At that meeting we did talk about some local bills ideas. We were made aware that the House had a deadline is different so we decided upon that route. We were told by a representative of Boles office, if you submit a placeholder to the senate, it provides some time to work on the bill language. If you submit to the house you have to supply more information unlike the Senate procedure. Jeff and I met and discussed some of the issues we wanted to put in the bill. Judy read through it and supplied some comments. Deadline to submit is March 25th for a rough draft to Jamie Boles office. We have access to a bill writing group which exists in State government who writes the bill to specific terms. We want to look at the commentary between what we currently have and add some input and submit it this week to have time to get it to those who will put it into the correct wording. There is an element to supporting the states commitment to the USGA and the benefit it will bring to the state of NC. Things we might do here will help support this from a local standpoint. Hope is to submit a placeholder bill. Let's reflect over the next couple of days to look over it. Village Attorney Mike Newman stated he had not further details to add.

Councilmember Boesch asked if the conversations with Senator McGinnis and Representative Boles led to what our local delegates might be willing to give us. Mayor Strickland stated that something around transportation might take place, but nothing concrete at the moment. Jeff suggests sending to a local bill writer and see what we come up with around language and might actually be presentable and approvable. Mayor Strickland said it will likely not come about this year, but hopefully will in a year from now. Mayor Pro Tem Judy stated that transportation upgrades on 5 would be beneficial and definitely in alignment with

Pinehurst needs with the USGA coming. Councilmember Drum said basically everything we have planned to do, we just do it. Maybe just work as a state to accelerate it. With the growth in the State of NC, and the likelihood of future big events, this just seems like a natural step. We need to be successful.

Councilmember Boesch stated we have never had so many major golf events and it is best to ask for help now before it is too late. Councilmember Drum said if our state delegation was involved it would be easier to get USGA impacts projects done. If we were working on that together we would be more successful instead of just looking for money. They do want us to be successful and a mutual agreement would be helpful. We want to be the best Stewarts and make sure everything we do is for the benefit of our community. Mayor Strickland said Councilmember Hogeman had an idea of a preamble. She explained that we are doing the work in the village in the context of making things better on the regional front and so it starts with the Village.

Councilmember Drum stated we must show that this is bigger than us! Village Manager Sanborn said there is more at stake with our traffic because USGA has come with this commitment for an anchor site and we want this to be a long term commitment after the 5 hosted US opens. Councilmember Drum said this is different than just the singular US opens we have held in the past. Our traffic patterns are different now and the expectations are higher for us as "the home of American Golf".

Mayor Strickland stated that he would share some information of some local bill examples with the rest of council some information he received from Representative Bole's office. So we will reflect on this and Jeff and I will get back with you in a few days with some more ideas and direction.

3. Other Work Session Business.

- Mayor Strickland stated that in 2022 it is Olmstead Villages 200th and Donald Ross's 150th Celebrations. Councilmember Boesch and Mayor Strickland had a conversation with Paul Dunn and wanted the council to be aware of these. Councilmember Boesch and Mayor Strickland had a talk with the NPS Consulting Study consultant as well. Councilmember Boesch said she just wanted to note that the Olmstead Committee kept pointing out that beauty was something really pushed. This really tied in with the National Park Service and we really need to see how we can use the consultant on some potential projects we have going on in the village. Mayor Strickland said we might want to work with Tufts archives to see if there was anything discussed with the Olmstead. We need to be mindful to work with the National Park Service and the Olmstead Society.
- Village Manager Sanborn reports that data DHHS site shows the same as October really and we were doing in person meetings then. Staff has had first shot and by the time the next meeting we will have the 2nd shot. So it should be okay the to begin meeting in-person at our 1st Meeting of April subject to any unforeseen problems
- Mayor Strickland said we will continue to work on the Occupancy Tax and he said he spoke with Rodney Ferrell and Aberdeen agrees that it needs increased by 3% and he says move forward and made it clear they do want a part of the monies and this is the same for Southern Pines. Mayor Strickland said he will talk further with Councilmember Hogeman on her views.

4. Potential Future Agenda Items.

- Councilmember Hogeman said she would like us to add Focus Area 5 to our future agenda discussions.
- Mayor Strickland said we will continue to work on the local bills

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

Upon a motion by Councilmember Hogeman, seconded by Councilmember Boesch, Council unanimously approved to recess the work session and enter into a closed session pursuant to NCGS §143-318.11(a)(5)(i) 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 (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease, by a vote of 5-0.

6. Closed Session.

Council held a closed session to discuss the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease.

7. Motion to adjourn the Closed Session and Re-enter the Work Session.

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

8. Motion to Adjourn.

Upon a motion by Councilmember Hogeman, seconded by Councilmember Boesch, Council unanimously approved to adjourn the work session, by a vote 5-0, at 9:15 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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**DISCUSS AND CONSIDER ORDINANCE #21-06 FOR PROPOSED
AMENDMENT TO THE PINEHURST DEVELOPMENT ORDINANCE
ADDITIONAL AGENDA DETAILS:**

FROM:

Darryn Burich & Alex Cameron

CC:

Jeff Sanborn & Natalie Hawkins

DATE OF MEMO:

3/18/2021

MEMO DETAILS:

This agenda item is to discuss and further consider Ordinance #21-06 for proposed amendments to the Pinehurst Development Ordinance (PDO). These amendments to Section 9.5, Section 9.14 and Chapter 10 of the Pinehurst Development Ordinance would establish additional buffer yards related to development activity. The text amendments would also incentivize tree retention through establishment of planting credits to offset buffer yard planting related to development activity.

1. Section 9.5 will provide for purpose, definitions, clearing and grading applications and permits, tree survey requirements, tree removal standards, tree retention credits, exemptions and violations.
2. Section 9.14 will address tree retention and planting requirements for single family lots including tree preservation credits, spacing, modifications to preserve trees, trees removed in violation, and continual maintenance.
3. Chapter 10 will include definitions for clearing and grading, development, protected trees, redevelopment, specimen trees, and buffer yards.

Following the March 9th public hearing, staff and Council received several comments on the proposed amendments. In addition to the material included with the March 9th public hearing agenda item, also attached are an updated staff memo and revised draft ordinance with staff suggested changes.

ATTACHMENTS:

Description

- ☐ 3.17.2021 Staff Memo
- ☐ Draft Ordinance with Staff Suggested Changes
- ☐ 3.9.2021 Staff Memo
- ☐ Attachment A: Comprehensive Plan Consistency Statement
- ☐ Staff Report by Senior Planner
- ☐ Planning & Zoning Board Consistency Statement
- ☐ Draft Ordinance 21-06 Updated
- ☐ Draft Ordinance 21-06 Updated
- ☐ Public Comments Submitted 3.9.2021



PLANNING AND INSPECTIONS DEPARTMENT COUNCIL STAFF MEMO

To: Mayor Strickland and Village Council
From: Alex Cameron, Senior Planner
Kathy Liles, Senior Planner
Darryn Burich, Director of Planning and Inspections
Cc: Jeff Sanborn, Village Manager
Natalie Dean Hawkins, Assistant Village Manager
Kelly Chance, Village Clerk
Date: March 17, 2021
Subject: Proposed PDO Amendments to create buffer development standards in Sections 9.5 and 9.14.6 of the Pinehurst Development Ordinance.

This staff memo supplements the previous staff reports/memos included in the Council's March 9th agenda packet for the public hearing item of the same subject

During the public hearing and subsequent 24 hour public comment period following the March 9th public hearing, comments from members of the public as well from Council were given on the proposed amendments. Staff met with Council members, builders, and the Moore County Home Builders Association. These interactions have allowed for identification of code that remains unchanged except for formatting, minor modifications for clarification of the proposed text, and consolidation of issues of concern from Council. This memo intends to summarize and seek Council feedback on comments or issues of concern. Staff proposes minor modifications to the ordinance and seeks feedback from Council before making additional changes to the proposed text.

Staff Proposed Minor Modifications:

- A. The column in Table 9.14.6 for spacing requirements created confusion for many. It is equivalent to the proposed language that allows for the 15' tree separation to be staggered. Staff recommends removing that column all together.
 - B. A table has been added to 9.5.1.4 to make it plain that property can be cleared and graded but trees must be replanted if removed. The table specifies the tree sizes to be planted to be consistent with the language in Section 9.14.6.
-

- C. Potential conflicts with private deed restricted communities that have separate planting or preservation requirements was discussed at the previous meeting. The required buffer yards are based on the front, side street, side and rear setbacks in the zoning district. In the PDO, golf course/lakefront setbacks are different setbacks. Therefore, the rear or side buffer yard standard would not apply. Staff can provide language in the draft ordinance to make this clearer and alleviate any potential conflicts.

Items for Further Council Discussion and Consideration:

A. Tree Spacing/Grouping

Many comments were made concerning the required spacing and grouping.

- Adequate room for required plantings in the side yard and impacts with the building footprint and proper grading and drainage.
- Front yard vistas.
- Not allowing for flexibility in landscape design.

The draft ordinance allows for grouping if receiving credit for existing trees so long as there is no space less than one tree per 35 linear feet. Currently, no grouping or alternate spacing is allowed for newly planted trees. The intent of the spacing requirements was to maintain buffering as stated in the purpose and scope. Allowing for grouping of existing trees was another way to incentivize preservation.

Council could consider any of these options:

1. Allow for grouping and alternate spacing for newly planted trees.
2. Increase the 35 linear foot maximum spacing requirement to allow “vistas” to be created within the buffer yards.
3. Consider no spacing requirements for newly planted trees or trees preserved to meet the buffer yard requirements. The required number of trees would still need to be planted or retained within the applicable buffer yards but there would be no minimum or maximum spacing between the trees.

B. One Tree Per 15 Linear Feet of Street Frontage Requirement/A Single 20’ Driveway Credit

Staff recommended this number based on the language in the 2019 Comprehensive Plan which states “it is critically important to the character of Pinehurst that it maintain its tree-lined corridors and encourage the preservation of trees on both public and private property.” Also, a higher planting ratio along the street frontage increases the buffer against the light and noise generated from activity within the right-of-way and is consistent with the purpose and scope of the ordinance.

Comments received included:

- Too stringent
- Restricts second driveway

Council could consider the following options:

1. Leave unchanged.
2. Adjust the calculation for front and side street buffer yards.
3. Additional driveway credit.

C. 50% of The Required Plantings For Single-Family Development Be Longleaf Pines

Staff recommended this based on the 2019 Comprehensive Plan which states the Village should strive to enhance and protect the longleaf pine-wiregrass ecosystem.

Comments received included:

- Plant selection is a personal choice
- Loss rate

Council could consider the following options:

1. Leave unchanged.
2. Apply this standard to front and side street buffer yards only.
3. Allow any tree listed on Appendix F of the PDO.

D. Tree Survey

The requirement to provide a tree survey for all clearing and grading applications and other development applications was to document the location, size and type of existing trees. This topic opens up who can prepare a submittal to document compliance with the standards.

Comments received included:

- Too costly
- Constrains who can document compliance with the standards

Council could consider the following options:

1. Leave unchanged.
2. Eliminate the survey requirement in lieu of providing a landscape plan that documents compliance with the buffer yard requirements via new plantings or retained trees or combination thereof.

E. Trees Removed in Violation

At the March 9th meeting staff recommended revising the text to Section 9.5.1.7 Trees Removed in Violation to:

9.5.1.7 Trees Removed in Violation. Replacement trees shall be planted according to Section/Table 9.5.1.4.

Council could consider the following options:

1. Leave unchanged.
2. Agree with the staff recommendation.

Staff Recommendation

Staff has made minor changes to the ordinance which are shown as being striked through and highlighted red for deletions and green highlights for additions. The staff recommended change to Trees Removed in Violation is highlighted in yellow. No significant adjustments have been made to the draft ordinance based on public comment or individual feedback from Council members. Staff feels that additional direction is needed from Council before making any significant adjustments to the draft ordinance. At this point Council could choose to act on the updated ordinance which could also include adjustments based on Council deliberation at its March 23rd meeting. Alternatively if significant changes are desired, staff recommends moving action on the ordinance until April 27th and holding a work session on April 13th to consider additional changes.

AN ORDINANCE AMENDING THE VILLAGE OF PINEHURST DEVELOPMENT ORDINANCE

Whereas development impacts adjoining uses and properties and can be impacted by adjoining uses and properties through an absence or elimination of vegetative buffering; and

Whereas development can be impacted by the impacts from activities that occur in adjacent rights-of-way including traffic, noise, dust, and odor through and absence or elimination of vegetative buffering; and

Whereas development impacts the overall visual character of the Village and the ETJ through the elimination or absence of vegetative buffering; and

Whereas these regulations will help to mitigate the aforementioned development impacts through creation of vegetated tree lined buffer yards; and

Whereas these regulations also contain provisions to incentivize the use of existing qualifying vegetation to provide buffering; and

Whereas these regulations are consistent with Guiding Principle 1 of the 2019 Comprehensive Plan to retain the small-town charm, scale, and character of the community to ensure a high quality life; and

Whereas these regulations are consistent with Guiding Principle 3 of the 2019 Comprehensive Plan to protect and enhance the quality and character of existing residential neighborhoods; and

Whereas these regulations are consistent with Guiding Principle 7 of the 2019 Comprehensive Plan to preserve, conserve, and feature Pinehurst's natural resources; and

Whereas the 2019 Comprehensive Plan was adopted by the Pinehurst Village Council on October 22, 2019 after undergoing a planning process supported by extensive and robust public participation that included residents, business owners, local interest groups, and elected and appointed officials; and

Whereas the 2019 Comprehensive Plan is the result of thoughtful public conversations spanning over one year and represents a path forward for the Village of Pinehurst to achieve its vision.

Now, be it ordained by the Village of Pinehurst Village Council that:

The following amendments to the Pinehurst Development Ordinance shall be made.

Section 1. The Village of Pinehurst Development Ordinance Chapter 9 Section 9.5 *Landscaping Requirements*, Section 9.14.6 *Tree Conservation and Newly Installed Trees and Plants* is amended to include the following.

Section 9.5 Landscaping and Buffering Requirements

Part 1. General Standards

9.5.1. Purpose and Scope

The regulations of this Section are intended to create buffer yards associated with development of parcels within the Village of Pinehurst and its ETJ. Buffer yards help to moderate visual contact, create spatial separation, and minimize adverse impacts on adjacent properties resulting from development activity. Buffer yards also help to reduce the visual effects and the impacts of traffic, noise, dust, and odor as well as to protect the privacy of neighbors. The Village values its existing tree canopy and these regulations provide incentives that allow existing qualifying trees to be used as part of the buffer required by this Section. By doing so, these regulations will preserve and enhance the visual character of Village and the ETJ and lessen the impacts of the development.

9.5.1.1 Definitions.

- (A) **Clearing and Grading:** any use of the land by any person in residential, industrial, educational, institutional, or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography.
- (B) **Development:** Unless the context clearly indicates otherwise, the term means any of the following:
 - a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
 - b. The excavation, grading, filling, clearing, or alteration of land.
 - c. The subdivision of land as defined in N.C.G.S. 160D-802.
 - d. The initiation or substantial change in the use of land or the intensity of use of land.
- (C) **Protected Trees:** Any healthy living tree with a diameter breast height of eight inches or greater.
- (D) **Redevelopment:** For the purpose of this section, redevelopment is the physical change to a parcel of land that results in the increase of the floor area of the principal building by 50% or more.
- (E) **Specimen tree** is any healthy living tree that:
 - a. Has a trunk diameter at breast height (DBH) of twenty-four (24) inches or more;
 - b. A trunk DBH of twelve (12) inches or more in the case of the following species:
 - i. Ilex species (holly);
 - ii. Magnolia species;

- iii. Longleaf Pine species;
 - c. Is listed as a State or National Champion by the North Carolina Forest Service or the American Forestry Association;
 - d. Provides unique habitat for any endangered or threatened wildlife species protected by Federal law; or
 - e. Has been cited by the Village Council as being historically significant.
- (F) **Buffer Yards:** for the purposes of Sections 9.5 and 9.14.6, buffer yards are defined as follows. Yard lengths are based on the most interior length of the setback line.
- a. Front: the front buffer yard is equal to the depth of the front yard setback of the zoning district extended to the side property lines.
 - b. Rear: the rear buffer yard is equal to the depth of the rear yard setback of the zoning district extended to the side property lines.
 - c. Side: the side buffer yard is equal to the width of the side yard setback from where it intersects both the front and the rear yard.
 - d. Side Street: the side street buffer yard is equal to the width of the side street setback from where it intersects both the front and the rear yard.

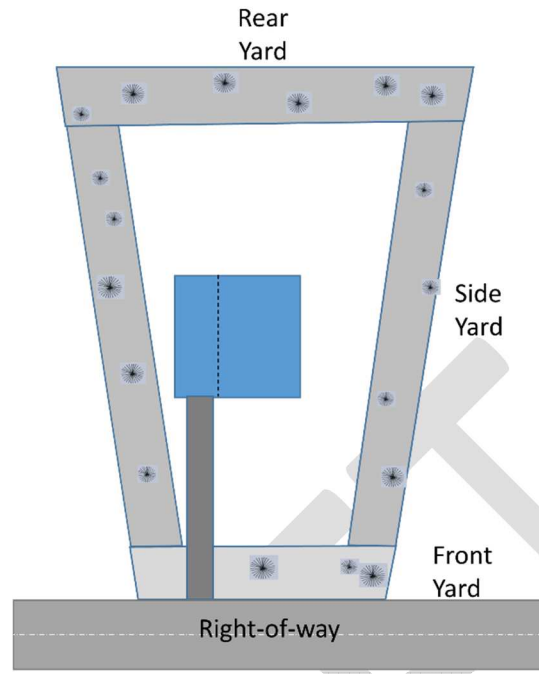


Figure 1. Standard lot yards

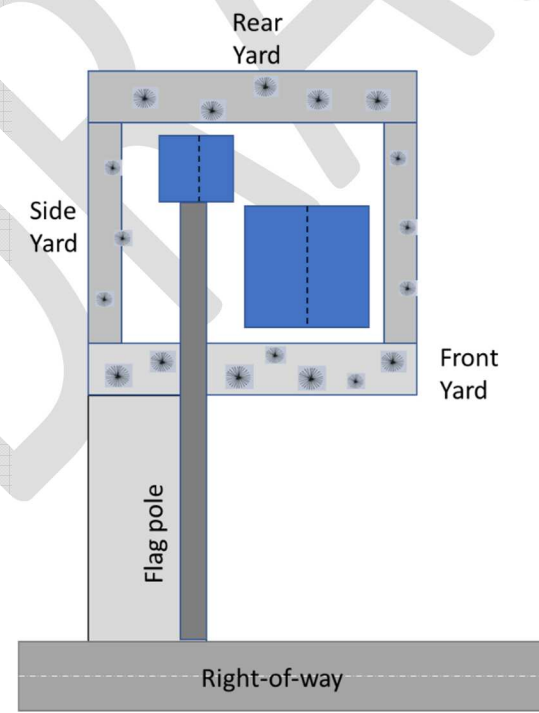


Figure 2. Flag Lot Yards

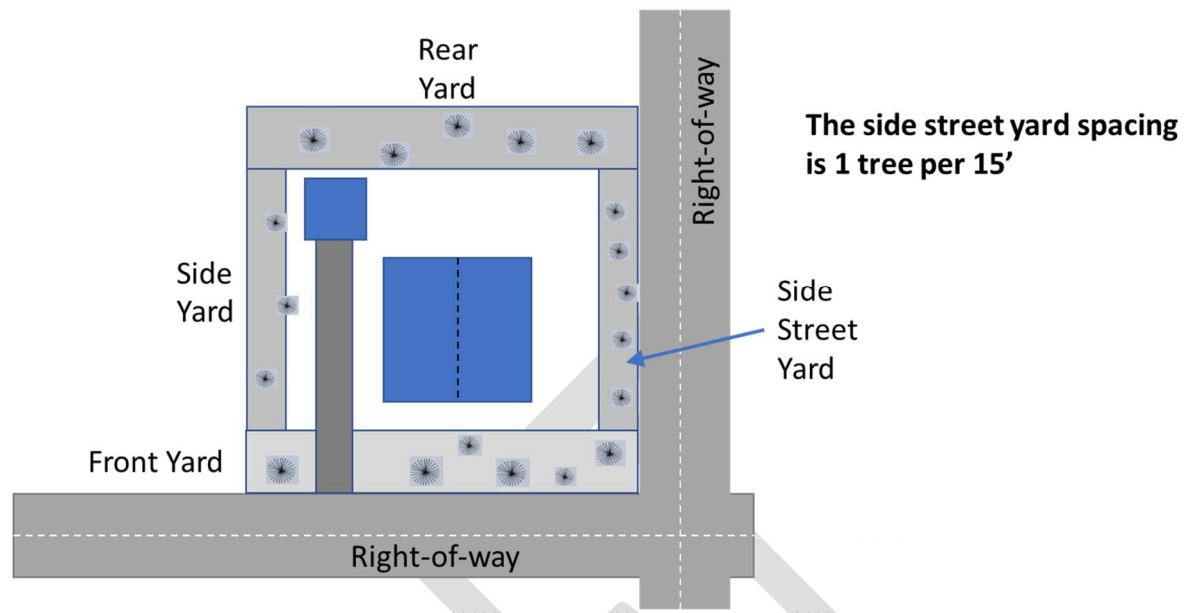


Figure 3. Side Street Buffer Yard

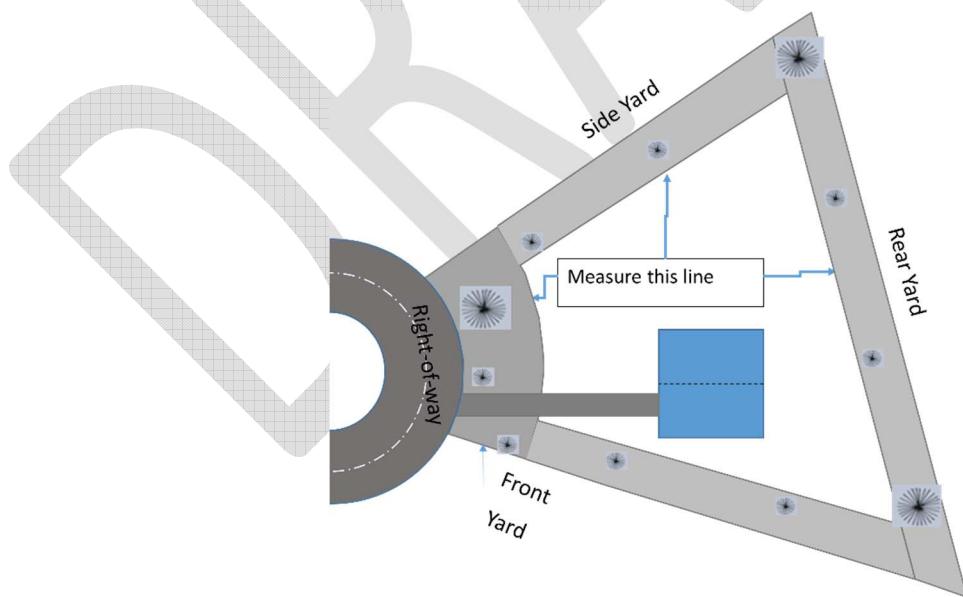


Figure 4. Where to Take Linear Measurements

- (G) **Tree Removal:** "Tree removal" shall include, but not be limited to, trees removed by clearing, damage inflicted to the root system by machinery; girdling; storage of materials and soil compaction; changing the natural grade above or below the root system or around the trunk; damage inflicted on the tree permitting fungus infection or pest infestation; paving with concrete, asphalt or other impervious material within the drip line or such proximity as to be harmful to the tree; or any act of malicious damage to a tree.

9.5.1.2 Clearing and Grading Applications and Permits

- (A) When clearing and grading activity is proposed on a vacant parcel and there is no active application for a development permit pursuant to this Ordinance (e.g. Major or Minor Site Plan, Major or Minor Subdivision, Single Family Development), a clearing and grading application must be submitted and a permit issued per the requirements of this Section.

If there is no tree survey on file for the property, then a tree survey must be prepared before any tree removal occurs unless it is subject to the exemptions listed in Section 9.5.1.6. If a landscape plan or tree survey has been prepared that is no older than five (5) years and is on file with the Village, it may be used whenever tree removal/replacement is planned.

- (B) In addition to ensuring that Village standards are met, Village staff may use clearing and grading applications as an educational tool to provide helpful insight to the developer regarding the costs of removing and replanting trees that will be required for buffering uses as well as to provide protection to specimen trees.

9.5.1.3 Tree Survey

- (A) Each application for a development or clearing and grading permit shall be accompanied by a tree survey. If a clearing and grading application accompanies an application for any other development permit, the tree survey shall be of the same scale as, and superimposed on, a development site plan or preliminary plat.
- (B) Trees to be surveyed include all trees greater than or equal to 8" DBH. Identification of trees smaller than 8" DBH is encouraged if the applicant determines that trees smaller than 8" DBH but larger than 3" DBH may be needed for credit. All tree surveys shall include location, number, size (DBH), qualifying trunks and species with a scaled graphic representation of each protected tree, and the trunk location shall be provided. All required tree surveys shall include the name, phone number, address, signature, and seal of a licensed surveyor, landscape architect, or civil engineer registered in the State of North Carolina. The survey shall include all trees to be protected or preserved, and those scheduled to be removed, including dead and damaged trees. Construction access shall be shown on the survey. In cases where a previously approved recorded plat is utilized for the purpose of tree survey, the name, address, phone number, signature and seal of the licensed landscape architect, civil engineer, or surveyor registered in the State of North Carolina shall be provided. A scaled infrared or

high resolution black and white aerial photograph or print of equal quality may be substituted in cases where the Village Planner determines that it would provide sufficient information from which a decision may be made. This is typically the case when large contiguous areas of preservation are proposed, and the trees will not need to be counted towards credit.

(C) Existing Lots. Existing lots are lots created by final plat prior to the effective date of this Section.

- (1) If an existing lot is undeveloped as of the effective date of this section, a tree survey shall be prepared prior to clearing or development.
- (2) If an existing lot is developed for single-family residential purposes and is proposed for redevelopment, additions, or modifications, a landscape plan shall be submitted consistent with the requirements of Appendix B. A tree survey is not required.
- (3) If an existing lot is developed for nonresidential purposes and is proposed for redevelopment, additions, or modifications, submittal requirements shall comply with Section 9.5, Part 2 and a tree survey is not required.
- (4) In the event an existing lot is damaged or destroyed due to disasters such as windstorms, ice storms, fire, or hurricanes, the requirements of this section shall not apply.

9.5.1.4 Buffer Yard Standards

(A) When a clearing and grading application is required and additional changes to the land are not proposed through a Major or Minor Site Plan or Major or Minor Subdivision, a minimum perimeter buffer must be planted or preserved per Table 9.5.1.4

Table 9.5.1.4

<u>Location</u>	<u>Number of Required Trees</u>
<u>Front Buffer Yard</u>	<u>1 Protected Tree Per 15 Linear Feet of Street Frontage</u>
<u>Side Street Buffer Yard</u>	<u>1 Protected Tree Per 15 Linear Feet of Street Frontage</u>
<u>Side Buffer Yard</u>	<u>1 Protected Tree Per 35 Linear Feet</u>
<u>Rear Buffer Yard</u>	<u>1 Protected Tree Per 25 Linear Feet</u>

*If a lot is a flag lot or an irregularly shaped lot, the linear feet of street frontage is based on the widest street facing dimension of the front yard.

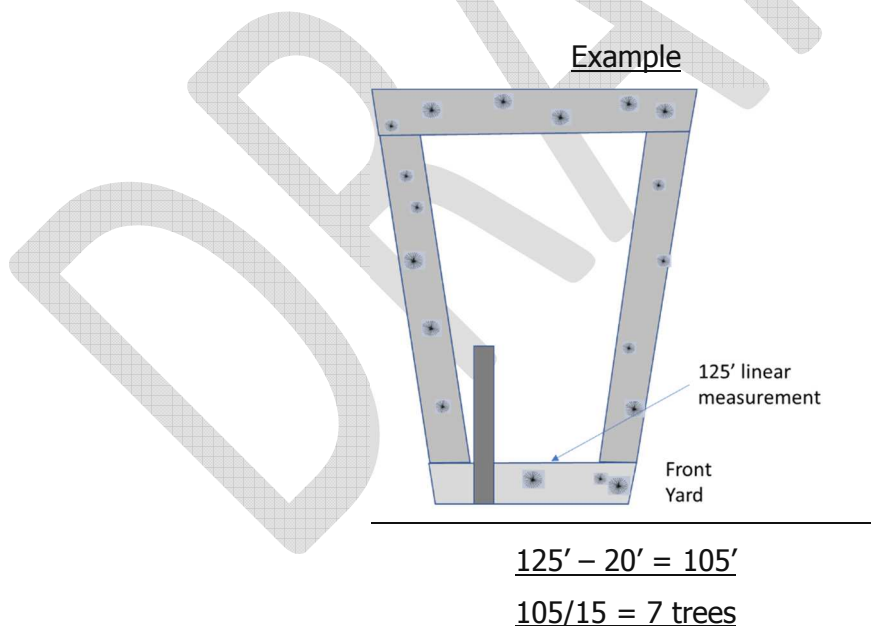
The number of required trees shall be measured in whole numbers. The applicant shall round down when calculating the number of trees.

Planted Tree Minimum Size

Tree type	Minimum Planting Height	Minimum Caliper
Evergreen trees	6 feet	2 inch
Tall trees from Appendix F	8 feet	2 inch
Short trees from Appendix F	6 feet	1.25 inch

(B) Driveway Allowance

Each parcel shall be given an allowance for one 20' driveway. This shall be applied by subtracting twenty (20) feet from the linear foot calculation for number of required trees as shown in Table 9.5.1.4.



(C) Existing Tree Preservation Credits.

To help maintain the existing overall tree canopy and to encourage preservation of existing trees, credits may be given towards the requirements of Table 9.5.1.4 for existing preserved protected trees in the buffer yards as follows.

- (1) Tree credits shall apply to the particular buffer yard in which the tree is located.
- (2) One additional tree credit will be granted for every four (4) inch increase in tree girth above 12" DBH.

Example. The front tree preservation yard contains a 24" oak. Preservation of this tree grants credits in the front yard for four (4) trees.

Trees subject to the preservation credit may be grouped and are not required to meet spacing requirements in the side and rear yards. In order to ensure adequate street yard buffer and to maintain street tree canopy, trees may be grouped in the front yard; however, there shall be no space less than one tree per every 35 linear feet.

(D) Credit for Trees Less than 8" DBH

Credit may be provided for trees smaller than 8 inches DBH but no less than 3 inches DBH when there are insufficient trees present on the property to meet the requirements of Table 9.5.1.4.

(E) Minor Modifications for Alternate Spacing and Grouping

The Village Planner may authorize a minor modification to encourage the preservation of existing trees in lieu of planting subject to the following.

- (1) To satisfy tree preservation credits described in 9.5.1.4 (C).
- (2) To allow the preservation of trees within the building envelope if they are within a distance no greater than the required buffer yard depth when insufficient trees are available for preservation.

9.5.1.5 Buffer Yard Standards for Developed Lots

- (A) Single-family lots undergoing redevelopment shall comply with Section 9.5.1.4(A).
- (B) Single-family lots undergoing development that is less than 50% of the floor area of the principal structure shall comply with the landscape table below.

<u>Zoning District</u>	<u># of Trees per Dwelling</u>	<u>Size of Tree</u>
<u>R-5, R-8 and R-10</u>	<u>4</u>	<u>3" DBH</u>
<u>R-15, R-20, R-30</u>	<u>8</u>	<u>3" DBH</u>
<u>R-210</u>	<u>16</u>	<u>3" DBH</u>

- (C) All other lots shall comply with 9.5 Part 2.

9.5.1.6 Exemptions

- (A) This Article shall not restrict public utilities and electric suppliers from maintaining safe clearance around existing utility lines, and existing easements in accordance with applicable state laws.
- (B) Removal of dead or naturally fallen or severely damaged trees or vegetation, or the removal, by an approved method, or trees or vegetation that are a threat to the public health, safety, or welfare based on observation by the Village Planner or by the submittal of an arborist's report.
- (C) Removal of trees for the purpose of conducting bona fide agricultural and forestry operations shall be exempt from the provisions of this Article. This exemption applies to forestry activity on forestland that is taxed on the basis of its present-use value as forestland under Article 12 of Chapter 105 of the North Carolina General Statutes (NCGS) and activities conducted in accordance with an approved forestry management plan subject Chapter 89B of NCGS and extends to any activity defined as a bona fide farm operation in NCGS 160D-903 within the extraterritorial jurisdiction of the Village. If an exempt timber harvest occurs as described above, the Village may withhold approval of a building permit, site plan, or subdivision plat for the site for three (3) years following the harvest and up to five (5) years if the removal is deemed willful.
- (D) Properties located in the VC, PC, and VMU Zoning Districts are exempt.
- (E) The North Carolina Department of Transportation (NCDOT) shall be exempt from the tree protection and preservation requirements of this Ordinance within NCDOT rights-of-way. Tree removal in the Village rights-of-way must be approved by the Village Manager or designee.
- (F) All real properties owned by the Village of Pinehurst are exempt if tree removal is authorized by the Village Manager or designee.

9.5.1.7 Trees Removed In Violation

- (A) Protected Trees Removed in Violation. When trees of 8 inches DBH or greater have been removed in violation of this Ordinance, replacement trees shall be planted in the same general area according to a replacement schedule approved by the Village Planner in a ratio not to exceed 2:1 of two inches of caliper per inch removed. As an example, if six 8" trees are removed, 96 inches of caliper shall be planted. No tree planted shall be smaller than 3" caliper. The size of the tree removed shall be determined from the size of the remaining base or stump or an existing tree survey on file for the property. If the size of the tree cannot be determined but its removal can be documented by photographic evidence or the use of aerials, then the violator shall replant three 3" trees for every tree removed.

Alternate Language:

Replacement trees shall be planted according to Section/Table 9.5.1.4

Tree preservation standards are incorporated in 9.5 Part 2 Landscape Requirements for Multi-family, Commercial and Industrial projects and in 9.14.6 for Single Family Residential Use.

Section 2. Amend Section 9.5 to insert a new part and renumber the existing text.

Part 2.

Section 9.5 Landscaping Requirements for All Development Requiring a Permit Other than Single-Family Residential and Clearing and Grading

9.5.1. Purpose and Scope

~~—The natural landscape conditions within the Village of Pinehurst and its extraterritorial jurisdiction typifies the North Carolina Sandhills and Longleaf Pine Ecosystems. These natural conditions (topography, vegetation, and wildlife) are unique within North Carolina and are the strongest visual aspects defining the character of the Village. The purpose of the landscaping standards in this Section shall be to create an appearance in which manmade development is situated within a forest or naturalized setting in all zoning districts. All size standards in this section shall conform to the American Standards for Nursery Stock.~~

9.5.12.1 Landscape Plan Required

A landscape plan shall be submitted to the Village Planner and its approval is a prerequisite for the issuance of a development permit where required.

9.5.12.2 Planted Buffers

(A) Permitted Uses Within Planted Buffer Areas: Planted Buffers should be left in an undisturbed natural vegetative state and provided with supplemental plantings. Selective thinning of vegetation and removal of dead vegetation may be permitted as long as the intent of the planted buffer requirement is maintained. Driveways and utilities may cross a planted buffer at or as near a perpendicular angle as practical. Paths and walkways may pass through the planted buffer and pedestrian walkways (greenways) may be installed within the buffer area. Grading in the designated planted buffer may be allowed with site plan approval, if the re-vegetation plan is determined to meet the intent of this Section;

(B) Location of Planted Buffers: Required planted buffers shall be provided along the perimeter of development unless alternate locations are approved. Planted buffers shall be designated and dimensioned on all site plans and subdivisions plans, where applicable;

(C) Public Pedestrian Easement Required: The full width of all buffer areas shall be designated as a public pedestrian easement and shown on a recorded plat;

(D) Application:

(1) These standards apply to all non-residential and multi-family uses (including townhouse unit development) located within the Village of Pinehurst and its extraterritorial jurisdiction except for properties containing only museums and/or libraries as the primary use and located within the PC zoning district. Additionally, the Village Council may waive some or all of these standards for developments and uses located within the VC, VMU, VCP and VR Zoning Districts when determined to be in the best interest of the public. In waiving these standards, the Village Council may require an alternate means of buffering if agreed upon by the property owner. When nonresidential and multi-family uses submit a site plan for locations next to property zoned for primarily residential use, planted buffers shall be provided near the perimeter of the nonresidential or multi-family property. One half of the planted buffers requirements shall apply

when a public street or railroad right-of-way separates a nonresidential or multi-family uses from a residential property. If a greenway passes through a landscape buffer the area of the greenway shall be subtracted from the total buffer area for plant count purposes.

(2) The required planted buffer width is based on the classification shown on Table 9.5.2.2;

(3) If said project is adjacent to property that is zoned non-residential or multi-family but is used for single family purposes, half the required planted buffer width along the perimeter of the property adjoining that property shall be required;

(4) A class 3 planted buffer shall be installed along and adjacent to NC 2, Midland Road east of the Traffic Circle to the zoning jurisdictional boundary of Pinehurst, on the west side of Hwy. 15/501 from the northern extent of the zoning jurisdictional boundary of Pinehurst southward to the western extent of the traffic circle and the intersection with Hwy. 211, Hwy. 211 from the intersection of McKenzie Rd. to the western extent of the zoning jurisdictional boundary of Pinehurst, Murdockville Rd. from the intersection of Hwy. 211 to the northern extent of the zoning jurisdictional boundary of Pinehurst and on the west side of Hwy 5 from the intersection of Lake Hills Rd. south to the intersection with Trotter Hills for all non-single family residential uses.

(5) If the adjacent property is zoned for residential use but is vacant at the time of the proposed development, the full required planted buffer width shall be provided;

(6) If the proposed development is non-residential and the adjacent property is zoned or used for multi-family dwellings, one-half of the planted buffer width shall be provided, but not less than ten (10) feet;

(7) If the proposed development is for multi-family dwellings adjacent to property zoned or used for multi-family dwellings, one-half of the planted buffer width shall be provided, whether the property is occupied or not.

(E) Planted Buffer Classifications and Width:

(1) Planted buffer width is based on uses in the following classifications:

(a) Class 1 - 10 feet: Cemeteries, golf courses, passive recreational areas, and;

(b) Class 2 - 20 feet: Offices, churches, schools, public facilities including playgrounds, ball fields, community swimming pools, and similar facilities, day care facilities, multi-family, residential, hotels;

(c) Class 3 - 30 feet: Neighborhood commercial and service activities including, but not limited to, retail operations, funeral homes, restaurants, banks, convenience stores;

(d) Class 4 - 50 feet: Commercial activities with higher vehicle activities including, but not limited to, vehicle repair, theatres, outdoor recreation centers, and outdoor storage

Table 9.5.2.2

REQUIRED PLANTED BUFFER WIDTH IN FEET BASED ON BUFFER CLASSIFICATION AND ADJACENT PROPERTY USE AND ZONE				
ADJACENT PROPERTY USE AND ZONE				
Planted Buffer Class	Developed Residential Zone	Principal Residential Use in Nonresidential Zone	Developed Multi-Family Zone	Vacant Multi-Family Zone
Class 1	10 feet	10 feet	10 feet	10 feet
Class 2	20 feet	20 feet	10 feet	10 feet

Class 3	30 feet	30 feet	15 feet	15 feet
Class 4	50 feet	50 feet	25 feet	25 feet

(2) The required setbacks may be used to meet landscape planted buffer width requirements in all districts. When planted buffers are required for residential uses, the planted buffer requirements shall be designated open space, or common area;

(3) Planted buffer widths and required plantings may be reduced by thirty percent (30%) if the site plan indicates berming, alternate landscaping, walls, opaque fencing in combination with landscaping or topographic features which will, in the opinion of the Village Planner, achieve the intent of this Section as outlined in Section 9.5.1 and result in equal or better performance. In no case shall a buffer width be less than ten (10) feet. Berms may not have a slope steeper than two (2) horizontal to one (1) vertical and must have a crown width of at least two (2) feet and a minimum height of two (2) feet;

(F) Requirements for Planted Buffer Areas:

(1) Existing Vegetation. Existing vegetation, regardless of species, shall be used to meet all or part of the requirements of this Section wherever possible, if it provides the same level of obscurity as the planted buffer required below. Vegetation to be saved shall be identified on site plans, along with protection measures to be used during grading and construction. (See Section 9.5.2.7 for protection measures and calculation of credits for existing trees);

(2) Planting requirements: Planting requirements for planted buffers include both trees (large and small) and shrubs as described below. (See Appendix F for a listing of native/water conserving trees and shrubs.) In calculating buffer planting requirements, areas of driveways are excluded;

(a) Tree Standards: This requirement may be satisfied as follows:

1. One longleaf pine tree with a minimum size of three (3) inch caliper at planting are required per two hundred (200) square feet of buffer area.

2. Two Understory trees a minimum of two-inch caliper are required per five hundred (500) square feet of buffer area, one of which is to be an evergreen species that is not a pine tree.

3. Trees shall be distributed along the entire length and width of the planted buffer. Due to unique characteristics of a site, or design objectives, alternative plant mixes and spacing may be approved by the Village Planner.

(b) Shrub Standards: Shrubs, a minimum of twenty-four (24) inches in height, of a variety that can be expected to reach four (4) to five (5) feet in height and three (3) feet in width within three (3) years of planting, shall be provided. Shrubs shall not be planted closer than six (6) feet to newly planted trees, nor within the drip line of existing hardwood trees. Shrubs shall be distributed along the entire length and width of the planted buffer, preferably in naturalistic groupings so as not to create a hedge-like condition. Shrubs shall be provided at one per seventy-five (75) square feet of buffer area.

9.5.12.3 Landscape Screens

(A) The purpose of a screen is to use plants and/or other landscape or architectural elements to obscure views from all corridors or adjacent properties.

Structures such as loading docks, mini-warehouses, service courts, dumpster areas, mechanical equipment, and outside storage of material stocks or equipment, either for sale or not for sale on the premises, such as, but not limited to, motor vehicles, equipment, or

construction equipment shall be screened from unobstructed off-site views. Uses requiring screening as noted in this Ordinance shall be screened according to the requirements of this Section. This screening requirement does not pertain to outdoor display of merchandise located within the Historic Preservation Overlay District that complies with the regulations and design guidelines of that district.

(1) Landscape Screen Standards: Features and uses specified above and/or others requiring screens shall provide a visual obstruction from all corridor and adjacent properties in conformance with the following standards: The screen may be composed of view-obscuring vegetation, wall, fence, or berm. The items may be used individually or in combination. The minimum result shall be a semi-opaque seventy-five percent (75%) screen that obscures views from the ground to a height of the object being screened. Evergreen screening plants shall be at least five (5) feet tall at the time of installation and reach the desired height within three (3) years of planting. Additionally, screen areas shall be sufficient size to allow for the mature growth of plant materials when used.

9.5.12.4 Parking Area Landscaping

(A) Purpose: In order to reduce reflected sunlight and headlight glare from parked vehicles, as well as to maintain a separation between vehicles and other uses and to reduce the effects on the environment of vehicle parking facilities, the following standards apply;

(B) Required Perimeter Landscape Plants:

(1) Large trees (unless subject to overhead power lines): Longleaf pines shall be planted at the rate of one three (3) inch caliper tree per twenty (20) linear feet of property line abutting a street and/or adjoining property, less driveways and sight distance triangles. Trees must be a minimum of five (5) feet and a maximum of twenty (20) feet from the parking lot edge to meet this requirement.

Credit given for existing, healthy, protected trees, regardless of species, shall be according to 9.5.12.7 of this Section;

(2) Evergreen shrubs at the rate of one (1) 24-inch height minimum shrub per three (3) linear feet of parking lot edge abutting streets and adjoining property, less driveways, of a species expected to reach a minimum height of 36 inches and a minimum spread of thirty (30) inches within three (3) years of planting. This rate may be varied based upon size of installed plant materials. Shrubs must be a minimum of five (5) feet and a maximum of ten (10) feet from the parking lot edge to meet this requirement.

Shrubs shall be planted such that no less than seventy-five percent (75%) of the length of the parking lot edge, to a height of thirty-six (36) inches, is obscured from view after three (3) years of growth. Shrubs planted within sight distance triangles shall be of a type with a maximum mature height of eighteen (18) inches.

Additionally, shrubs shall not be planted within six (6) feet of the trunk of a tree;

(3) A brick or stone wall, or fence, at least thirty-six (36) inches tall and of a material compatible with the building, may be substituted for the requirements of shrubs.

(4) Berms may be installed within the highway (front) or interior (side or rear) yards with a minimum two (2) foot height, two (2) foot minimum crown width, and side slopes of not steeper than two horizontal to one vertical. Berms shall be planted with live vegetation, and may be used with smaller plants to meet the required screening area, provided that the combination of the berm and the shrubs obscures no less than seventy-five percent (75%) of the length of the parking area, to a minimum height of thirty-six (36) inches after three (3) years of growth;

(5) Areas used for vehicle sales and/or service, parking, and business transactions such as areas adjacent to gasoline pumps (even if under a canopy) and areas for drive-up service, shall be considered parking areas and shall comply with the requirements of this Section.

(C) Landscaping Within Parking Areas:

(1) Location: Parking areas shall provide and maintain landscaped areas based upon the parking area. Areas under canopies, loading and service areas, and portions of drives with no parking on either side for a distance longer than twenty-five (25) feet and/or used exclusively as access to loading or service areas, are exempt from this requirement. The landscaping within parking areas shall be provided in addition to planted buffer requirements of this Ordinance.

Areas used for landscaping shall be provided in the amount equivalent to at least ten (10) percent of the parking area, and shall be used for planting either trees and/or shrubs according to the requirements below. Tree planting areas shall be located such that no parking space is farther than seventy-five (75) feet from a tree trunk.

(2) Required Landscape Plants: Trees shall be used at the following rates, either in combinations of small and large trees, or with large trees only, to add up to the required landscape area:

(a) One three (3) inch caliper, large hardwood or pine tree per two hundred fifty (250) square feet of required landscaped area. Each large tree shall be located within a minimum growing area of two hundred fifty (250) square feet un-encroached upon by shrubs or impervious pavement, with a minimum dimension of ten (10) feet;

(b) One understory tree less than three (3) inch caliper at the rate of one eight (8) foot tall tree per one hundred twenty-five (125) square feet of required landscaped area. Understory and evergreen trees shall be located within a minimum growing area of one hundred twenty-five (125) square feet, with a minimum dimension of seven and one half (7½) feet, un-encroached upon by shrubs or impervious pavement. Understory trees may be used to fulfill up to one third (1/3) of the required trees.

(3) Islands and Medians:

(a) Minimum curb radii of five (5) feet are required on the corners of all tree islands and medians to allow for free movement of motor vehicles around planting materials. (See the Village of Pinehurst Engineering Standards and Specifications Manual). All islands shall have raised curbing around them meeting the Village of Pinehurst Engineering Standards and Specifications Manual to further protect plants from being run over by motor vehicles. Medians without curbing shall include devices to stop vehicles from driving into the planted areas;

(b) No more than one tree may be provided per island, unless there is at least the minimum growing area per tree as required above. Large trees shall not normally be planted less than eighteen (18) feet apart, and small trees/large shrubs shall not normally be planted less than twelve (12) feet apart.

(4) Existing Trees:

(a) Credit given for existing, healthy, protected trees shall be according to 9.5.12.7 of this Section. Trees used to meet other requirements of this Ordinance may not be used to meet the requirements of this Section.

(5) Sight Distances: Trees and shrubs shall be either pruned or located to facilitate safe sight distances within parking lots.

(D) Parking Area Landscaped Yards: Any new or expanded off-street parking areas shall provide landscaped areas meeting the requirements below:

(1) New or expanded parking areas shall provide a landscaped area, adjacent to and outside of the street right-of-way, and/or adjacent residential property line edge, less driveways, of a minimum of ten (10) feet in width and adjacent non-residential property line edge, less driveways, of a minimum of five (5) feet. Proposed locations of plants and parking spaces shall be arranged to protect plants from vehicles;

(2) Planted buffers and/or screens provided adjacent to right-of-way, as required under Sections 9.5.12.2 and/or 9.5.12.3 of this Section, and located between parking lots and streets and/or adjoining residential property may be considered in fulfilling these requirements.

(E) Street Trees Required

(1) For all non single-family developments one three (3) inch caliper, large hardwood or pine tree per forty (40) lineal feet of street frontage minus driveways shall be planted in the road right of way. These street trees shall be approved by the Village Engineer as being acceptable street trees. These trees shall be planted outside of site triangles and not conflict with any utilities. Alternate type and size trees may be approved by the village engineer based on existing site conditions and constraints.

9.5.12.5 Maintenance Responsibility

Unless otherwise stated, the owner of any property where landscaping is required shall be responsible for the maintenance of all required plant material and continued compliance with this Section.

9.5.12.6 Request for Extension of Compliance

(A) A letter of request for extension of compliance with landscaping requirements may be filed with the Village Planner that states the reasons why the request is being made. If the Village Planner finds that there are unfavorable conditions for planting, an extension of compliance with landscaping requirements may be allowed for a period not longer than ninety (90) days. The letter shall also acknowledge that the property owner is aware of all landscaping and screening requirements, and will comply with those requirements within ninety (90) days, or discontinue use of the property;

(B) If an extension is allowed by the Village Planner, the applicant shall provide to the village a financial guarantee as set forth in Section 9.17.1.26 sufficient to cover one hundred twenty-five percent (125%) of the installed landscaping costs;

(C) If the initial letter of request for extension of compliance with landscaping requirements has expired and conditions are still deemed unsuitable for planting, the applicant may request one (1) additional extension of up to ninety (90) days. Failure to comply with the provisions of this Section within the time noted in the letter of request for the extension of compliance with landscaping requirements shall be deemed a violation of this Ordinance. In addition, failure to perform in accordance with this Section shall result in default and the forfeiture of the financial guarantee as set forth in Section 9.17.1.26.

9.5.12.7 Existing Vegetation Credits

(A) Existing healthy trees and shrubs shall be retained when possible and may be credited toward landscape requirements. Vegetation to be saved shall be identified on submitted plans. Protection measures shall be installed to maintain tree health and such protective measures shall be shown on the submitted plan.

(B) Credit given for existing, healthy, protected trees shall be on a tree-for-tree basis, for planted buffer areas, and on the basis of fulfilling the requirements for parking areas. Existing trees will not be allowed to be counted towards landscape screen requirements. Trees so credited must be at least three (3) inch caliper.

9.5.12.8 Specimen Trees

(A) Specimen trees include all of the following:

A specimen tree is any healthy living tree that:

- (1) Has a trunk diameter at breast height (DBH) of twenty-four (24) inches or more;
- (2) A trunk DBH of twelve (12) inches or more in the case of the following species:
 - (a) Ilex species (holly);
 - (b) Magnolia species;
 - (c) Longleaf Pine species;
- (3) Is listed as a State or National Champion by the North Carolina Forest Service or the American Forestry Association;
- (4) Provides unique habitat for any endangered or threatened wildlife species protected by Federal law; or
- (5) Has been cited by the Village Council as being historically significant.

9.5.12.9 Preservation and Removal on Private Property

(A) Specimen Trees On Private Land:

(1) Specimen trees shall be shown on all preliminary commercial and residential site plans submittals and located by survey on final site or Landscape Protection Plans. The Village Planner may visit the site to determine the accuracy of identification. The location and identification of specimen trees shall be required if such trees are within one hundred (100) feet of areas of a development site where soil disturbance or construction activity is proposed;

(2) Proposed development shall be designed to maximize the preservation of specimen trees. Where specimen trees exist, flexible approaches such as adjustments to lot layout, placement of buildings and paved surfaces and location of utilities shall be pursued in order to save them;

(3) Notwithstanding any provision of this Ordinance to the contrary, saving of a specimen tree shall constitute evidence that the requirements for a case have been met for a variance application;

(4) No soil disturbance from construction, trenching or grading, or paving, or storage of equipment or materials shall take place within the critical root zone of any specimen tree to be preserved unless during the review of the site and/or Landscape Protection Plan it is determined there is no reasonable way the property can be developed without such disturbance.

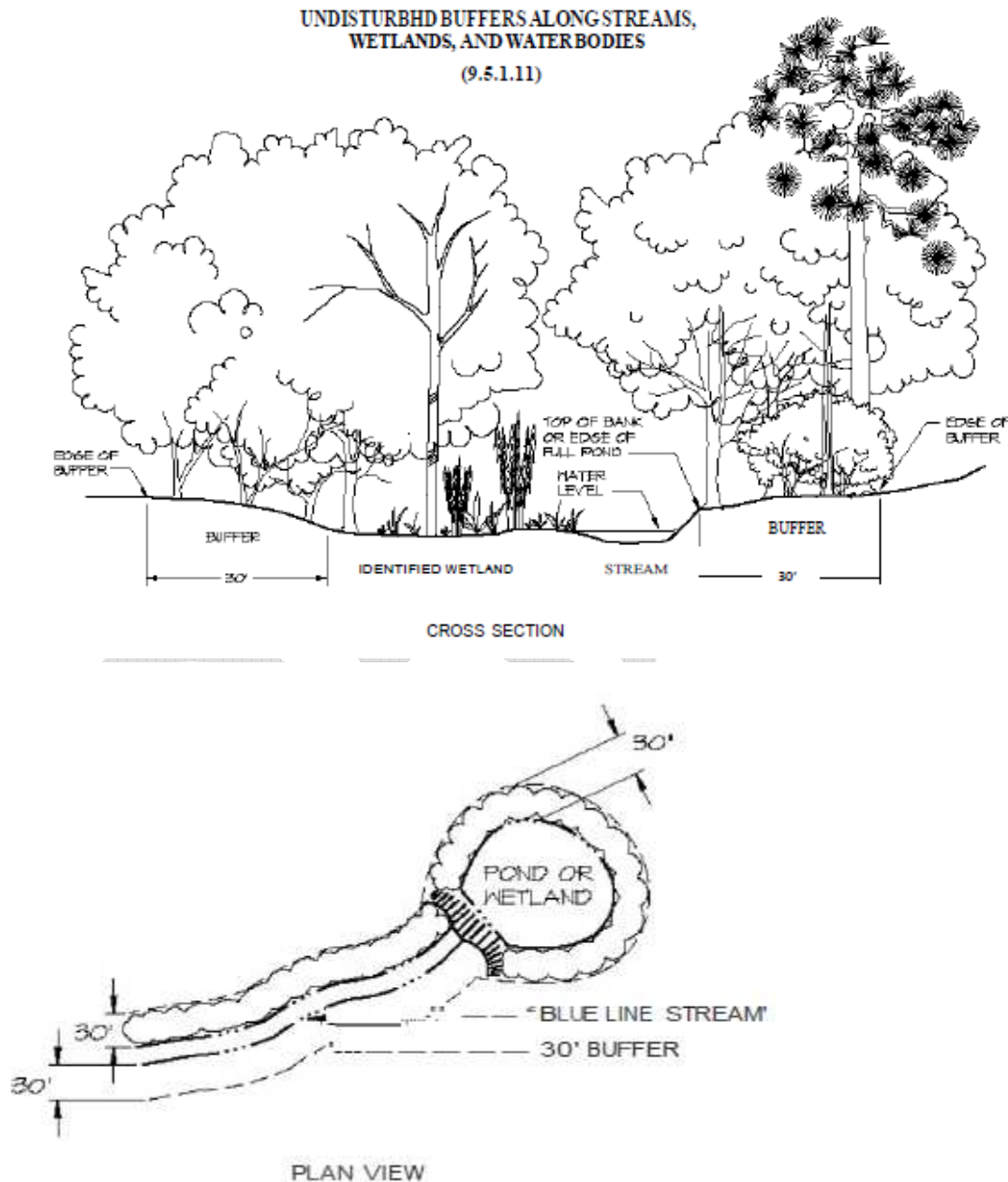
(B) Voluntary Protection Of Specimen Trees On Existing Residential Lots:

(1) Specimen trees which are located on individual lots with single homes shall be protected if voluntarily registered by the property owner;

(2) Registration of such trees shall render the owner of the lot the following privileges: If a permitted accessory structure or addition to a house is being planned, notwithstanding any provision of the Ordinance to the contrary, saving of a specimen tree may constitute evidence that requirements for a case have been met for a variance application.

9.5.12.10 Undisturbed Buffers Along Streams, Wetlands, and Water Bodies

(A) Notwithstanding any other provisions of this Ordinance regarding buffers, landscaping or setbacks, all development, other than development of existing single family lots shall maintain a thirty (30) foot undisturbed buffer measured from the top of the bank along all streams that are shown as "blue lines" on the most recent versions of U.S. Geologic Survey 1:24,000 scale topographical maps; along the edge of identified wetlands as established by the North Carolina Department of Environmental Resources as defined by N.C.G.S. §143.212(6); and along the edge of the full pond of any water body that is fed by or connected to a "blue-line" stream, other setbacks such as wetland and watershed (Section 8.3.3) may also apply;



(B) The Village Council may permit as a special exception water dependent structures, pedestrian facilities and other similar structures where the Council finds that only minimal

disturbance will result. In permitting such facilities, the Council may attach such reasonable conditions as the Council deems appropriate.

Section 3. Amend Chapter 10 of the Pinehurst Development Ordinance to replace the definition of "development" and alphabetically insert the following additional definitions.

Clearing and Grading: any use of the land by any person in residential, industrial, educational, institutional, or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography.

Development: ~~Any man-made change to improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, paving, excavation, or drilling operations, or storage of equipment.~~ Unless the context clearly indicates otherwise, the term means any of the following:

- a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- b. The excavation, grading, filling, clearing, or alteration of land.
- c. The subdivision of land as defined in N.C.G.S. 160D-802.
- d. The initiation or substantial change in the use of land or the intensity of use of land.

Protected Trees: Any tree with a diameter breast height of eight inches or greater.

Redevelopment: For the purpose of Section 9.5, redevelopment is the physical change to a parcel of land that results in the increase of the floor area of the principal building by 50% or more.

Specimen tree is any healthy living tree that:

- a. Has a trunk diameter at breast height (DBH) of twenty-four (24) inches or more;
- b. A trunk DBH of twelve (12) inches or more in the case of the following species:
 - i. Ilex species (holly);
 - ii. Magnolia species;
 - iii. Longleaf Pine species;
- c. Is listed as a State or National Champion by the North Carolina Forest Service or the American Forestry Association;
- d. Provides unique habitat for any endangered or threatened wildlife species protected by Federal law; or
- e. Has been cited by the Village Council as being historically significant.

Buffer Yards: for the purposes of Sections 9.5 and 9.14.6, buffer yards are defined as follows. Yard lengths are based on the most interior length of the setback line.

- a. Front: the front buffer yard is equal to the depth of the front yard setback of the zoning district extended to the side property lines.
- b. Rear: the rear buffer yard is equal to the depth of the rear yard setback of the zoning district extended to the side property lines.
- c. Side: the side buffer yard is equal to the width of the side yard setback from where it intersects both the front and the rear yard.
- d. Side Street: the side street buffer yard is equal to the width of the side street setback from where it intersects both the front and rear yard.

Section 4. The Village of Pinehurst Development Ordinance Chapter 9, Section 9.14.6 *Tree Conservation and Newly Installed Trees and Plants* is amended as follows.

General Intent. The regulations of this Section are intended to preserve trees along the outer perimeter of development sites such that buffer yards are retained/created to buffer uses from adjacent properties and to reduce visual effects and the impacts of traffic, noise, dust, and odor. Where buffer yards do not exist or have been previously cleared, the planting requirements of this section apply.

(A) All development, including clearing and grading activities, shall consider conservation of existing specimen and protected trees. Where such trees exist, flexible approaches such as adjustment to placement of buildings and paved surfaces and location of utilities may be permitted by the Village Planner to preserve them. The conservation of existing trees that do not conflict with the placement of buildings, drives, walks, patios, or other site amenities is encouraged. ~~Qualifying trees shall be healthy trees three (3) inches in diameter four and one half (4 ½) feet above the ground or larger. A minimum of four (4) qualifying trees for a single family dwelling zoning districts R-5, R-8, R-10 sites, eight (8) qualifying trees for R-15, R-20 R-30 sites and sixteen (16) trees for R-210 sites shall be saved and protected during construction. If the site does not have enough qualifying trees to meet this standard then one (1) three inch (3") caliper tree shall be installed for each tree the site does not contain. A tree survey shall be submitted with an application for development approval that identifies all protected, heritage and specimen trees in accordance with Section 9.5. Part 1.~~

(B) Buffer Yard Standards

(1) A minimum planted perimeter buffer must be planted or preserved per the requirements of Table 9.14.6 below which establishes the minimum number of trees per buffer yard within an individual lot or parcel. If a buffer yard does not contain enough qualifying trees per Table 9.14.6, then the required number of trees shall be installed per the requirements of 9.14.6 (C). Tree preservation credits may be provided per Section 9.14.6 (B) (2). Buffer Yards are as defined in Section 9.5.1.1 (F)

Table 9.14.6

<u>Setback Location</u>	<u>Quantity</u>	<u>Spacing for Planted Trees</u>
<u>Front Buffer Yard</u>	<u>1 Protected Tree Per 15 Linear Feet of Street Frontage</u>	<u>7.5' on center</u>
<u>Side Street Buffer Yard</u>	<u>1 Protected Tree Per 15 Linear Feet of Street Frontage</u>	<u>7.5' on center</u>

<u>Side Buffer Yard</u>	<u>1 Protected Tree Per 35 Linear Feet</u>	<u>17.5' on center</u>
<u>Rear Buffer Yard</u>	<u>1 Protected Tree Per 25 Linear Feet</u>	<u>12.5' on center</u>

*If a lot is a flag lot or an irregularly shaped lot, the linear feet of street frontage is based on the widest street facing dimension of the front yard.

(2) Tree Preservation Credits.

Tree preservation credits shall be in accordance with 9.5.1.4. (C) and (D).

(3) Driveway Credit.

Driveway credit shall be in accordance with Section 9.5.1.4 (B).

(C) Tree Placement and Planting.

(1) Planted trees shall be evenly spaced within required yards and may be staggered in alignment throughout the length of the required buffer yard based on the spacing in Table 9.14.6 unless otherwise provided in this ordinance.

(2) At least one-half of the planted trees shall be Longleaf Pines. The remaining trees shall be selected from Appendix F of the Pinehurst Development Ordinance. Tall trees shall be used in the front buffer yard; however, short trees may be used under power line easements. Tall or short trees may be used in the side and rear yards. Substitutions may be allowed by the Village Planner that will result in equal or better performance.

(3) Landscaping should be of sufficient size so that mature appearance will be achieved within five (5) years of installation of trees.

Planted Tree Minimum Size

<u>Tree type</u>	<u>Minimum Planting Height</u>	<u>Minimum Caliper</u>
<u>Evergreen trees</u>	<u>6 feet</u>	<u>2 inch</u>
<u>Tall trees from Appendix F</u>	<u>8 feet</u>	<u>2 inch</u>
<u>Short trees from Appendix F</u>	<u>6 feet</u>	<u>1.25 inch</u>

(4) The Village Planner may authorize a minor modification to encourage the preservation of existing trees in lieu of planting subject to the following.

- a. To satisfy tree preservation credits described in 9.5.1.4 (C).
- b. To allow the preservation of trees within the building envelope if they are within a distance no greater than the required buffer yard depth when insufficient trees are available for preservation.

- c. Small trees as identified in Appendix C may be used to avoid conflicts with overhead infrastructure.

(D) Protected Trees Removed in Violation. When trees of 8 inches DBH or greater have been removed in violation of this Ordinance, replacement trees shall be planted in the same general area according to a replacement schedule approved by the Village Planner in a ratio not to exceed 2:1 of two inches of caliper per inch removed. As an example, if six 8" trees are removed, 96 inches of caliper shall be planted. No tree planted shall be smaller than 3" caliper. The size of the tree removed shall be determined from the size of the remaining base or stump or an existing tree survey on file for the property. If the size of the tree cannot be determined but its removal can be documented by photographic evidence or the use of aerial photography, then the violator shall replant three 3" caliper trees for every tree removed.

Alternate Language:

Replacement trees shall be planted according to Section/Table 9.14.6

(E) Unless otherwise stated, the owner of any property where landscaping is required shall be responsible for the continual maintenance of all required plant material and continued compliance with this Section. This requirement shall run with the property and shall be binding upon all future property owners.

—(B)(F) As part of the required single-family site plan the approximate location, size and type of trees to be used to meet this standard shall be shown.

—(C)(G) All trees used to meet the intent of this section shall be healthy and well protected during construction. See Appendix F for a listing of trees which are known to be adaptive and naturalized in the Sandhills of North Carolina. Any of these trees can be used in meeting the tree conservation standards of this section.

—(D)(H) HVAC units, pool equipment, well houses, and other structures on the property shall be screened with landscaping material or fencing so as to be seventy-five percent (75%) opaque.

—(E)(I) Foundation Plantings Required: Foundation plantings shall be provided for all principal and accessory buildings and structures, including storage sheds. The number of plants or plant groupings shall be provided based on the linear footage of foundation along the front and sides of the each structure minus doorways, and steps at a rate of one (1) shrub or plant grouping per six (6) linear foot of foundation. A minimum of fifty percent (50%) of the required plantings shall be five (5) gallon or larger at the time of planting, the remainder shall be a minimum of three (3) gallon in size. Said plantings are not required to be placed in a uniform, linear arrangement when installed and plant groupings or ground cover beds may be used to meet the intent of this section.

—(F)(J) The site shall be designed to minimize the removal of mature specimen trees, for example, Longleaf Pine, Dogwood, American Holly and Southern Magnolia.



PLANNING AND INSPECTIONS DEPARTMENT COUNCIL STAFF MEMO

To: Mayor Strickland and Village Council
From: Darryn Burich, Director of Planning and Inspections
Cc: Jeff Sanborn, Village Manager and Natalie Dean Hawkins, Assistant Village Manager
Date: March 4, 2021
Subject: Proposed PDO Amendments to create buffer development standards.

This staff memo supplements Senior Planner Alex Cameron's staff report dated March 4, 2021 on the proposed PDO amendments to Sections 9.5, 9.14, and 10.2.

Council is being asked to approve several amendments to the Pinehurst Development Ordinance (PDO) to address buffering and planting requirements for development within the Village's zoning jurisdiction including the ETJ. The amendments relate primarily to lessening the impact of development activity by creating perimeter buffer yard requirements that will be applied to activities considered to be "development" as defined by the PDO, which amendments include an updated definition of "development" to mirror state statute. The buffer yard requirements require a certain number of trees by defined yard (e.g. front, side, rear, side street) with the highest ratio of trees being required along rights-of-way due to the more intense nature of activity that occurs in the right-of-way. Because the Village values the existing mature tree canopy, provisions have been included to allow existing qualifying trees to be used and credited towards planting requirements. The planting credits can have the impact of lessening the amount of trees that would need to be planted.

The proposed ordinance under consideration by Council has been modified slightly since Planning and Zoning Board action to clarify various aspects to make them clearer to understand, less redundant, and more enforceable based on concerns staff has heard since the Council work session on 2/23/21. Some of the highlighted changes are as follows:

- Section 9.5.1 Purpose and Scope language was changed to clarify that the regulations relate to establishing buffer for development.
 - Section 9.5.1.1(F)(d) Definition added a classification for "side street" yard to address corner lots.
-

- Section 9.5.1.7: (A) Trees Removed in Violation staff is recommending alternative language that simply requires compliance with the buffer yard planting requirements versus the more punitive tree replanting schedule proposed that requires a 2:1 ratio to replant. Staff feels that existing PDO provisions regarding double permit fees will suffice and that ultimately compliance with the planting schedule is the appropriate measure. Staff also feels that replanting at a 2:1 ratio might create crowding issues with trees and result in less healthy trees. Staff is recommending adopting the alternate language proposed:
 - 9.5.1.7 Trees Removed in Violation. Replacement trees shall be planted according to Section/Table 9.5.1.4

The Planning and Zoning Board recommended the changes at its February 4, 2021 meeting and adopted the Comprehensive Plan Consistency Statement.

The regulations as proposed align with various 2019 Comprehensive Plan recommendations including the Guiding Principles as follows:

- Guiding Principle 1: to retain the small-town charm, scale, and character of the community to ensure a high quality life; and
- Guiding Principle 3: to protect and enhance the quality and character of existing residential neighborhoods; and
- Guiding Principle 7 to preserve, conserve, and feature Pinehurst's natural resources.

The regulations as proposed align directly with 2019 Comprehensive Plan implementation recommendation strategy 7.6 that recommends enhancing PDO tree planting standards and identifies as such being "very important" to the community.

The proposed regulations also follow through with recommendations from the 2003 and 2010 Comprehensive Plans which indicate the importance of such regulations to overall community. .

Comprehensive Plan Consistency:

The 2019 Comprehensive Plan sets seven Guiding Principles which emerged to expand upon the vision of the Village, help achieve community goals and preserve and enhance the high quality of life. The Comprehensive Plan also set ten Strategic Opportunities as well as Implementation Strategies which are actionable recommendations to address the strategic opportunities.

One of the Strategic Opportunities on page 26 is to promote high quality development by updating and modernizing the Pinehurst Development Ordinance to ensure future development is of the desired character favored by Pinehurst residents.

On page 124 under Guiding Principle 3 "Places to Live" for Protect & Enhance Existing Neighborhoods; Improve Neighborhood Appearance, Implementation Strategy 3.1 states the Village should periodically evaluate standards for landscape design and planting and amend standards as necessary to meet the needs and desires of the Village.

On page 203 under Guiding Principle 7 “All things Green: Parks, Open Spaces & Natural Resources” for Protecting Pinehurst’s Natural Resources; Preserve Trees states the *urban forest is an important aesthetic, economic, and environmental asset to Pinehurst. It contributes positively to the character of the Village, the health of the environment, the quality of life of residents, and the experience of visitors.* Implementation Strategy 7.6 further suggests the Village to enhance *the Tree Preservation Program and standards for tree planting and preservation in the Pinehurst Development Ordinance.*

Staff Recommendation

Staff recommends that Village Council find the proposed amendment reasonable and consistent with the 2019 Comprehensive Plan as reflected in Attachment A and approve PDO text amendments to Sections 9.5, 9.14 and 10.2 as proposed with the recommendation that Section 9.5.1.7 Trees Removed in Violation (A) be changed to:

9.5.1.7 Trees Removed in Violation. Replacement trees shall be planted according to Section/Table 9.5.1.4.

**VILLAGE COUNCIL STATEMENT OF REASONABLENESS
AND CONSISTENCY WITH THE 2019 COMPREHENSIVE PLAN
MARCH 9, 2021 PUBLIC HEARING ON**

**AMENDMENTS TO THE
PINEHURST DEVELOPMENT ORDINANCE FOR SECTIONS:**

9.5 Landscaping Requirements

9.14 Design Standards for Single Family Dwellings

(6) Tree Conservation and Newly Installed Trees and Plants

10.2 Definitions

The Village of Pinehurst Council finds that:

The 2019 Comprehensive Plan sets seven Guiding Principles which emerged to expand upon the vision of the Village, help achieve community goals and preserve and enhance the high quality of life. The Comprehensive Plan also set ten Strategic Opportunities as well as Implementation Strategies which are actionable recommendations to address the strategic opportunities.

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Therefore, the Village Council finds that the proposed amendments to the Pinehurst Development Ordinance **ARE** consistent with the 2019 Comprehensive Plan and therefore **APPROVES** the amendments to the Pinehurst Development Ordinance. Achieving goals consistent with the Comprehensive Plan is deemed to be reasonable and in the best interest of the public.



PLANNING AND INSPECTIONS DEPARTMENT STAFF REPORT

To: Planning and Zoning Board
From: Alex Cameron, Senior Planner
CC: Darryn Burich, Planning & Inspections Director
Kathy Liles, Senior Planner
Date: March 4, 2021
Subject: **Proposed Text Amendments for Sections:**
9.5 Landscaping Requirements,
9.14 Design Standards for Single Family Dwellings
(6) Tree Conservation and Newly Installed Trees and Plants
10.2 Definitions

*The items **highlighted** in this revised report represent a change or revision to the proposed amendments following the February 11th Planning and Zoning Board meeting and Council work session on February 23rd.*

Background and Approach:

The Village of Pinehurst is proposing amendments to the Pinehurst Development Ordinance (PDO) to address landscaping and planting requirements for development within the Village's zoning jurisdiction. These amendments would make changes to the landscaping requirements and standards for development as defined and outlined in the attached draft ordinance. Through vast public input and comment at public meetings as well as with the adoption of the 2019 Comprehensive Plan, the desire of the public and direction of the Comprehensive Plan is very specific. Trees represent an important part of the environmental, cultural, and historic fabric and identity of the Village of Pinehurst. The ongoing loss of the Village's mature tree canopy through urbanization, without adequate standards for replacement, has been an ongoing community concern reflected in the adopted 2019 Comprehensive Plan which states:

It is critically important to the character of Pinehurst that the Village maintain its tree-lined corridors and encourage the preservation of trees on both public and private property. Development standards and tree planting/re-planting programs should be evaluated to identify opportunities to further enhance tree preservation efforts in the Village.

The most concise direction of the Comprehensive Plan lies within Implementation Strategy 7.6 which states that the Village should *enhance the tree preservation program and standards for tree planting and preservation in the Pinehurst Development Ordinance.*

Over the course of nearly two years, staff and members of the Planning & Zoning Board have been discussing potential regulatory improvements to the PDO that would enhance the current regulatory standards through increased tree planting in designated areas and fall within the grant of power from enabling legislation. Staff has now developed and is recommending a series of amendments to the PDO that will increase the development standards.

The recently adopted North Carolina General Statute Chapter 160D for planning and development regulation sets forth the local zoning grant of power (160D-702). 160D -702 states that local jurisdictions may adopt zoning regulations with certain exceptions. One of those are "building design elements". The statute continues to state that "building design elements" do NOT include "*the use of buffering or screening to minimize visual impacts, to mitigate the impacts of light and noise, or to protect the privacy of neighbors*".

The draft ordinance language addresses these concerns and covers the grant of power from the enabling legislation by clearly stating the intent of the proposed regulations in the Purpose and Scope as described in Section 9.5.1. Section 9.5 of the PDO also now includes a new Part 1 to provide the scope for landscaping requirements or number of plantings that applies to all properties in the Village's zoning jurisdiction. The existing language for landscape requirements for non-residential development remains unchanged but has been shifted to Part 2 of Section 9.5. Definitions have been added to Section 9.5 and Chapter 10 for clarity and are consistent with

recently adopted North Carolina General Statutes Chapter 160D. Section 9.14.6 has been amended to revise landscape requirements for single-family residential development.

The general approach of the proposed standards is to create buffer areas or yards around the perimeter of development. In order to create the buffer yards, a required number of trees is to be located in each of those yards (front, side and rear) as shown in the table below. In lieu of planting the required number of trees in the respective yards, an applicant may receive credit for existing, healthy trees as defined in the proposed ordinance.

<u>Location</u>	<u>Number of Required Trees</u>
<u>Front Buffer Yard</u>	<u>1 Protected Tree Per 15 Linear Feet of Street Frontage</u>
<u>Side Street Buffer Yard</u>	<u>1 Protected Tree Per 15 Linear Feet of Street Frontage</u>
<u>Side Buffer Yard</u>	<u>1 Protected Tree Per 35 Linear Feet</u>
<u>Rear Buffer Yard</u>	<u>1 Protected Tree Per 25 Linear Feet</u>

A new Side Street Buffer Yard and definition was created to avoid any confusion on how corner lots are reviewed and measured.

Protected trees are 8 inches DBH and greater. If the property does not contain trees of protected tree size, then trees between 3 inches and 8 inches may be used. As a last resort, trees may be planted to meet the number of required plantings in the respective yards and must meet the requirements in the table below.

<u>Tree type</u>	<u>Minimum Planting Height</u>	<u>Minimum Caliper</u>
Evergreen trees	6 feet	2 inch
Tall trees from Appendix F	8 feet	2 inch
Short trees from Appendix F	6 feet	1.25 inch

One challenge that emerged in proposing new regulations was how to handle existing development that was approved under previous regulations and was proposed for redevelopment or simply a request to remove existing healthy trees on the property. Staff proposes to handle this within the “*Existing Lots*” section of the proposed ordinance. If an existing lot of record is undergoing redevelopment of less than 50% of the floor area of the principal building size, then the new requirements would not apply. If more than 50% of the property is proposed for development, the applicant may follow the standards that were originally approved.

Another issue was how to handle willful violations. The proposed ordinance addresses this by requiring that for every tree that is illegally removed, then 2 inches of caliper for every inch removed will be required to be replanted based on the stump size. If there is no stump, then aerial photography will be used, so that 3 three-inch trees will be planted for every tree removed. *After further review, staff suggests Council further discuss this section as well as consider alternate language stating that willful violations would just need to come into compliance according to Section and Table 9.5.1.4.*

Tree credits have been included to recognize the protection of large trees. Grouping may be used when preserving trees. Each lot will also be given credit for one 20-foot driveway. Staff is given limited flexibility to address minor administrative modifications on the placement of trees when tree credits apply, when small trees need to be used near powerline easements and if there are no existing trees within the required yards to preserve but there are trees in the nearby building footprint that could be.

The proposed draft is provided for further discussion. All proposed changes are included in the draft ordinance with deletions having a ~~strike through~~ and additions being underlined.

Text Amendment Process and Planning and Zoning Board Action:

The Planning and Zoning Board shall consider each proposed amendment to the development ordinance and shall make a recommendation to Village Council on the proposed amendment. In considering an amendment, the Board shall conduct a legislative public hearing on the application. After conducting the public hearing and reviewing the application, the Board will formulate a recommendation to Village Council and shall also make a statement on whether the proposed amendment is consistent with the Comprehensive Plan.

If there are more questions or concerns that the Board feels are needed to be addressed, the Board can continue the public hearing to a specific date, place and time but a recommendation to Village Council should be made within 30 days of the first scheduled public hearing before the Board.

Comprehensive Plan Consistency:

The 2019 Comprehensive Plan sets seven Guiding Principles which emerged to expand upon the vision of the Village, help achieve community goals and preserve and enhance the high quality of life. The Comprehensive Plan also set ten Strategic Opportunities as well as Implementation Strategies which are actionable recommendations to address the strategic opportunities.

One of the Strategic Opportunities on page 26 is to promote high quality development by updating and modernizing the Pinehurst Development Ordinance to ensure future development is of the desired character favored by Pinehurst residents.

On page 124 under Guiding Principle 3 “Places to Live” for Protect & Enhance Existing Neighborhoods; Improve Neighborhood Appearance, Implementation Strategy 3.1 states the Village should periodically evaluate standards for landscape design and planting and amend standards as necessary to meet the needs and desires of the Village.

On page 203 under Guiding Principle 7 “All things Green: Parks, Open Spaces & Natural Resources” for Protecting Pinehurst’s Natural Resources; Preserve Trees states the *urban forest is an important aesthetic, economic, and environmental asset to Pinehurst. It contributes positively to the character of the Village, the health of the environment, the quality of life of residents, and the experience of visitors.* Implementation Strategy 7.6 further suggests the Village to enhance *the Tree Preservation Program and standards for tree planting and preservation in the Pinehurst Development Ordinance.*

Staff Recommendation:

Staff recommends that the Planning and Zoning Board recommend approval of the proposed amendments and adopt the statement of consistency with the Comprehensive Plan provided.



HISTORY, CHARM, AND SOUTHERN HOSPITALITY_____

**PLANNING AND ZONING BOARD STATEMENT OF REASONABLENESS
AND CONSISTENCY WITH THE 2019 COMPREHENSIVE PLAN
FEBRUARY 4, 2021 REGULAR MEETING**

**AMENDMENTS TO THE
PINEHURST DEVELOPMENT ORDINANCE FOR SECTIONS:**

9.5 Landscaping Requirements

9.14 Design Standards for Single Family Dwellings

(6) Tree Conservation and Newly Installed Trees and Plants

10.2 Definitions

The Village of Pinehurst Planning and Zoning Board finds that:

The 2019 Comprehensive Plan set seven Guiding Principles which emerged to expand upon the vision of the Village, help achieve community goals and preserve and enhance the high quality of life. The Comprehensive Plan also set ten Strategic Opportunities as well as Implementation Strategies which are actionable recommendations to address the strategic opportunities.

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Therefore, the Village of Pinehurst Planning and Zoning Board finds that the proposed amendments to the Pinehurst Development Ordinance **IS** consistent with the 2019 Comprehensive Plan and therefore recommends **APPROVAL** of the amendments to Village Council. Achieving goals consistent with the Comprehensive Plan is deemed to be reasonable and in the best interest of the public.



HISTORY, CHARM, AND SOUTHERN HOSPITALITY_____

This is the 12th day of February, 2021

Cyndie Burnett

Chair of the Planning and Zoning Board

Kelly Brown

Kelly Brown
Clerk to the Planning and Zoning Board

Cc: Darryn Burich
Alex Cameron
Kelly Brown

ORDINANCE #21-06

AN ORDINANCE AMENDING THE VILLAGE OF PINEHURST DEVELOPMENT ORDINANCE AS IT PERTAINS TO CHAPTER 9, DESIGN AND DEVELOPMENT STANDARDS AND PROCESSES

Whereas, development impacts adjoining uses and properties and can be impacted by adjoining uses and properties through an absence or elimination of vegetative buffering; and

Whereas, development can be impacted by the impacts from activities that occur in adjacent rights-of-way including traffic, noise, dust, and odor through an absence or elimination of vegetative buffering; and

Whereas, development impacts the overall visual character of the Village and the ETJ through the elimination or absence of vegetative buffering; and

Whereas, these regulations will help to mitigate the aforementioned development impacts through creation of vegetated tree lined buffer yards; and

Whereas, these regulations also contain provisions to incentivize the use of existing qualifying vegetation to provide buffering; and

Whereas, these regulations are consistent with Guiding Principle 1 of the 2019 Comprehensive Plan to retain the small-town charm, scale, and character of the community to ensure a high quality life; and

Whereas, these regulations are consistent with Guiding Principle 3 of the 2019 Comprehensive Plan to protect and enhance the quality and character of existing residential neighborhoods; and

Whereas, these regulations are consistent with Guiding Principle 7 of the 2019 Comprehensive Plan to preserve, conserve, and feature Pinehurst's natural resources; and

Whereas, the 2019 Comprehensive Plan was adopted by the Pinehurst Village Council on October 22, 2019 after undergoing a planning process supported by extensive and robust public participation that included residents, business owners, local interest groups, and elected and appointed officials; and

Whereas, the 2019 Comprehensive Plan is the result of thoughtful public conversations spanning over one year and represents a path forward for the Village of Pinehurst to achieve its vision.

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Village Council of the Village of Pinehurst, North Carolina in the regular meeting assembled on the 23rd day of March, 2021, makes the following amendments to the Pinehurst Development Ordinance:

Section 1. The Village of Pinehurst Development Ordinance Chapter 9 Section 9.5 Landscaping Requirements, Section 9.14.6 Tree Conservation and Newly Installed Trees and Plants is amended as follows.

Section 9.5 Landscaping and Buffering Requirements

Part 1. General Standards

9.5.1. Purpose and Scope

The regulations of this Section are intended to create buffer yards associated with development of parcels within the Village of Pinehurst and its ETJ. Buffer yards help to moderate visual contact, create spatial separation, and minimize adverse impacts on adjacent properties resulting from development activity. Buffer yards also help to reduce the visual effects and the impacts of traffic, noise, dust, and odor as well as to protect the privacy of neighbors. The Village values its existing tree canopy and these regulations provide incentives that allow existing qualifying trees to be used as part of the buffer required by this Section. By doing so, these regulations will preserve and enhance the visual character of Village and the ETJ and lessen the impacts of the development.

9.5.1.1 Definitions.

- (A) Clearing and Grading: any use of the land by any person in residential, industrial, educational, institutional, or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography.
- (B) Development: Unless the context clearly indicates otherwise, the term means any of the following:
 - a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
 - b. The excavation, grading, filling, clearing, or alteration of land.
 - c. The subdivision of land as defined in N.C.G.S. 160D-802.
 - d. The initiation or substantial change in the use of land or the intensity of use of land.
- (C) Protected Trees: Any healthy living tree with a diameter breast height of eight inches or greater.
- (D) Redevelopment: For the purpose of this section, redevelopment is the physical change to a parcel of land that results in the increase of the floor area of the principal building by 50% or more.

(E) Specimen tree is any healthy living tree that:

- a. Has a trunk diameter at breast height (DBH) of twenty-four (24) inches or more;
- b. A trunk DBH of twelve (12) inches or more in the case of the following species:
 - i. Ilex species (holly);
 - ii. Magnolia species;
 - iii. Longleaf Pine species;
- c. Is listed as a State or National Champion by the North Carolina Forest Service or the American Forestry Association;
- d. Provides unique habitat for any endangered or threatened wildlife species protected by Federal law; or
- e. Has been cited by the Village Council as being historically significant.

(F) Buffer Yards: for the purposes of Sections 9.5 and 9.14.6, buffer yards are defined as follows. Yard lengths are based on the most interior length of the setback line.

- a. Front: the front buffer yard is equal to the depth of the front yard setback of the zoning district extended to the side property lines.
- b. Rear: the rear buffer yard is equal to the depth of the rear yard setback of the zoning district extended to the side property lines.
- c. Side: the side buffer yard is equal to the width of the side yard setback from where it intersects both the front and the rear yard.
- d. Side Street: the side street buffer yard is equal to the width of the side street setback from where it intersects both the front and the rear yard.

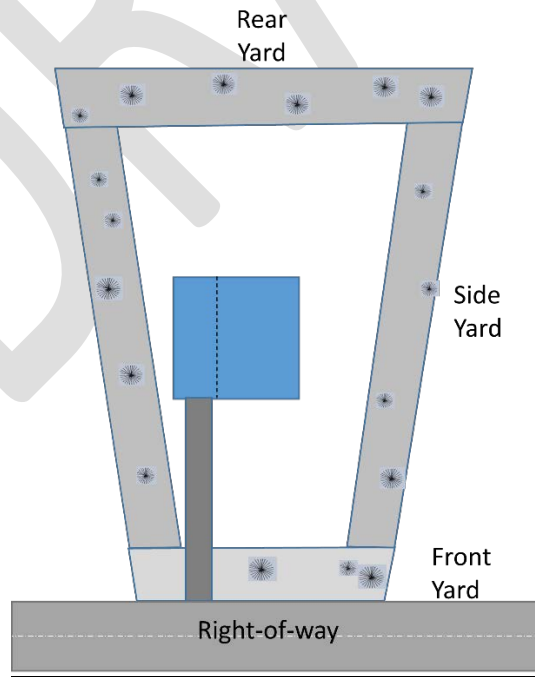


Figure 1. Standard lot yards

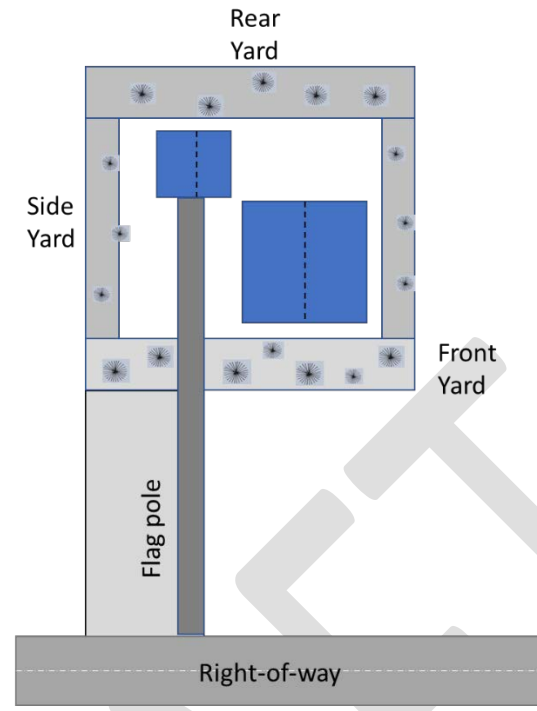


Figure 2. Flag Lot Yards

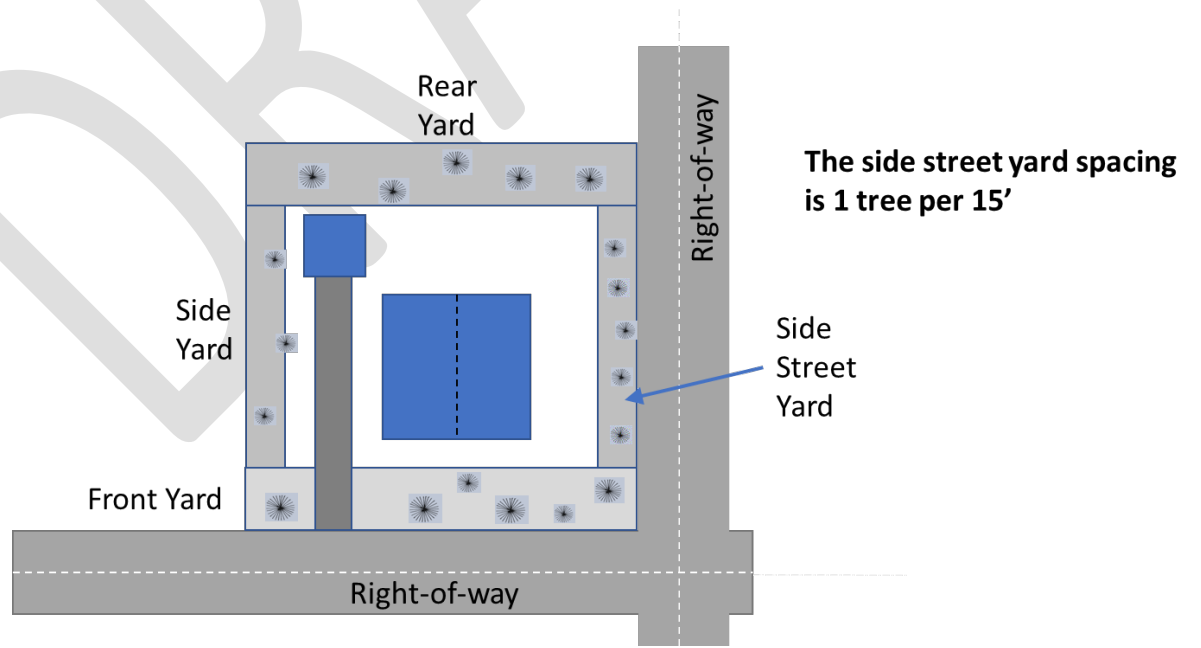


Figure 3. Side Street Buffer Yard

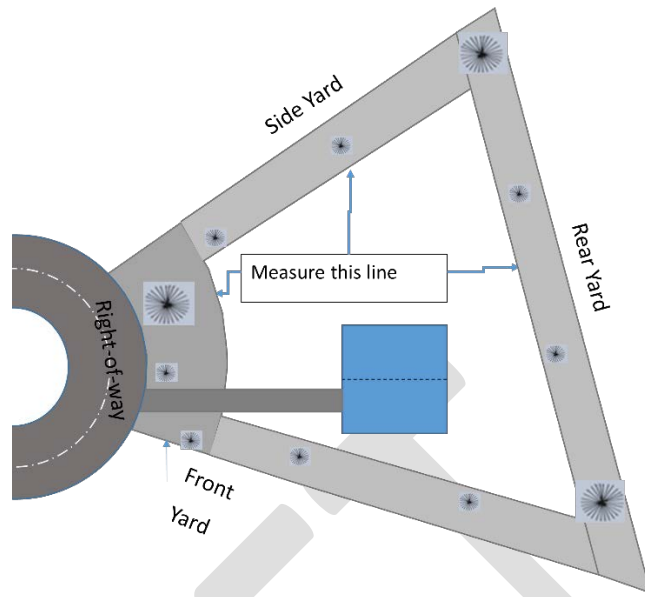


Figure 4. Where to Take Linear Measurements

- (G) Tree Removal: "Tree removal" shall include, but not be limited to, trees removed by clearing, damage inflicted to the root system by machinery; girdling; storage of materials and soil compaction; changing the natural grade above or below the root system or around the trunk; damage inflicted on the tree permitting fungus infection or pest infestation; paving with concrete, asphalt or other impervious material within the drip line or such proximity as to be harmful to the tree; or any act of malicious damage to a tree.

9.5.1.2 Clearing and Grading Applications and Permits

- (A) When clearing and grading activity is proposed on a vacant parcel and there is no active application for a development permit pursuant to this Ordinance (e.g. Major or Minor Site Plan, Major or Minor Subdivision, Single Family Development), a clearing and grading application must be submitted and a permit issued per the requirements of this Section.

If there is no tree survey on file for the property, then a tree survey must be prepared before any tree removal occurs unless it is subject to the exemptions listed in Section 9.5.1.6. If a landscape plan or tree survey has been prepared that is no older than five (5) years and is on file with the Village, it may be used whenever tree removal/replacement is planned.

- (B) In addition to ensuring that Village standards are met, Village staff may use clearing and grading applications as an educational tool to provide helpful insight to the developer regarding the costs of removing and replanting trees that will be required for buffering uses as well as to provide protection to specimen trees.

9.5.1.3 Tree Survey

- (A) Each application for a development or clearing and grading permit shall be accompanied by a tree survey. If a clearing and grading application accompanies an application for any other development permit, the tree survey shall be of the same scale as, and superimposed on, a development site plan or preliminary plat.
- (B) Trees to be surveyed include all trees greater than or equal to 8" DBH. Identification of trees smaller than 8" DBH is encouraged if the applicant determines that trees smaller than 8" DBH but larger than 3" DBH may be needed for credit. All tree surveys shall include location, number, size (DBH), qualifying trunks and species with a scaled graphic representation of each protected tree, and the trunk location shall be provided. All required tree surveys shall include the name, phone number, address, signature, and seal of a licensed surveyor, landscape architect, or civil engineer registered in the State of North Carolina. The survey shall include all trees to be protected or preserved, and those scheduled to be removed, including dead and damaged trees. Construction access shall be shown on the survey. In cases where a previously approved recorded plat is utilized for the purpose of tree survey, the name, address, phone number, signature and seal of the licensed landscape architect, civil engineer, or surveyor registered in the State of North Carolina shall be provided. A scaled infrared or high resolution black and white aerial photograph or print of equal quality may be substituted in cases where the Village Planner determines that it would provide sufficient information from which a decision may be made. This is typically the case when large contiguous areas of preservation are proposed, and the trees will not need to be counted towards credit.
- (C) Existing Lots. Existing lots are lots created by final plat prior to the effective date of this Section.
- (1) If an existing lot is undeveloped as of the effective date of this section, a tree survey shall be prepared prior to clearing or development.
 - (2) If an existing lot is developed for single-family residential purposes and is proposed for redevelopment, additions, or modifications, a landscape plan shall be submitted consistent with the requirements of Appendix B. A tree survey is not required.
 - (3) If an existing lot is developed for nonresidential purposes and is proposed for redevelopment, additions, or modifications, submittal requirements shall comply with Section 9.5, Part 2 and a tree survey is not required.
 - (4) In the event an existing lot is damaged or destroyed due to disasters such as windstorms, ice storms, fire, or hurricanes, the requirements of this section shall not apply.

9.5.1.4 Buffer Yard Standards

(A) When a clearing and grading application is required and additional changes to the land are not proposed through a Major or Minor Site Plan or Major or Minor Subdivision, a minimum planted perimeter buffer must be preserved and or created per the Table 9.5.1.4 unless a tree preservation credit is provided as allowed under this Section.

Table 9.5.1.4

Location	Number of Required Trees
Front Buffer Yard	1 Protected Tree Per 15 Linear Feet of Street Frontage
Side Street Buffer Yard	1 Protected Tree Per 15 Linear Feet of Street Frontage
Side Buffer Yard	1 Protected Tree Per 35 Linear Feet
Rear Buffer Yard	1 Protected Tree Per 25 Linear Feet

*If a lot is a flag lot or an irregularly shaped lot, the linear feet of street frontage is based on the widest street facing dimension of the front yard.

The number of required trees shall be measured in whole numbers. The applicant shall round down when calculating the number of trees.

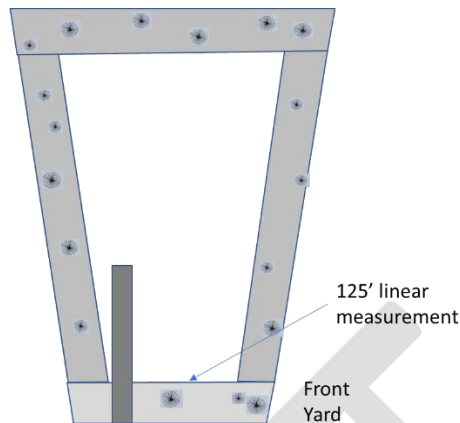
Planted Tree Minimum Size

Tree Type	Minimum Planting Height	Minimum Caliper
Evergreen Trees	6 Feet	2 Inches
Tall Trees from Appendix F	8 Feet	2 Inches
Short Trees from Appendix F	6 Feet	1.25 Inches

(B) Driveway Allowance

Each parcel shall be given an allowance for one 20' driveway. This shall be applied by subtracting twenty (20) feet from the linear foot calculation for number of required trees as shown in Table 9.5.1.4.

Example



$$125' - 20' = 105'$$

$$105/15 = 7 \text{ trees}$$

(C) Existing Tree Preservation Credits.

To help maintain the existing overall tree canopy and to encourage preservation of existing trees, credits may be given towards the requirements of Table 9.5.1.4 for existing preserved protected trees in the buffer yards as follows.

- (1) Tree credits shall apply to the particular buffer yard in which the tree is located.
- (2) One additional tree credit will be granted for every four (4) inch increase in tree girth above 12" DBH.

Example. The front tree preservation yard contains a 24" oak. Preservation of this tree grants credits in the front yard for four (4) trees.

Trees subject to the preservation credit may be grouped and are not required to meet spacing requirements in the side and rear yards. In order to ensure adequate street yard buffer and to maintain street tree canopy, trees may be grouped in the front yard; however, there shall be no space less than one tree per every 35 linear feet.

(D) Credit for Trees Less than 8" DBH

Credit may be provided for trees smaller than 8 inches DBH but no less than 3 inches DBH when there are insufficient trees present on the property to meet the requirements of Table 9.5.1.4.

(E) Minor Modifications for Alternate Spacing and Grouping

The Village Planner may authorize a minor modification to encourage the preservation of existing trees in lieu of planting subject to the following.

- (1) To satisfy tree preservation credits described in 9.5.1.4 (C).

- (2) To allow the preservation of trees within the building envelope if they are within a distance no greater than the required buffer yard depth when insufficient trees are available for preservation.

9.5.1.5 Buffer Yard Standards for Developed Lots

(A) Single-family lots undergoing redevelopment shall comply with Section 9.5.1.4(A).

(B) Single-family lots undergoing development that is less than 50% of the floor area of the principal structure shall comply with the landscape table below.

Zoning District	# of Trees per Dwelling	Size of Tree
R-5, R-8 and R-10	4	3" DBH
R-15, R-20, R-30	8	3" DBH
R-210	16	3" DBH

(C) All other lots shall comply with 9.5 Part 2.

9.5.1.6 Exemptions

(A) This Article shall not restrict public utilities and electric suppliers from maintaining safe clearance around existing utility lines, and existing easements in accordance with applicable state laws.

(B) Removal of dead or naturally fallen or severely damaged trees or vegetation, or the removal, by an approved method, or trees or vegetation that are a threat to the public health, safety, or welfare based on observation by the Village Planner or by the submittal of an arborist's report.

(C) Removal of trees for the purpose of conducting bona fide agricultural and forestry operations shall be exempt from the provisions of this Article. This exemption applies to forestry activity on forestland that is taxed on the basis of its present-use value as forestland under Article 12 of Chapter 105 of the North Carolina General Statutes (NCGS) and activities conducted in accordance with an approved forestry management plan subject Chapter 89B of NCGS and extends to any activity defined as a bona fide farm operation in NCGS 160D-903 within the extraterritorial jurisdiction of the Village. If an exempt timber harvest occurs as described above, the Village may withhold approval of a building permit, site plan, or subdivision plat for the site for three (3) years following the harvest and up to five (5) years if the removal is deemed willful.

(D) Properties located in the VC, PC, and VMU Zoning Districts are exempt.

(E) The North Carolina Department of Transportation (NCDOT) shall be exempt from the tree protection and preservation requirements of this Ordinance within NCDOT rights-of-way. Tree removal in the Village rights-of-way must be approved by the Village Manager or designee.

(F) All real properties owned by the Village of Pinehurst are exempt if tree removal is authorized by the Village Manager or designee.

9.5.1.7 Trees Removed In Violation

(A) Protected Trees Removed in Violation. When trees of 8 inches DBH or greater have been removed in violation of this Ordinance, replacement trees shall be planted according to Section/Table 9.5.1.4.

Tree preservation standards are incorporated in 9.5 Part 2 Landscape Requirements for Multi-family, Commercial and Industrial projects and in 9.14.6 for Single Family Residential Use.

Section 2. Amend Section 9.5 to insert a new part and renumber the existing text.

Part 2. Landscaping Requirements for All Development Requiring a Permit Other than Single-Family Residential and Clearing and Grading

9.5.2.1 Landscape Plan Required

A landscape plan shall be submitted to the Village Planner and its approval is a prerequisite for the issuance of a development permit where required.

9.5.2.2 Planted Buffers

(A) Permitted Uses Within Planted Buffer Areas: Planted Buffers should be left in an undisturbed natural vegetative state and provided with supplemental plantings. Selective thinning of vegetation and removal of dead vegetation may be permitted as long as the intent of the planted buffer requirement is maintained. Driveways and utilities may cross a planted buffer at or as near a perpendicular angle as practical. Paths and walkways may pass through the planted buffer and pedestrian walkways (greenways) may be installed within the buffer area. Grading in the designated planted buffer may be allowed with site plan approval, if the re-vegetation plan is determined to meet the intent of this Section;

(B) Location of Planted Buffers: Required planted buffers shall be provided along the perimeter of development unless alternate locations are approved. Planted buffers shall be designated and dimensioned on all site plans and subdivisions plans, where applicable;

(C) Public Pedestrian Easement Required: The full width of all buffer areas shall be designated as a public pedestrian easement and shown on a recorded plat;

(D) Application:

- (1) These standards apply to all non-residential and multi-family uses (including townhouse unit development) located within the Village of Pinehurst and its extraterritorial jurisdiction except for properties containing only museums and/or libraries as the primary use and located within the PC zoning district. Additionally, the Village Council may waive some or all of these standards for developments and uses located within the VC, VMU, VCP and VR Zoning Districts when determined to be in the best interest of the public. In waiving these standards, the Village Council may require an alternate means of buffering if agreed upon by the property owner. When nonresidential and multi-family uses submit a site plan for locations next to property zoned for primarily residential use, planted buffers shall be provided near the perimeter of the nonresidential or multi-family property. One half of the planted buffers requirements shall apply when a public street or railroad right-of-way separates a nonresidential or multi-family uses from a residential property. If a greenway passes through a landscape buffer the area of the greenway shall be subtracted from the total buffer area for plant count purposes.
- (2) The required planted buffer width is based on the classification shown on Table 9.5.2.2;
- (3) If said project is adjacent to property that is zoned non-residential or multi-family but is used for single family purposes, half the required planted buffer width along the perimeter of the property adjoining that property shall be required;
- (4) A class 3 planted buffer shall be installed along and adjacent to NC 2, Midland Road east of the Traffic Circle to the zoning jurisdictional boundary of Pinehurst, on the west side of Hwy. 15/501 from the northern extent of the zoning jurisdictional boundary of Pinehurst southward to the western extent of the traffic circle and the intersection with Hwy. 211, Hwy. 211 from the intersection of McKenzie Rd. to the western extent of the zoning jurisdictional boundary of Pinehurst, Murdocksville Rd. from the intersection of Hwy. 211 to the northern extent of the zoning jurisdictional boundary of Pinehurst and on the west side of Hwy 5 from the intersection of Lake Hills Rd. south to the intersection with Trotter Hills for all non-single family residential uses.
- (5) If the adjacent property is zoned for residential use but is vacant at the time of the proposed development, the full required planted buffer width shall be provided;

- (6) If the proposed development is non-residential and the adjacent property is zoned or used for multi-family dwellings, one-half of the planted buffer width shall be provided, but not less than ten (10) feet;
- (7) If the proposed development is for multi-family dwellings adjacent to property zoned or used for multi-family dwellings, one-half of the planted buffer width shall be provided, whether the property is occupied or not.

(E) Planted Buffer Classifications and Width:

- (1) Planted buffer width is based on uses in the following classifications:
 - (a) Class 1 - 10 feet: Cemeteries, golf courses, passive recreational areas, and;
 - (b) Class 2 - 20 feet: Offices, churches, schools, public facilities including playgrounds, ball fields, community swimming pools, and similar facilities, day care facilities, multi-family, residential, hotels;
 - (c) Class 3 - 30 feet: Neighborhood commercial and service activities including, but not limited to, retail operations, funeral homes, restaurants, banks, convenience stores;
 - (d) Class 4 - 50 feet: Commercial activities with higher vehicle activities including, but not limited to, vehicle repair, theatres, outdoor recreation centers, and outdoor storage

Table 9.5.2.2

REQUIRED PLANTED BUFFER WIDTH IN FEET BASED ON BUFFER CLASSIFICATION AND ADJACENT PROPERTY USE AND ZONE				
ADJACENT PROPERTY USE AND ZONE				
Planted Buffer Class	Developed Residential Zone	Principal Residential Use in Nonresidential Zone	Developed Multi-Family Zone	Vacant Multi-Family Zone
Class 1	10 feet	10 feet	10 feet	10 feet
Class 2	20 feet	20 feet	10 feet	10 feet
Class 3	30 feet	30 feet	15 feet	15 feet
Class 4	50 feet	50 feet	25 feet	25 feet

- (2) The required setbacks may be used to meet landscape planted buffer width requirements in all districts. When planted buffers are required for residential uses, the planted buffer requirements shall be designated open space, or common area;
- (3) Planted buffer widths and required plantings may be reduced by thirty percent (30%) if the site plan indicates berming, alternate landscaping, walls, opaque fencing in combination with landscaping or topographic features which will, in the opinion of the Village Planner, achieve the intent of this Section as outlined in Section 9.5.1 and result in equal or better performance. In no case shall a buffer width be less than ten (10) feet. Berms may not have a slope steeper than two (2) horizontal to one (1) vertical and must have a crown width of at least two (2) feet and a minimum height of two (2) feet;

(F) Requirements for Planted Buffer Areas:

- (1) Existing Vegetation. Existing vegetation, regardless of species, shall be used to meet all or part of the requirements of this Section wherever possible, if it provides the same level of obscurity as the planted buffer required below. Vegetation to be saved shall be identified on site plans, along with protection measures to be used during grading and construction. (See Section 9.5.2.7 for protection measures and calculation of credits for existing trees);
- (2) Planting requirements: Planting requirements for planted buffers include both trees (large and small) and shrubs as described below. (See Appendix F for a listing of native/water conserving trees and shrubs.) In calculating buffer planting requirements, areas of driveways are excluded;
 - (a) Tree Standards: This requirement may be satisfied as follows:
 1. One longleaf pine tree with a minimum size of three (3) inch caliper at planting are required per two hundred (200) square feet of buffer area.
 2. Two Understory trees a minimum of two-inch caliper are required per five hundred (500) square feet of buffer area, one of which is to be an evergreen species that is not a pine tree.
 3. Trees shall be distributed along the entire length and width of the planted buffer. Due to unique characteristics of a site, or design objectives, alternative plant mixes and spacing may be approved by the Village Planner.
 - (b) Shrub Standards: Shrubs, a minimum of twenty-four (24) inches in height, of a variety that can be expected to reach four (4) to five (5) feet in height and three (3) feet in width within three (3) years of planting, shall be provided. Shrubs shall not be planted closer than six (6) feet to newly planted trees, nor within the drip line of existing hardwood trees. Shrubs shall be distributed along the entire length and width of the planted buffer, preferably in naturalistic groupings so as not to create a hedge-like condition. Shrubs shall be provided at one per seventy-five (75) square feet of buffer area.

9.5.2.3 Landscape Screens

- (A) The purpose of a screen is to use plants and/or other landscape or architectural elements to obscure views from all corridors or adjacent properties.

Structures such as loading docks, mini-warehouses, service courts, dumpster areas, mechanical equipment, and outside storage of material stocks or equipment, either for sale or not for sale on the premises, such as, but not limited to, motor vehicles, equipment, or construction equipment shall be screened from unobstructed off-site views. Uses requiring screening as noted in this Ordinance shall be screened according to the requirements of this Section. This screening requirement does not pertain to outdoor display of merchandise located within the Historic Preservation Overlay District that complies with the regulations and design guidelines of that district.

- (1) Landscape Screen Standards: Features and uses specified above and/or others requiring screens shall provide a visual obstruction from all corridor and adjacent properties in conformance with the following standards: The screen may be composed of view-obscuring vegetation, wall, fence, or berm. The items may be used individually or in combination. The minimum result shall be a semi-opaque seventy-five percent (75%) screen that obscures views from the ground to a height of the object being screened. Evergreen screening plants shall be at least five (5) feet tall at the time of installation and reach the desired height within three (3) years of planting. Additionally, screen areas shall be sufficient size to allow for the mature growth of plant materials when used.

9.5.2.4 Parking Area Landscaping

- (A) Purpose: In order to reduce reflected sunlight and headlight glare from parked vehicles, as well as to maintain a separation between vehicles and other uses and to reduce the effects on the environment of vehicle parking facilities, the following standards apply.

- (B) Required Perimeter Landscape Plants:

- (1) Large trees (unless subject to overhead power lines): Longleaf pines shall be planted at the rate of one three (3) inch caliper tree per twenty (20) linear feet of property line abutting a street and/or adjoining property, less driveways and sight distance triangles. Trees must be a minimum of five (5) feet and a maximum of twenty (20) feet from the parking lot edge to meet this requirement.

Credit given for existing, healthy, protected trees, regardless of species, shall be according to 9.5.2.7 of this Section;

- (2) Evergreen shrubs at the rate of one (1) 24-inch height minimum shrub per three (3) linear feet of parking lot edge abutting streets and adjoining property, less driveways, of a species expected to reach a minimum height of 36 inches and a minimum spread of thirty (30) inches within three (3) years of planting. This rate may be varied based upon size of installed plant materials. Shrubs must be a minimum of five (5) feet and a maximum of ten (10) feet from the parking lot edge to meet this requirement.

Shrubs shall be planted such that no less than seventy-five percent (75%) of the length of the parking lot edge, to a height of thirty-six (36) inches, is obscured from view after three (3) years of growth. Shrubs planted within sight distance triangles shall be of a type with a maximum mature height of eighteen (18) inches.

Additionally, shrubs shall not be planted within six (6) feet of the trunk of a tree;

- (3) A brick or stone wall, or fence, at least thirty-six (36) inches tall and of a material compatible with the building, may be substituted for the requirements of shrubs.
- (4) Berms may be installed within the highway (front) or interior (side or rear) yards with a minimum two (2) foot height, two (2) foot minimum crown width, and side slopes of not steeper than two horizontal to one vertical. Berms shall be planted with live vegetation, and may be used with smaller plants to meet the required screening area, provided that the combination of the berm and the shrubs obscures no less than seventy-five percent (75%) of the length of the parking area, to a minimum height of thirty-six (36) inches after three (3) years of growth;
- (5) Areas used for vehicle sales and/or service, parking, and business transactions such as areas adjacent to gasoline pumps (even if under a canopy) and areas for drive-up service, shall be considered parking areas and shall comply with the requirements of this Section.

(C) Landscaping Within Parking Areas:

- (1) Location: Parking areas shall provide and maintain landscaped areas based upon the parking area. Areas under canopies, loading and service areas, and portions of drives with no parking on either side for a distance longer than twenty-five (25) feet and/or used exclusively as access to loading or service areas, are exempt from this requirement. The landscaping within parking areas shall be provided in addition to planted buffer requirements of this Ordinance.

Areas used for landscaping shall be provided in the amount equivalent to at least ten (10) percent of the parking area, and shall be used for planting either trees and/or shrubs according to the requirements below. Tree planting areas shall be located such that no parking space is farther than seventy-five (75) feet from a tree trunk.

- (2) Required Landscape Plants: Trees shall be used at the following rates, either in combinations of small and large trees, or with large trees only, to add up to the required landscape area:
 - (a) One three (3) inch caliper, large hardwood or pine tree per two hundred fifty (250) square feet of required landscaped area. Each large tree shall be located within a minimum growing area of two hundred fifty (250) square feet un-encroached upon by shrubs or impervious pavement, with a minimum dimension of ten (10) feet;
 - (b) One understory tree less than three (3) inch caliper at the rate of one eight (8) foot tall tree per one hundred twenty-five (125) square feet of required landscaped area. Understory and evergreen trees shall be located within a minimum growing area of one hundred twenty-five (125) square feet, with a minimum dimension of seven and one half (7½) feet, un-encroached upon by shrubs or impervious pavement. Understory trees may be used to fulfill up to one third (1/3) of the required trees.

(3) Islands and Medians:

- (a) Minimum curb radii of five (5) feet are required on the corners of all tree islands and medians to allow for free movement of motor vehicles around planting materials. (See the Village of Pinehurst Engineering Standards and Specifications Manual). All islands shall have raised curbing around them meeting the Village of Pinehurst Engineering Standards and Specifications Manual to further protect plants from being run over by motor vehicles. Medians without curbing shall include devices to stop vehicles from driving into the planted areas;
- (b) No more than one tree may be provided per island, unless there is at least the minimum growing area per tree as required above. Large trees shall not normally be planted less than eighteen (18) feet apart, and small trees/large shrubs shall not normally be planted less than twelve (12) feet apart.

(4) Existing Trees:

- (a) Credit given for existing, healthy, protected trees shall be according to 9.5.2.7 of this Section. Trees used to meet other requirements of this Ordinance may not be used to meet the requirements of this Section.

- (5) Sight Distances: Trees and shrubs shall be either pruned or located to facilitate safe sight distances within parking lots.

(D) Parking Area Landscaped Yards: Any new or expanded off-street parking areas shall provide landscaped areas meeting the requirements below:

- (1) New or expanded parking areas shall provide a landscaped area, adjacent to and outside of the street right-of-way, and/or adjacent residential property line edge, less driveways, of a minimum of ten (10) feet in width and adjacent non-residential property line edge, less driveways, of a minimum of five (5) feet. Proposed locations of plants and parking spaces shall be arranged to protect plants from vehicles;
- (2) Planted buffers and/or screens provided adjacent to right-of-way, as required under Sections 9.5.2.2 and/or 9.5.2.3 of this Section, and located between parking lots and streets and/or adjoining residential property may be considered in fulfilling these requirements.

(E) Street Trees Required

- (1) For all non single-family developments one three (3) inch caliper, large hardwood or pine tree per forty (40) lineal feet of street frontage minus driveways shall be planted in the road right of way. These street trees shall be approved by the Village Engineer as being acceptable street trees. These trees shall be planted outside of site triangles and not conflict with any utilities. Alternate type and size trees may be approved by the village engineer based on existing site conditions and constraints.

9.5.2.5 Maintenance Responsibility

Unless otherwise stated, the owner of any property where landscaping is required shall be responsible for the maintenance of all required plant material and continued compliance with this Section.

9.5.2.6 Request for Extension of Compliance

- (A) A letter of request for extension of compliance with landscaping requirements may be filed with the Village Planner that states the reasons why the request is being made. If the Village Planner finds that there are unfavorable conditions for planting, an extension of compliance with landscaping requirements may be allowed for a period not longer than ninety (90) days. The letter shall also acknowledge that the property owner is aware of all landscaping and screening requirements, and will comply with those requirements within ninety (90) days, or discontinue use of the property;
- (B) If an extension is allowed by the Village Planner, the applicant shall provide to the village a financial guarantee as set forth in Section 9.17.1.26 sufficient to cover one hundred twenty-five percent (125%) of the installed landscaping costs;
- (C) If the initial letter of request for extension of compliance with landscaping requirements has expired and conditions are still deemed unsuitable for planting, the applicant may request one (1) additional extension of up to ninety (90) days. Failure to comply with the provisions of this Section within the time noted in the letter of request for the extension of compliance with landscaping requirements shall be deemed a violation of this Ordinance. In addition, failure to perform in accordance with this Section shall result in default and the forfeiture of the financial guarantee as set forth in Section 9.17.1.26.

9.5.2.7 Existing Vegetation Credits

- (A) Existing healthy trees and shrubs shall be retained when possible and may be credited toward landscape requirements. Vegetation to be saved shall be identified on submitted plans. Protection measures shall be installed to maintain tree health and such protective measures shall be shown on the submitted plan.
- (B) Credit given for existing, healthy, protected trees shall be on a tree-for-tree basis, for planted buffer areas, and on the basis of fulfilling the requirements for parking areas. Existing trees will not be allowed to be counted towards landscape screen requirements. Trees so credited must be at least three (3) inch caliper.

9.5.2.8 Specimen Trees

- (A) Specimen trees include all of the following:
 - A specimen tree is any healthy living tree that:
 - (1) Has a trunk diameter at breast height (DBH) of twenty-four (24) inches or more;
 - (2) A trunk DBH of twelve (12) inches or more in the case of the following species:

- (a) Ilex species (holly);
- (b) Magnolia species;
- (c) Longleaf Pine species;
- (3) Is listed as a State or National Champion by the North Carolina Forest Service or the American Forestry Association;
- (4) Provides unique habitat for any endangered or threatened wildlife species protected by Federal law; or
- (5) Has been cited by the Village Council as being historically significant.

9.5.2.9 Preservation and Removal on Private Property

(A) Specimen Trees On Private Land:

- (1) Specimen trees shall be shown on all preliminary commercial and residential site plans submittals and located by survey on final site or Landscape Protection Plans. The Village Planner may visit the site to determine the accuracy of identification. The location and identification of specimen trees shall be required if such trees are within one hundred (100) feet of areas of a development site where soil disturbance or construction activity is proposed;
- (2) Proposed development shall be designed to maximize the preservation of specimen trees. Where specimen trees exist, flexible approaches such as adjustments to lot layout, placement of buildings and paved surfaces and location of utilities shall be pursued in order to save them;
- (3) Notwithstanding any provision of this Ordinance to the contrary, saving of a specimen tree shall constitute evidence that the requirements for a case have been met for a variance application;
- (4) No soil disturbance from construction, trenching or grading, or paving, or storage of equipment or materials shall take place within the critical root zone of any specimen tree to be preserved unless during the review of the site and/or Landscape Protection Plan it is determined there is no reasonable way the property can be developed without such disturbance.

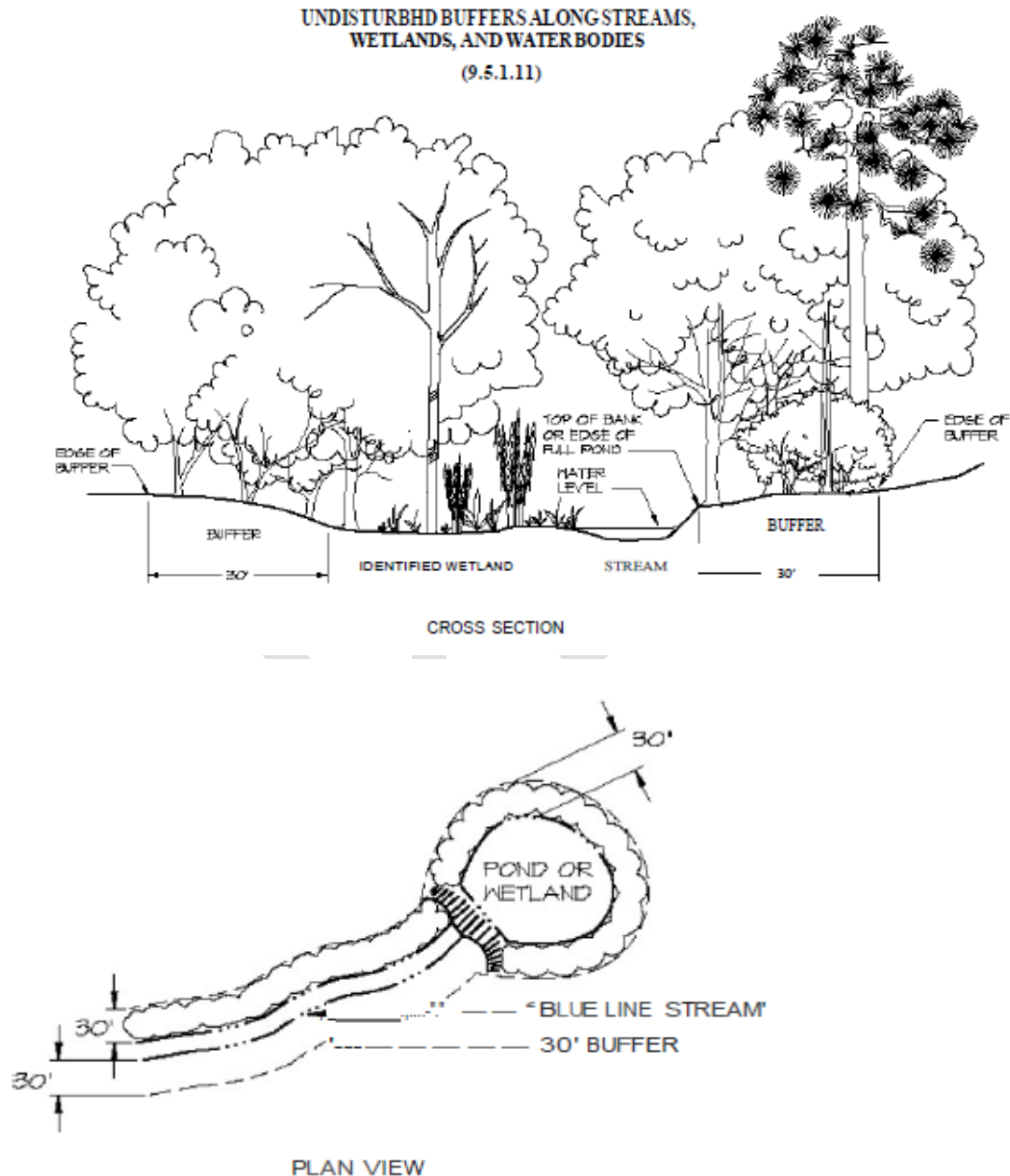
(B) Voluntary Protection Of Specimen Trees On Existing Residential Lots:

- (1) Specimen trees which are located on individual lots with single homes shall be protected if voluntarily registered by the property owner;
- (2) Registration of such trees shall render the owner of the lot the following privileges: If a permitted accessory structure or addition to a house is being planned, notwithstanding any provision of the Ordinance to the contrary, saving of a specimen tree may constitute evidence that requirements for a case have been met for a variance application.

9.5.2.10 Undisturbed Buffers Along Streams, Wetlands, and Water Bodies

- (A) Notwithstanding any other provisions of this Ordinance regarding buffers, landscaping or setbacks, all development, other than development of existing single family lots shall maintain a thirty (30) foot undisturbed buffer measured from the

top of the bank along all streams that are shown as "blue lines" on the most recent versions of U.S. Geologic Survey 1:24,000 scale topographical maps; along the edge of identified wetlands as established by the North Carolina Department of Environmental Resources as defined by N.C.G.S. §143.212(6); and along the edge of the full pond of any water body that is fed by or connected to a "blue-line" stream, other setbacks such as wetland and watershed (Section 8.3.3) may also apply;



- (B) The Village Council may permit as a special exception water dependent structures, pedestrian facilities and other similar structures where the Council finds that only minimal disturbance will result. In permitting such facilities, the Council may attach such reasonable conditions as the Council deems appropriate.

Section 3. Amend Chapter 10 of the Pinehurst Development Ordinance to replace the definition of “development” and alphabetically insert the following additional definitions.

Clearing and Grading: Any use of the land by any person in residential, industrial, educational, institutional, or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography.

Development: Unless the context clearly indicates otherwise, the term means any of the following:

- a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- b. The excavation, grading, filling, clearing, or alteration of land.
- c. The subdivision of land as defined in N.C.G.S. 160D-802.
- d. The initiation or substantial change in the use of land or the intensity of use of land.

Protected Trees: Any tree with a diameter breast height of eight inches or greater.

Redevelopment: For the purpose of Section 9.5, redevelopment is the physical change to a parcel of land that results in the increase of the floor area of the principal building by 50% or more.

Specimen tree is any healthy living tree that:

- a. Has a trunk diameter at breast height (DBH) of twenty-four (24) inches or more;
- b. A trunk DBH of twelve (12) inches or more in the case of the following species:
 - i. Ilex species (holly);
 - ii. Magnolia species;
 - iii. Longleaf Pine species;
- c. Is listed as a State or National Champion by the North Carolina Forest Service or the American Forestry Association;
- d. Provides unique habitat for any endangered or threatened wildlife species protected by Federal law; or
- e. Has been cited by the Village Council as being historically significant.

Buffer Yards: for the purposes of Sections 9.5 and 9.14.6, buffer yards are defined as follows. Yard lengths are based on the most interior length of the setback line.

- a. Front: the front buffer yard is equal to the depth of the front yard setback of the zoning district extended to the side property lines.
- b. Rear: the rear buffer yard is equal to the depth of the rear yard setback of the zoning district extended to the side property lines.
- c. Side: the side buffer yard is equal to the width of the side yard setback from where it intersects both the front and the rear yard.

- d. Side Street: the side street buffer yard is equal to the width of the side street setback from where it intersects both the front and rear yard.

Section 4. The Village of Pinehurst Development Ordinance Chapter 9, Section 9.14.6 Tree Conservation and Newly Installed Trees and Plants is amended as follows.

General Intent. The regulations of this Section are intended to preserve trees along the outer perimeter of development sites such that buffer yards are retained/created to buffer uses from adjacent properties and to reduce visual effects and the impacts of traffic, noise, dust, and odor. Where buffer yards do not exist or have been previously cleared, the planting requirements of this section apply.

(A) All development, including clearing and grading activities, shall consider conservation of existing specimen and protected trees. Where such trees exist, flexible approaches such as adjustment to placement of buildings and paved surfaces and location of utilities may be permitted by the Village Planner to preserve them. The conservation of existing trees that do not conflict with the placement of buildings, drives, walks, patios, or other site amenities is encouraged. A tree survey shall be submitted with an application for development approval that identifies all protected, heritage and specimen trees in accordance with Section 9.5. Part 1.

(B) Buffer Yard Standards

- (1) A minimum planted perimeter buffer must be planted or preserved per the requirements of Table 9.14.6 below which establishes the minimum number of trees per buffer yard within an individual lot or parcel. If a buffer yard does not contain enough qualifying trees per Table 9.14.6, then the required number of trees shall be installed per the requirements of 9.14.6 (C). Tree preservation credits may be provided per Section 9.14.6 (B) (2). Buffer Yards are as defined in Section 9.5.1.1 (F)

Table 9.14.6

Setback Location	Quantity
Front Buffer Yard	1 Protected Tree Per 15 Linear Feet of Street Frontage
Side Street Buffer Yard	1 Protected Tree Per 15 Linear Feet of Street Frontage
Side Buffer Yard	1 Protected Tree Per 35 Linear Feet
Rear Buffer Yard	1 Protected Tree Per 25 Linear Feet

*If a lot is a flag lot or an irregularly shaped lot, the linear feet of street frontage is based on the widest street facing dimension of the front yard.

(2) Tree Preservation Credits.

Tree preservation credits shall be in accordance with 9.5.1.4. (C) and (D).

(3) Driveway Credit.

Driveway credit shall be in accordance with Section 9.5.1.4 (B).

(C) Tree Placement and Planting.

- (1) Planted trees shall be evenly spaced within required yards and may be staggered in alignment throughout the length of the required buffer yard based on the spacing in Table 9.14.6 unless otherwise provided in this ordinance.
- (2) At least one-half of the planted trees shall be Longleaf Pines. The remaining trees shall be selected from Appendix F of the Pinehurst Development Ordinance. Tall trees shall be used in the front protected yard; however, short trees may be used under power line easements. Tall or short trees may be used in the side and rear yards. Substitutions may be allowed by the Village Planner that will result in equal or better performance.
- (3) Landscaping should be of sufficient size so that mature appearance will be achieved within five (5) years of installation of trees.

Planted Tree Minimum Size

Tree type	Minimum Planting Height	Minimum Caliper
Evergreen trees	6 feet	2 inch
Tall trees from Appendix F	8 feet	2 inch
Short trees from Appendix F	6 feet	1.25 inch

- (4) The Village Planner may authorize a minor modification to encourage the preservation of existing trees in lieu of planting subject to the following.
 - a. To satisfy tree preservation credits described in 9.5.1.4 (C).
 - b. To allow the preservation of trees within the building envelope if they are within a distance no greater than the required buffer yard depth when insufficient trees are available for preservation.
 - c. Small trees as identified in Appendix C may be used to avoid conflicts with overhead infrastructure.

(D) Protected Trees Removed in Violation. When trees of 8 inches DBH or greater have been removed in violation of this Ordinance, replacement trees shall be planted in the according to Section/Table 9.14.6.

- (E) Unless otherwise stated, the owner of any property where landscaping is required shall be responsible for the continual maintenance of all required plant material and continued compliance with this Section. This requirement shall run with the property and shall be binding upon all future property owners.
- (F) As part of the required single-family site plan the approximate location, size and type of trees to be used to meet this standard shall be shown.
- (G) All trees used to meet the intent of this section shall be healthy and well protected during construction. See Appendix F for a listing of trees which are known to be adaptive and naturalized in the Sandhills of North Carolina. Any of these trees can be used in meeting the tree conservation standards of this section.
- (H) HVAC units, pool equipment, well houses, and other structures on the property shall be screened with landscaping material or fencing so as to be seventy-five percent (75%) opaque.
- (I) Foundation Plantings Required: Foundation plantings shall be provided for all principal and accessory buildings and structures, including storage sheds. The number of plants or plant groupings shall be provided based on the linear footage of foundation along the front and sides of each structure minus doorways, and steps at a rate of one (1) shrub or plant grouping per six (6) linear foot of foundation. A minimum of fifty percent (50%) of the required plantings shall be five (5) gallon or larger at the time of planting, the remainder shall be a minimum of three (3) gallon in size. Said plantings are not required to be placed in a uniform, linear arrangement when installed and plant groupings or ground cover beds may be used to meet the intent of this section.
- (J) The site shall be designed to minimize the removal of mature specimen trees, for example, Longleaf Pine, Dogwood, American Holly and Southern Magnolia.

SECTION 5. That this Ordinance shall be and remain in full force and effect from and after the date of its adoption.

VILLAGE OF PINEHURST
VILLAGE COUNCIL

(Municipal Seal)

By: _____
John C. Strickland, Mayor

Attest:

Approved as to Form:

Kelly Chance, Village Clerk

Michael J. Newman, Village Attorney

ORDINANCE #21-06

AN ORDINANCE AMENDING THE VILLAGE OF PINEHURST DEVELOPMENT ORDINANCE AS IT PERTAINS TO CHAPTER 9, DESIGN AND DEVELOPMENT STANDARDS AND PROCESSES

Whereas, development impacts adjoining uses and properties and can be impacted by adjoining uses and properties through an absence or elimination of vegetative buffering; and

Whereas, development can be impacted by the impacts from activities that occur in adjacent rights-of-way including traffic, noise, dust, and odor through an absence or elimination of vegetative buffering; and

Whereas, development impacts the overall visual character of the Village and the ETJ through the elimination or absence of vegetative buffering; and

Whereas, these regulations will help to mitigate the aforementioned development impacts through creation of vegetated tree lined buffer yards; and

Whereas, these regulations also contain provisions to incentivize the use of existing qualifying vegetation to provide buffering; and

Whereas, these regulations are consistent with Guiding Principle 1 of the 2019 Comprehensive Plan to retain the small-town charm, scale, and character of the community to ensure a high quality life; and

Whereas, these regulations are consistent with Guiding Principle 3 of the 2019 Comprehensive Plan to protect and enhance the quality and character of existing residential neighborhoods; and

Whereas, these regulations are consistent with Guiding Principle 7 of the 2019 Comprehensive Plan to preserve, conserve, and feature Pinehurst's natural resources; and

Whereas, the 2019 Comprehensive Plan was adopted by the Pinehurst Village Council on October 22, 2019 after undergoing a planning process supported by extensive and robust public participation that included residents, business owners, local interest groups, and elected and appointed officials; and

Whereas, the 2019 Comprehensive Plan is the result of thoughtful public conversations spanning over one year and represents a path forward for the Village of Pinehurst to achieve its vision.

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Village Council of the Village of Pinehurst, North Carolina in the regular meeting assembled on the 23rd day of March, 2021, makes the following amendments to the Pinehurst Development Ordinance:

Section 1. The Village of Pinehurst Development Ordinance Chapter 9 Section 9.5 Landscaping Requirements, Section 9.14.6 Tree Conservation and Newly Installed Trees and Plants is amended as follows.

Section 9.5 Landscaping and Buffering Requirements

Part 1. General Standards

9.5.1. Purpose and Scope

The regulations of this Section are intended to create buffer yards associated with development of parcels within the Village of Pinehurst and its ETJ. Buffer yards help to moderate visual contact, create spatial separation, and minimize adverse impacts on adjacent properties resulting from development activity. Buffer yards also help to reduce the visual effects and the impacts of traffic, noise, dust, and odor as well as to protect the privacy of neighbors. The Village values its existing tree canopy and these regulations provide incentives that allow existing qualifying trees to be used as part of the buffer required by this Section. By doing so, these regulations will preserve and enhance the visual character of Village and the ETJ and lessen the impacts of the development.

9.5.1.1 Definitions.

- (A) Clearing and Grading: any use of the land by any person in residential, industrial, educational, institutional, or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography.
- (B) Development: Unless the context clearly indicates otherwise, the term means any of the following:
 - a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
 - b. The excavation, grading, filling, clearing, or alteration of land.
 - c. The subdivision of land as defined in N.C.G.S. 160D-802.
 - d. The initiation or substantial change in the use of land or the intensity of use of land.
- (C) Protected Trees: Any healthy living tree with a diameter breast height of eight inches or greater.
- (D) Redevelopment: For the purpose of this section, redevelopment is the physical change to a parcel of land that results in the increase of the floor area of the principal building by 50% or more.

(E) Specimen tree is any healthy living tree that:

- a. Has a trunk diameter at breast height (DBH) of twenty-four (24) inches or more;
- b. A trunk DBH of twelve (12) inches or more in the case of the following species:
 - i. Ilex species (holly);
 - ii. Magnolia species;
 - iii. Longleaf Pine species;
- c. Is listed as a State or National Champion by the North Carolina Forest Service or the American Forestry Association;
- d. Provides unique habitat for any endangered or threatened wildlife species protected by Federal law; or
- e. Has been cited by the Village Council as being historically significant.

(F) Buffer Yards: for the purposes of Sections 9.5 and 9.14.6, buffer yards are defined as follows. Yard lengths are based on the most interior length of the setback line.

- a. Front: the front buffer yard is equal to the depth of the front yard setback of the zoning district extended to the side property lines.
- b. Rear: the rear buffer yard is equal to the depth of the rear yard setback of the zoning district extended to the side property lines.
- c. Side: the side buffer yard is equal to the width of the side yard setback from where it intersects both the front and the rear yard.
- d. Side Street: the side street buffer yard is equal to the width of the side street setback from where it intersects both the front and the rear yard.

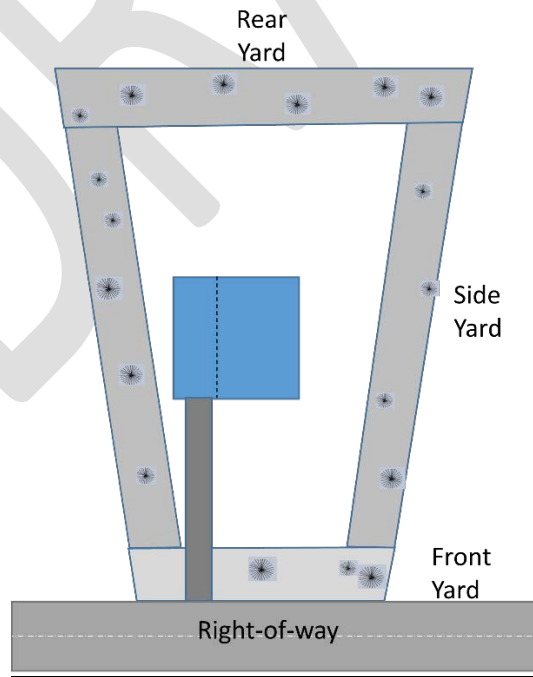


Figure 1. Standard lot yards

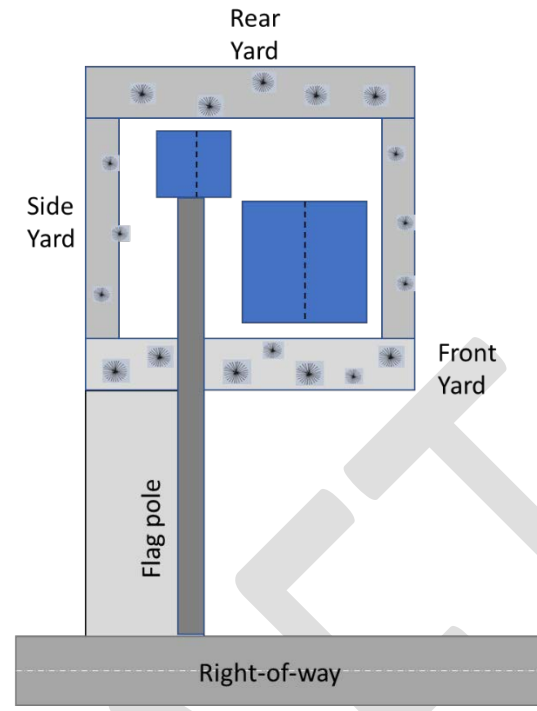


Figure 2. Flag Lot Yards

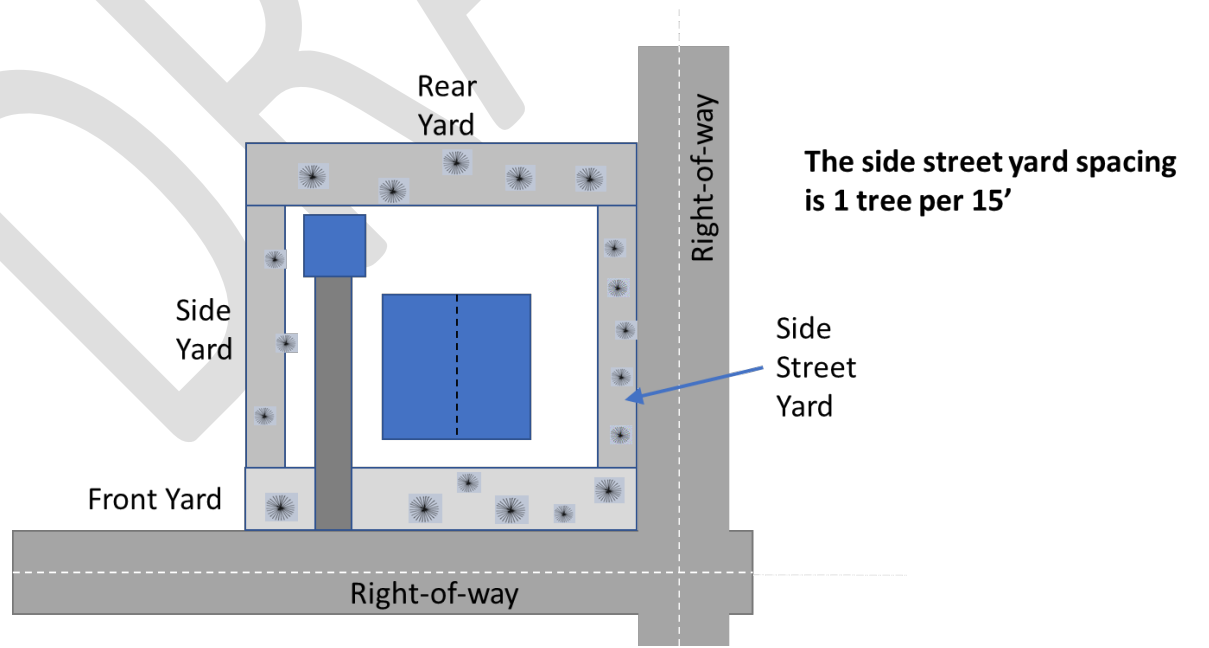


Figure 3. Side Street Buffer Yard

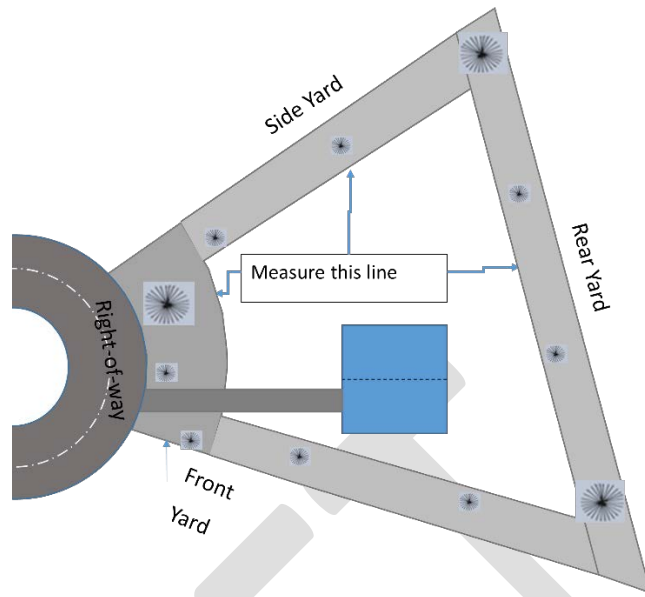


Figure 4. Where to Take Linear Measurements

- (G) Tree Removal: "Tree removal" shall include, but not be limited to, trees removed by clearing, damage inflicted to the root system by machinery; girdling; storage of materials and soil compaction; changing the natural grade above or below the root system or around the trunk; damage inflicted on the tree permitting fungus infection or pest infestation; paving with concrete, asphalt or other impervious material within the drip line or such proximity as to be harmful to the tree; or any act of malicious damage to a tree.

9.5.1.2 Clearing and Grading Applications and Permits

- (A) When clearing and grading activity is proposed on a vacant parcel and there is no active application for a development permit pursuant to this Ordinance (e.g. Major or Minor Site Plan, Major or Minor Subdivision, Single Family Development), a clearing and grading application must be submitted and a permit issued per the requirements of this Section.

If there is no tree survey on file for the property, then a tree survey must be prepared before any tree removal occurs unless it is subject to the exemptions listed in Section 9.5.1.6. If a landscape plan or tree survey has been prepared that is no older than five (5) years and is on file with the Village, it may be used whenever tree removal/replacement is planned.

- (B) In addition to ensuring that Village standards are met, Village staff may use clearing and grading applications as an educational tool to provide helpful insight to the developer regarding the costs of removing and replanting trees that will be required for buffering uses as well as to provide protection to specimen trees.

9.5.1.3 Tree Survey

- (A) Each application for a development or clearing and grading permit shall be accompanied by a tree survey. If a clearing and grading application accompanies an application for any other development permit, the tree survey shall be of the same scale as, and superimposed on, a development site plan or preliminary plat.
- (B) Trees to be surveyed include all trees greater than or equal to 8" DBH. Identification of trees smaller than 8" DBH is encouraged if the applicant determines that trees smaller than 8" DBH but larger than 3" DBH may be needed for credit. All tree surveys shall include location, number, size (DBH), qualifying trunks and species with a scaled graphic representation of each protected tree, and the trunk location shall be provided. All required tree surveys shall include the name, phone number, address, signature, and seal of a licensed surveyor, landscape architect, or civil engineer registered in the State of North Carolina. The survey shall include all trees to be protected or preserved, and those scheduled to be removed, including dead and damaged trees. Construction access shall be shown on the survey. In cases where a previously approved recorded plat is utilized for the purpose of tree survey, the name, address, phone number, signature and seal of the licensed landscape architect, civil engineer, or surveyor registered in the State of North Carolina shall be provided. A scaled infrared or high resolution black and white aerial photograph or print of equal quality may be substituted in cases where the Village Planner determines that it would provide sufficient information from which a decision may be made. This is typically the case when large contiguous areas of preservation are proposed, and the trees will not need to be counted towards credit.
- (C) Existing Lots. Existing lots are lots created by final plat prior to the effective date of this Section.
- (1) If an existing lot is undeveloped as of the effective date of this section, a tree survey shall be prepared prior to clearing or development.
 - (2) If an existing lot is developed for single-family residential purposes and is proposed for redevelopment, additions, or modifications, a landscape plan shall be submitted consistent with the requirements of Appendix B. A tree survey is not required.
 - (3) If an existing lot is developed for nonresidential purposes and is proposed for redevelopment, additions, or modifications, submittal requirements shall comply with Section 9.5, Part 2 and a tree survey is not required.
 - (4) In the event an existing lot is damaged or destroyed due to disasters such as windstorms, ice storms, fire, or hurricanes, the requirements of this section shall not apply.

9.5.1.4 Buffer Yard Standards

(A) When a clearing and grading application is required and additional changes to the land are not proposed through a Major or Minor Site Plan or Major or Minor Subdivision, a minimum planted perimeter buffer must be preserved and or created per the Table 9.5.1.4 unless a tree preservation credit is provided as allowed under this Section.

Table 9.5.1.4

Location	Number of Required Trees
Front Buffer Yard	1 Protected Tree Per 15 Linear Feet of Street Frontage
Side Street Buffer Yard	1 Protected Tree Per 15 Linear Feet of Street Frontage
Side Buffer Yard	1 Protected Tree Per 35 Linear Feet
Rear Buffer Yard	1 Protected Tree Per 25 Linear Feet

*If a lot is a flag lot or an irregularly shaped lot, the linear feet of street frontage is based on the widest street facing dimension of the front yard.

The number of required trees shall be measured in whole numbers. The applicant shall round down when calculating the number of trees.

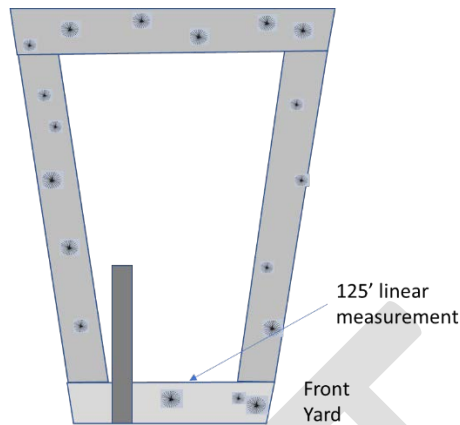
Planted Tree Minimum Size

Tree Type	Minimum Planting Height	Minimum Caliper
Evergreen Trees	6 Feet	2 Inches
Tall Trees from Appendix F	8 Feet	2 Inches
Short Trees from Appendix F	6 Feet	1.25 Inches

(B) Driveway Allowance

Each parcel shall be given an allowance for one 20' driveway. This shall be applied by subtracting twenty (20) feet from the linear foot calculation for number of required trees as shown in Table 9.5.1.4.

Example



$$125' - 20' = 105'$$

$$105/15 = 7 \text{ trees}$$

(C) Existing Tree Preservation Credits.

To help maintain the existing overall tree canopy and to encourage preservation of existing trees, credits may be given towards the requirements of Table 9.5.1.4 for existing preserved protected trees in the buffer yards as follows.

- (1) Tree credits shall apply to the particular buffer yard in which the tree is located.
- (2) One additional tree credit will be granted for every four (4) inch increase in tree girth above 12" DBH.

Example. The front tree preservation yard contains a 24" oak. Preservation of this tree grants credits in the front yard for four (4) trees.

Trees subject to the preservation credit may be grouped and are not required to meet spacing requirements in the side and rear yards. In order to ensure adequate street yard buffer and to maintain street tree canopy, trees may be grouped in the front yard; however, there shall be no space less than one tree per every 35 linear feet.

(D) Credit for Trees Less than 8" DBH

Credit may be provided for trees smaller than 8 inches DBH but no less than 3 inches DBH when there are insufficient trees present on the property to meet the requirements of Table 9.5.1.4.

(E) Minor Modifications for Alternate Spacing and Grouping

The Village Planner may authorize a minor modification to encourage the preservation of existing trees in lieu of planting subject to the following.

- (1) To satisfy tree preservation credits described in 9.5.1.4 (C).

- (2) To allow the preservation of trees within the building envelope if they are within a distance no greater than the required buffer yard depth when insufficient trees are available for preservation.

9.5.1.5 Buffer Yard Standards for Developed Lots

(A) Single-family lots undergoing redevelopment shall comply with Section 9.5.1.4(A).

(B) Single-family lots undergoing development that is less than 50% of the floor area of the principal structure shall comply with the landscape table below.

Zoning District	# of Trees per Dwelling	Size of Tree
R-5, R-8 and R-10	4	3" DBH
R-15, R-20, R-30	8	3" DBH
R-210	16	3" DBH

(C) All other lots shall comply with 9.5 Part 2.

9.5.1.6 Exemptions

(A) This Article shall not restrict public utilities and electric suppliers from maintaining safe clearance around existing utility lines, and existing easements in accordance with applicable state laws.

(B) Removal of dead or naturally fallen or severely damaged trees or vegetation, or the removal, by an approved method, or trees or vegetation that are a threat to the public health, safety, or welfare based on observation by the Village Planner or by the submittal of an arborist's report.

(C) Removal of trees for the purpose of conducting bona fide agricultural and forestry operations shall be exempt from the provisions of this Article. This exemption applies to forestry activity on forestland that is taxed on the basis of its present-use value as forestland under Article 12 of Chapter 105 of the North Carolina General Statutes (NCGS) and activities conducted in accordance with an approved forestry management plan subject Chapter 89B of NCGS and extends to any activity defined as a bona fide farm operation in NCGS 160D-903 within the extraterritorial jurisdiction of the Village. If an exempt timber harvest occurs as described above, the Village may withhold approval of a building permit, site plan, or subdivision plat for the site for three (3) years following the harvest and up to five (5) years if the removal is deemed willful.

(D) Properties located in the VC, PC, and VMU Zoning Districts are exempt.

(E) The North Carolina Department of Transportation (NCDOT) shall be exempt from the tree protection and preservation requirements of this Ordinance within NCDOT rights-of-way. Tree removal in the Village rights-of-way must be approved by the Village Manager or designee.

(F) All real properties owned by the Village of Pinehurst are exempt if tree removal is authorized by the Village Manager or designee.

9.5.1.7 Trees Removed In Violation

(A) Protected Trees Removed in Violation. When trees of 8 inches DBH or greater have been removed in violation of this Ordinance, replacement trees shall be planted according to Section/Table 9.5.1.4.

Tree preservation standards are incorporated in 9.5 Part 2 Landscape Requirements for Multi-family, Commercial and Industrial projects and in 9.14.6 for Single Family Residential Use.

Section 2. Amend Section 9.5 to insert a new part and renumber the existing text.

Part 2. Landscaping Requirements for All Development Requiring a Permit Other than Single-Family Residential and Clearing and Grading

9.5.2.1 Landscape Plan Required

A landscape plan shall be submitted to the Village Planner and its approval is a prerequisite for the issuance of a development permit where required.

9.5.2.2 Planted Buffers

(A) Permitted Uses Within Planted Buffer Areas: Planted Buffers should be left in an undisturbed natural vegetative state and provided with supplemental plantings. Selective thinning of vegetation and removal of dead vegetation may be permitted as long as the intent of the planted buffer requirement is maintained. Driveways and utilities may cross a planted buffer at or as near a perpendicular angle as practical. Paths and walkways may pass through the planted buffer and pedestrian walkways (greenways) may be installed within the buffer area. Grading in the designated planted buffer may be allowed with site plan approval, if the re-vegetation plan is determined to meet the intent of this Section;

(B) Location of Planted Buffers: Required planted buffers shall be provided along the perimeter of development unless alternate locations are approved. Planted buffers shall be designated and dimensioned on all site plans and subdivisions plans, where applicable;

(C) Public Pedestrian Easement Required: The full width of all buffer areas shall be designated as a public pedestrian easement and shown on a recorded plat;

(D) Application:

- (1) These standards apply to all non-residential and multi-family uses (including townhouse unit development) located within the Village of Pinehurst and its extraterritorial jurisdiction except for properties containing only museums and/or libraries as the primary use and located within the PC zoning district. Additionally, the Village Council may waive some or all of these standards for developments and uses located within the VC, VMU, VCP and VR Zoning Districts when determined to be in the best interest of the public. In waiving these standards, the Village Council may require an alternate means of buffering if agreed upon by the property owner. When nonresidential and multi-family uses submit a site plan for locations next to property zoned for primarily residential use, planted buffers shall be provided near the perimeter of the nonresidential or multi-family property. One half of the planted buffers requirements shall apply when a public street or railroad right-of-way separates a nonresidential or multi-family uses from a residential property. If a greenway passes through a landscape buffer the area of the greenway shall be subtracted from the total buffer area for plant count purposes.
- (2) The required planted buffer width is based on the classification shown on Table 9.5.2.2;
- (3) If said project is adjacent to property that is zoned non-residential or multi-family but is used for single family purposes, half the required planted buffer width along the perimeter of the property adjoining that property shall be required;
- (4) A class 3 planted buffer shall be installed along and adjacent to NC 2, Midland Road east of the Traffic Circle to the zoning jurisdictional boundary of Pinehurst, on the west side of Hwy. 15/501 from the northern extent of the zoning jurisdictional boundary of Pinehurst southward to the western extent of the traffic circle and the intersection with Hwy. 211, Hwy. 211 from the intersection of McKenzie Rd. to the western extent of the zoning jurisdictional boundary of Pinehurst, Murdocksville Rd. from the intersection of Hwy. 211 to the northern extent of the zoning jurisdictional boundary of Pinehurst and on the west side of Hwy 5 from the intersection of Lake Hills Rd. south to the intersection with Trotter Hills for all non-single family residential uses.
- (5) If the adjacent property is zoned for residential use but is vacant at the time of the proposed development, the full required planted buffer width shall be provided;

- (6) If the proposed development is non-residential and the adjacent property is zoned or used for multi-family dwellings, one-half of the planted buffer width shall be provided, but not less than ten (10) feet;
- (7) If the proposed development is for multi-family dwellings adjacent to property zoned or used for multi-family dwellings, one-half of the planted buffer width shall be provided, whether the property is occupied or not.

(E) Planted Buffer Classifications and Width:

- (1) Planted buffer width is based on uses in the following classifications:
 - (a) Class 1 - 10 feet: Cemeteries, golf courses, passive recreational areas, and;
 - (b) Class 2 - 20 feet: Offices, churches, schools, public facilities including playgrounds, ball fields, community swimming pools, and similar facilities, day care facilities, multi-family, residential, hotels;
 - (c) Class 3 - 30 feet: Neighborhood commercial and service activities including, but not limited to, retail operations, funeral homes, restaurants, banks, convenience stores;
 - (d) Class 4 - 50 feet: Commercial activities with higher vehicle activities including, but not limited to, vehicle repair, theatres, outdoor recreation centers, and outdoor storage

Table 9.5.2.2

REQUIRED PLANTED BUFFER WIDTH IN FEET BASED ON BUFFER CLASSIFICATION AND ADJACENT PROPERTY USE AND ZONE				
ADJACENT PROPERTY USE AND ZONE				
Planted Buffer Class	Developed Residential Zone	Principal Residential Use in Nonresidential Zone	Developed Multi-Family Zone	Vacant Multi-Family Zone
Class 1	10 feet	10 feet	10 feet	10 feet
Class 2	20 feet	20 feet	10 feet	10 feet
Class 3	30 feet	30 feet	15 feet	15 feet
Class 4	50 feet	50 feet	25 feet	25 feet

- (2) The required setbacks may be used to meet landscape planted buffer width requirements in all districts. When planted buffers are required for residential uses, the planted buffer requirements shall be designated open space, or common area;
- (3) Planted buffer widths and required plantings may be reduced by thirty percent (30%) if the site plan indicates berming, alternate landscaping, walls, opaque fencing in combination with landscaping or topographic features which will, in the opinion of the Village Planner, achieve the intent of this Section as outlined in Section 9.5.1 and result in equal or better performance. In no case shall a buffer width be less than ten (10) feet. Berms may not have a slope steeper than two (2) horizontal to one (1) vertical and must have a crown width of at least two (2) feet and a minimum height of two (2) feet;

(F) Requirements for Planted Buffer Areas:

- (1) Existing Vegetation. Existing vegetation, regardless of species, shall be used to meet all or part of the requirements of this Section wherever possible, if it provides the same level of obscurity as the planted buffer required below. Vegetation to be saved shall be identified on site plans, along with protection measures to be used during grading and construction. (See Section 9.5.2.7 for protection measures and calculation of credits for existing trees);
- (2) Planting requirements: Planting requirements for planted buffers include both trees (large and small) and shrubs as described below. (See Appendix F for a listing of native/water conserving trees and shrubs.) In calculating buffer planting requirements, areas of driveways are excluded;
 - (a) Tree Standards: This requirement may be satisfied as follows:
 1. One longleaf pine tree with a minimum size of three (3) inch caliper at planting are required per two hundred (200) square feet of buffer area.
 2. Two Understory trees a minimum of two-inch caliper are required per five hundred (500) square feet of buffer area, one of which is to be an evergreen species that is not a pine tree.
 3. Trees shall be distributed along the entire length and width of the planted buffer. Due to unique characteristics of a site, or design objectives, alternative plant mixes and spacing may be approved by the Village Planner.
 - (b) Shrub Standards: Shrubs, a minimum of twenty-four (24) inches in height, of a variety that can be expected to reach four (4) to five (5) feet in height and three (3) feet in width within three (3) years of planting, shall be provided. Shrubs shall not be planted closer than six (6) feet to newly planted trees, nor within the drip line of existing hardwood trees. Shrubs shall be distributed along the entire length and width of the planted buffer, preferably in naturalistic groupings so as not to create a hedge-like condition. Shrubs shall be provided at one per seventy-five (75) square feet of buffer area.

9.5.2.3 Landscape Screens

- (A) The purpose of a screen is to use plants and/or other landscape or architectural elements to obscure views from all corridors or adjacent properties.

Structures such as loading docks, mini-warehouses, service courts, dumpster areas, mechanical equipment, and outside storage of material stocks or equipment, either for sale or not for sale on the premises, such as, but not limited to, motor vehicles, equipment, or construction equipment shall be screened from unobstructed off-site views. Uses requiring screening as noted in this Ordinance shall be screened according to the requirements of this Section. This screening requirement does not pertain to outdoor display of merchandise located within the Historic Preservation Overlay District that complies with the regulations and design guidelines of that district.

- (1) Landscape Screen Standards: Features and uses specified above and/or others requiring screens shall provide a visual obstruction from all corridor and adjacent properties in conformance with the following standards: The screen may be composed of view-obscuring vegetation, wall, fence, or berm. The items may be used individually or in combination. The minimum result shall be a semi-opaque seventy-five percent (75%) screen that obscures views from the ground to a height of the object being screened. Evergreen screening plants shall be at least five (5) feet tall at the time of installation and reach the desired height within three (3) years of planting. Additionally, screen areas shall be sufficient size to allow for the mature growth of plant materials when used.

9.5.2.4 Parking Area Landscaping

(A) Purpose: In order to reduce reflected sunlight and headlight glare from parked vehicles, as well as to maintain a separation between vehicles and other uses and to reduce the effects on the environment of vehicle parking facilities, the following standards apply.

(B) Required Perimeter Landscape Plants:

- (1) Large trees (unless subject to overhead power lines): Longleaf pines shall be planted at the rate of one three (3) inch caliper tree per twenty (20) linear feet of property line abutting a street and/or adjoining property, less driveways and sight distance triangles. Trees must be a minimum of five (5) feet and a maximum of twenty (20) feet from the parking lot edge to meet this requirement.

Credit given for existing, healthy, protected trees, regardless of species, shall be according to 9.5.2.7 of this Section;

- (2) Evergreen shrubs at the rate of one (1) 24-inch height minimum shrub per three (3) linear feet of parking lot edge abutting streets and adjoining property, less driveways, of a species expected to reach a minimum height of 36 inches and a minimum spread of thirty (30) inches within three (3) years of planting. This rate may be varied based upon size of installed plant materials. Shrubs must be a minimum of five (5) feet and a maximum of ten (10) feet from the parking lot edge to meet this requirement.

Shrubs shall be planted such that no less than seventy-five percent (75%) of the length of the parking lot edge, to a height of thirty-six (36) inches, is obscured from view after three (3) years of growth. Shrubs planted within sight distance triangles shall be of a type with a maximum mature height of eighteen (18) inches.

Additionally, shrubs shall not be planted within six (6) feet of the trunk of a tree;

- (3) A brick or stone wall, or fence, at least thirty-six (36) inches tall and of a material compatible with the building, may be substituted for the requirements of shrubs.
- (4) Berms may be installed within the highway (front) or interior (side or rear) yards with a minimum two (2) foot height, two (2) foot minimum crown width, and side slopes of not steeper than two horizontal to one vertical. Berms shall be planted with live vegetation, and may be used with smaller plants to meet the required screening area, provided that the combination of the berm and the shrubs obscures no less than seventy-five percent (75%) of the length of the parking area, to a minimum height of thirty-six (36) inches after three (3) years of growth;
- (5) Areas used for vehicle sales and/or service, parking, and business transactions such as areas adjacent to gasoline pumps (even if under a canopy) and areas for drive-up service, shall be considered parking areas and shall comply with the requirements of this Section.

(C) Landscaping Within Parking Areas:

- (1) Location: Parking areas shall provide and maintain landscaped areas based upon the parking area. Areas under canopies, loading and service areas, and portions of drives with no parking on either side for a distance longer than twenty-five (25) feet and/or used exclusively as access to loading or service areas, are exempt from this requirement. The landscaping within parking areas shall be provided in addition to planted buffer requirements of this Ordinance.

Areas used for landscaping shall be provided in the amount equivalent to at least ten (10) percent of the parking area, and shall be used for planting either trees and/or shrubs according to the requirements below. Tree planting areas shall be located such that no parking space is farther than seventy-five (75) feet from a tree trunk.

- (2) Required Landscape Plants: Trees shall be used at the following rates, either in combinations of small and large trees, or with large trees only, to add up to the required landscape area:
 - (a) One three (3) inch caliper, large hardwood or pine tree per two hundred fifty (250) square feet of required landscaped area. Each large tree shall be located within a minimum growing area of two hundred fifty (250) square feet un-encroached upon by shrubs or impervious pavement, with a minimum dimension of ten (10) feet;
 - (b) One understory tree less than three (3) inch caliper at the rate of one eight (8) foot tall tree per one hundred twenty-five (125) square feet of required landscaped area. Understory and evergreen trees shall be located within a minimum growing area of one hundred twenty-five (125) square feet, with a minimum dimension of seven and one half (7½) feet, un-encroached upon by shrubs or impervious pavement. Understory trees may be used to fulfill up to one third (1/3) of the required trees.

(3) Islands and Medians:

- (a) Minimum curb radii of five (5) feet are required on the corners of all tree islands and medians to allow for free movement of motor vehicles around planting materials. (See the Village of Pinehurst Engineering Standards and Specifications Manual). All islands shall have raised curbing around them meeting the Village of Pinehurst Engineering Standards and Specifications Manual to further protect plants from being run over by motor vehicles. Medians without curbing shall include devices to stop vehicles from driving into the planted areas;
- (b) No more than one tree may be provided per island, unless there is at least the minimum growing area per tree as required above. Large trees shall not normally be planted less than eighteen (18) feet apart, and small trees/large shrubs shall not normally be planted less than twelve (12) feet apart.

(4) Existing Trees:

- (a) Credit given for existing, healthy, protected trees shall be according to 9.5.2.7 of this Section. Trees used to meet other requirements of this Ordinance may not be used to meet the requirements of this Section.

- (5) Sight Distances: Trees and shrubs shall be either pruned or located to facilitate safe sight distances within parking lots.

(D) Parking Area Landscaped Yards: Any new or expanded off-street parking areas shall provide landscaped areas meeting the requirements below:

- (1) New or expanded parking areas shall provide a landscaped area, adjacent to and outside of the street right-of-way, and/or adjacent residential property line edge, less driveways, of a minimum of ten (10) feet in width and adjacent non-residential property line edge, less driveways, of a minimum of five (5) feet. Proposed locations of plants and parking spaces shall be arranged to protect plants from vehicles;
- (2) Planted buffers and/or screens provided adjacent to right-of-way, as required under Sections 9.5.2.2 and/or 9.5.2.3 of this Section, and located between parking lots and streets and/or adjoining residential property may be considered in fulfilling these requirements.

(E) Street Trees Required

- (1) For all non single-family developments one three (3) inch caliper, large hardwood or pine tree per forty (40) lineal feet of street frontage minus driveways shall be planted in the road right of way. These street trees shall be approved by the Village Engineer as being acceptable street trees. These trees shall be planted outside of site triangles and not conflict with any utilities. Alternate type and size trees may be approved by the village engineer based on existing site conditions and constraints.

9.5.2.5 Maintenance Responsibility

Unless otherwise stated, the owner of any property where landscaping is required shall be responsible for the maintenance of all required plant material and continued compliance with this Section.

9.5.2.6 Request for Extension of Compliance

- (A) A letter of request for extension of compliance with landscaping requirements may be filed with the Village Planner that states the reasons why the request is being made. If the Village Planner finds that there are unfavorable conditions for planting, an extension of compliance with landscaping requirements may be allowed for a period not longer than ninety (90) days. The letter shall also acknowledge that the property owner is aware of all landscaping and screening requirements, and will comply with those requirements within ninety (90) days, or discontinue use of the property;
- (B) If an extension is allowed by the Village Planner, the applicant shall provide to the village a financial guarantee as set forth in Section 9.17.1.26 sufficient to cover one hundred twenty-five percent (125%) of the installed landscaping costs;
- (C) If the initial letter of request for extension of compliance with landscaping requirements has expired and conditions are still deemed unsuitable for planting, the applicant may request one (1) additional extension of up to ninety (90) days. Failure to comply with the provisions of this Section within the time noted in the letter of request for the extension of compliance with landscaping requirements shall be deemed a violation of this Ordinance. In addition, failure to perform in accordance with this Section shall result in default and the forfeiture of the financial guarantee as set forth in Section 9.17.1.26.

9.5.2.7 Existing Vegetation Credits

- (A) Existing healthy trees and shrubs shall be retained when possible and may be credited toward landscape requirements. Vegetation to be saved shall be identified on submitted plans. Protection measures shall be installed to maintain tree health and such protective measures shall be shown on the submitted plan.
- (B) Credit given for existing, healthy, protected trees shall be on a tree-for-tree basis, for planted buffer areas, and on the basis of fulfilling the requirements for parking areas. Existing trees will not be allowed to be counted towards landscape screen requirements. Trees so credited must be at least three (3) inch caliper.

9.5.2.8 Specimen Trees

- (A) Specimen trees include all of the following:
 - A specimen tree is any healthy living tree that:
 - (1) Has a trunk diameter at breast height (DBH) of twenty-four (24) inches or more;
 - (2) A trunk DBH of twelve (12) inches or more in the case of the following species:

- (a) Ilex species (holly);
- (b) Magnolia species;
- (c) Longleaf Pine species;
- (3) Is listed as a State or National Champion by the North Carolina Forest Service or the American Forestry Association;
- (4) Provides unique habitat for any endangered or threatened wildlife species protected by Federal law; or
- (5) Has been cited by the Village Council as being historically significant.

9.5.2.9 Preservation and Removal on Private Property

(A) Specimen Trees On Private Land:

- (1) Specimen trees shall be shown on all preliminary commercial and residential site plans submittals and located by survey on final site or Landscape Protection Plans. The Village Planner may visit the site to determine the accuracy of identification. The location and identification of specimen trees shall be required if such trees are within one hundred (100) feet of areas of a development site where soil disturbance or construction activity is proposed;
- (2) Proposed development shall be designed to maximize the preservation of specimen trees. Where specimen trees exist, flexible approaches such as adjustments to lot layout, placement of buildings and paved surfaces and location of utilities shall be pursued in order to save them;
- (3) Notwithstanding any provision of this Ordinance to the contrary, saving of a specimen tree shall constitute evidence that the requirements for a case have been met for a variance application;
- (4) No soil disturbance from construction, trenching or grading, or paving, or storage of equipment or materials shall take place within the critical root zone of any specimen tree to be preserved unless during the review of the site and/or Landscape Protection Plan it is determined there is no reasonable way the property can be developed without such disturbance.

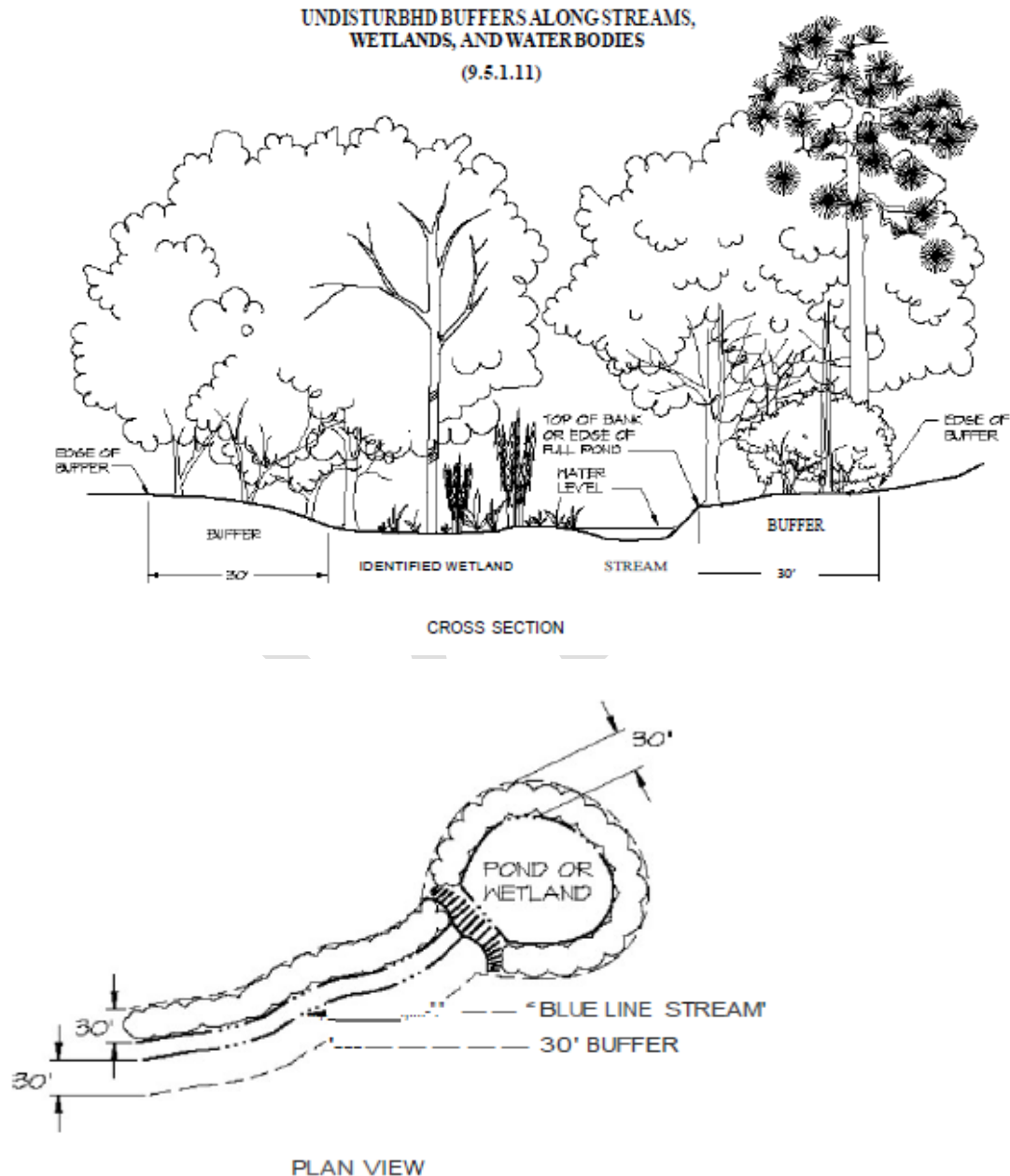
(B) Voluntary Protection Of Specimen Trees On Existing Residential Lots:

- (1) Specimen trees which are located on individual lots with single homes shall be protected if voluntarily registered by the property owner;
- (2) Registration of such trees shall render the owner of the lot the following privileges: If a permitted accessory structure or addition to a house is being planned, notwithstanding any provision of the Ordinance to the contrary, saving of a specimen tree may constitute evidence that requirements for a case have been met for a variance application.

9.5.2.10 Undisturbed Buffers Along Streams, Wetlands, and Water Bodies

- (A) Notwithstanding any other provisions of this Ordinance regarding buffers, landscaping or setbacks, all development, other than development of existing single family lots shall maintain a thirty (30) foot undisturbed buffer measured from the

top of the bank along all streams that are shown as "blue lines" on the most recent versions of U.S. Geologic Survey 1:24,000 scale topographical maps; along the edge of identified wetlands as established by the North Carolina Department of Environmental Resources as defined by N.C.G.S. §143.212(6); and along the edge of the full pond of any water body that is fed by or connected to a "blue-line" stream, other setbacks such as wetland and watershed (Section 8.3.3) may also apply;



- (B) The Village Council may permit as a special exception water dependent structures, pedestrian facilities and other similar structures where the Council finds that only minimal disturbance will result. In permitting such facilities, the Council may attach such reasonable conditions as the Council deems appropriate.

Section 3. Amend Chapter 10 of the Pinehurst Development Ordinance to replace the definition of “development” and alphabetically insert the following additional definitions.

Clearing and Grading: Any use of the land by any person in residential, industrial, educational, institutional, or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography.

Development: Unless the context clearly indicates otherwise, the term means any of the following:

- a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- b. The excavation, grading, filling, clearing, or alteration of land.
- c. The subdivision of land as defined in N.C.G.S. 160D-802.
- d. The initiation or substantial change in the use of land or the intensity of use of land.

Protected Trees: Any tree with a diameter breast height of eight inches or greater.

Redevelopment: For the purpose of Section 9.5, redevelopment is the physical change to a parcel of land that results in the increase of the floor area of the principal building by 50% or more.

Specimen tree is any healthy living tree that:

- a. Has a trunk diameter at breast height (DBH) of twenty-four (24) inches or more;
- b. A trunk DBH of twelve (12) inches or more in the case of the following species:
 - i. Ilex species (holly);
 - ii. Magnolia species;
 - iii. Longleaf Pine species;
- c. Is listed as a State or National Champion by the North Carolina Forest Service or the American Forestry Association;
- d. Provides unique habitat for any endangered or threatened wildlife species protected by Federal law; or
- e. Has been cited by the Village Council as being historically significant.

Buffer Yards: for the purposes of Sections 9.5 and 9.14.6, buffer yards are defined as follows. Yard lengths are based on the most interior length of the setback line.

- a. Front: the front buffer yard is equal to the depth of the front yard setback of the zoning district extended to the side property lines.
- b. Rear: the rear buffer yard is equal to the depth of the rear yard setback of the zoning district extended to the side property lines.
- c. Side: the side buffer yard is equal to the width of the side yard setback from where it intersects both the front and the rear yard.

- d. Side Street: the side street buffer yard is equal to the width of the side street setback from where it intersects both the front and rear yard.

Section 4. The Village of Pinehurst Development Ordinance Chapter 9, Section 9.14.6 Tree Conservation and Newly Installed Trees and Plants is amended as follows.

General Intent. The regulations of this Section are intended to preserve trees along the outer perimeter of development sites such that buffer yards are retained/created to buffer uses from adjacent properties and to reduce visual effects and the impacts of traffic, noise, dust, and odor. Where buffer yards do not exist or have been previously cleared, the planting requirements of this section apply.

(A) All development, including clearing and grading activities, shall consider conservation of existing specimen and protected trees. Where such trees exist, flexible approaches such as adjustment to placement of buildings and paved surfaces and location of utilities may be permitted by the Village Planner to preserve them. The conservation of existing trees that do not conflict with the placement of buildings, drives, walks, patios, or other site amenities is encouraged. A tree survey shall be submitted with an application for development approval that identifies all protected, heritage and specimen trees in accordance with Section 9.5. Part 1.

(B) Buffer Yard Standards

- (1) A minimum planted perimeter buffer must be planted or preserved per the requirements of Table 9.14.6 below which establishes the minimum number of trees per buffer yard within an individual lot or parcel. If a buffer yard does not contain enough qualifying trees per Table 9.14.6, then the required number of trees shall be installed per the requirements of 9.14.6 (C). Tree preservation credits may be provided per Section 9.14.6 (B) (2). Buffer Yards are as defined in Section 9.5.1.1 (F)

Table 9.14.6

Setback Location	Quantity
Front Buffer Yard	1 Protected Tree Per 15 Linear Feet of Street Frontage
Side Street Buffer Yard	1 Protected Tree Per 15 Linear Feet of Street Frontage
Side Buffer Yard	1 Protected Tree Per 35 Linear Feet
Rear Buffer Yard	1 Protected Tree Per 25 Linear Feet

*If a lot is a flag lot or an irregularly shaped lot, the linear feet of street frontage is based on the widest street facing dimension of the front yard.

(2) Tree Preservation Credits.

Tree preservation credits shall be in accordance with 9.5.1.4. (C) and (D).

(3) Driveway Credit.

Driveway credit shall be in accordance with Section 9.5.1.4 (B).

(C) Tree Placement and Planting.

- (1) Planted trees shall be evenly spaced within required yards and may be staggered in alignment throughout the length of the required buffer yard based on the spacing in Table 9.14.6 unless otherwise provided in this ordinance.
- (2) At least one-half of the planted trees shall be Longleaf Pines. The remaining trees shall be selected from Appendix F of the Pinehurst Development Ordinance. Tall trees shall be used in the front protected yard; however, short trees may be used under power line easements. Tall or short trees may be used in the side and rear yards. Substitutions may be allowed by the Village Planner that will result in equal or better performance.
- (3) Landscaping should be of sufficient size so that mature appearance will be achieved within five (5) years of installation of trees.

Planted Tree Minimum Size

Tree type	Minimum Planting Height	Minimum Caliper
Evergreen trees	6 feet	2 inch
Tall trees from Appendix F	8 feet	2 inch
Short trees from Appendix F	6 feet	1.25 inch

- (4) The Village Planner may authorize a minor modification to encourage the preservation of existing trees in lieu of planting subject to the following.
 - a. To satisfy tree preservation credits described in 9.5.1.4 (C).
 - b. To allow the preservation of trees within the building envelope if they are within a distance no greater than the required buffer yard depth when insufficient trees are available for preservation.
 - c. Small trees as identified in Appendix C may be used to avoid conflicts with overhead infrastructure.

(D) Protected Trees Removed in Violation. When trees of 8 inches DBH or greater have been removed in violation of this Ordinance, replacement trees shall be planted in the according to Section/Table 9.14.6.

- (E) Unless otherwise stated, the owner of any property where landscaping is required shall be responsible for the continual maintenance of all required plant material and continued compliance with this Section. This requirement shall run with the property and shall be binding upon all future property owners.
- (F) As part of the required single-family site plan the approximate location, size and type of trees to be used to meet this standard shall be shown.
- (G) All trees used to meet the intent of this section shall be healthy and well protected during construction. See Appendix F for a listing of trees which are known to be adaptive and naturalized in the Sandhills of North Carolina. Any of these trees can be used in meeting the tree conservation standards of this section.
- (H) HVAC units, pool equipment, well houses, and other structures on the property shall be screened with landscaping material or fencing so as to be seventy-five percent (75%) opaque.
- (I) Foundation Plantings Required: Foundation plantings shall be provided for all principal and accessory buildings and structures, including storage sheds. The number of plants or plant groupings shall be provided based on the linear footage of foundation along the front and sides of each structure minus doorways, and steps at a rate of one (1) shrub or plant grouping per six (6) linear foot of foundation. A minimum of fifty percent (50%) of the required plantings shall be five (5) gallon or larger at the time of planting, the remainder shall be a minimum of three (3) gallon in size. Said plantings are not required to be placed in a uniform, linear arrangement when installed and plant groupings or ground cover beds may be used to meet the intent of this section.
- (J) The site shall be designed to minimize the removal of mature specimen trees, for example, Longleaf Pine, Dogwood, American Holly and Southern Magnolia.

SECTION 5. That this Ordinance shall be and remain in full force and effect from and after the date of its adoption.

VILLAGE OF PINEHURST
VILLAGE COUNCIL

(Municipal Seal)

By: _____
John C. Strickland, Mayor

Attest:

Approved as to Form:

Kelly Chance, Village Clerk

Michael J. Newman, Village Attorney

I STRONGLY SUPPORT THIS EFFORT TO EXAMINE AND STRENGTHEN THE APPROPRIATE SECTIONS OF CHAPTERS 9 AND 10 OF THE PINEHURST DEVELOPMENT ORDINANCE TO ADDRESS TREE PRESERVATION, AND LANDSCAPING STANDARDS IN THE VILLAGE OF PINEHURST. IN MY OPINION, THE PREVIOUS ADMINISTRATION ALLOWED, AND IN SOME CASES SUPPORTED DUBIOUS PROJECTS - IE "THE BARRACKS" OR WALKER STATION (TO NAME A FEW) WHICH WERE IN APPROPRIATE - ALL IN SUPPORT OF SO CALLED PROGRESS.

THE VILLAGE STAFF MADE A STRONG PRESENTATION AT THE P&Z BOARD HEARING USING SLIDES TO SHOW EARLIER, ORIGINAL STREETSCAPES AROUND OLD TOWN AND THEN COMPARED THEM WITH NEW CONSTRUCTION ON MEDLIN ROAD WHICH DEMONSTRATED THE TOTAL LACK OF LANDSCAPING STANDARDS IN FORCE NOW.

UNFORTUNATELY, UNSCRUPULOUS BUILDERS AND DEVELOPERS ARE NOT SOLELY TO BLAME FOR THIS SITUATION. THE VILLAGE, ITSELF, MUST SHARE SOME OF THE BLAME.

ON MAGNOLIA ROAD, OPPOSITE THE MAGNOLIA INN, THERE IS A SIGN WHICH STATES AS FOLLOWS: "OLD TOWN PATHS - RESTORED IN 2006 THE PATHWAY EXTENDING DOWN THIS BLOCK OF MAGNOLIA ROAD REFLECTS AMERICA'S PREEMINENT LANDSCAPE ARCHITECT FREDERICK LAW OLMSTED'S ORIGINAL VISION FOR A "VILLAGE IN THE TREES". HIS PLAN CONSISTED OF A NETWORK OF PATHS USING THE LOCAL, NATURAL MATERIALS OF SAND AND CLAY TO BLEND IN WITH THE ENVIRONMENT "IMAGINE THAT - AN EARLY ENVIRONMENTALIST LAYING OUT THE PATHWAYS FOR EARLY OLD TOWN PINEHURST!"

MY WIFE AND I MOVED TO PINEHURST IN SEPTEMBER 1991, DRAWN HERE BY THE AMBIANCE OF OLD TOWN. AT THAT TIME, A SAND/CLAY PATHWAY RAN ALONG EVERETTE ROAD IN FRONT OF MY HOME, WHICH WAS MAINTAINED, PERIODICALLY, BY THE VILLAGE. I'M SURE THAT MAYOR STRICKLAND AND COUNCIL MEMBER KEVIN DRUM, LONG TIME RESIDENTS OF OLD TOWN PINEHURST, REMEMBER THESE SAND/CLAY PATHWAYS BETTER THAN I DO. IN FACT, EARLY EDITIONS OF THE PDO DESCRIBED IN DETAIL THE LAYOUT

OF THE VILLAGE'S ROW OR STREETScape IN OLD TOWN: ALTERNATING MAGNOLIA OR HOLLY TREES LOCATED IN A SWALE WITH BUSHES INTERSPERSED BETWEEN THEM PROTECTING THE SAND/CLAY PATHWAY FROM THE STREET.

THE NEIGHBORHOOD SURROUNDING PINEHURST ELEMENTARY SCHOOL, BOUNDED BY SHORT, PAGE, FIELDS AND DUNDEE ROADS STILL RETAIN VESTAGES OF THIS SAND/CLAY NETWORK TO THIS DAY.

DURING THE BEFORE MENTIONED PLANNING AND ZONING BOARD MEETING, IT WAS STATED THAT THE NATIONAL PARK SERVICE WOULD BE CONDUCTING AN AUDIT TO DETERMINE OUR HISTORIC DISTRICT STATUS. CONTRARY TO SOME, I CONSIDER THIS HISTORIC DISTRICT STATUS TO BE ESSENTIAL TO THE WELL-BEING OF OLD TOWN PINEHURST. OTHERWISE, IT IS JUST ANYWHERE U.S.A.! WHAT BETTER WAY TO HELP MAINTAIN THIS HISTORIC DISTRICT STATUS THAN BY RE-FURBISHING THESE HISTORIC SAND/CLAY PATHWAYS IN THIS NEIGHBORHOOD SURROUNDING PINEHURST ELEMENTARY?

THERE IS A PRIOR HISTORY OF OUR NEIGHBORHOOD WORKING IN TANDEM WITH THE VILLAGE TO SOLVE A ROW PROBLEM. APPROXIMATELY 15 YEARS AGO, THERE AROSE AN ACUTE TRAFFIC PROBLEM ON KELLY ROAD WHEN JACPOING OFF OR PICKING UP CHILDREN AT PINEHURST ELEMENTARY. A GROUP WAS FORMED CALLED "THE NEIGHBORS" WHO APPROACHED ANDY WILKERSON, THE VILLAGE MANAGER WITH A PLAN TO RE-PLANT THE BUSHES BETWEEN THE EXISTING TREES ON THE SCHOOL SIDE OF KELLY BETWEEN EVERETTE AND DUNDEE ROADS. THIS WAS ACCOMPLISHED AND THE VILLAGE RESTORED THE SAND/CLAY PATH FROM PAGE ROAD TO DUNDEE ROAD, PROVIDING A SAFE, SECURE WALKWAY FOR THESE CHILDREN AND/OR THEIR PARENTS. THE NEIGHBORS HAVE MAINTAINED THESE BUSHES EVER SINCE.

IN CLOSING I ASK MAYOR STRICKLAND, THE MEMBERS OF THE VILLAGE COUNCIL AND THE AUDIENCE, EITHER ACTUAL OR VIRTUAL TO DRIVE DOWN KELLY ROAD FROM DUNDEE TO EVERETTE

ROAD AND SEE FOR YOURSELVES THE DAMAGE THAT HAS BEEN DONE TO THIS STREETSCAPE BY CONSTRUCTION AND/OR POWER CREWS DURING THE DEVELOPMENT OF THE NEW, ENLARGED PINEHURST ELEMENTARY SCHOOL.

THIS NEIGHBORHOOD MAY BE OBLIGED TO PUT UP WITH TWO YEARS OR SO OF CONSTRUCTION TRAFFIC AND NOISE AND UNTOLD YEARS OF TRAFFIC CONGESTION ON OUR QUIET RESIDENTIAL STREETS, BUT WE SHOULD NOT BE OBLIGED TO LIVE WITH THIS STREETSCAPE NIGHTMARE, ESPECIALLY BEING AN INTEGRAL PART OF OLD TOWN AND THE PINEHURST HISTORIC DISTRICT.

PLEASE USE THIS OPPORTUNITY TO DEVELOP A STREETSCAPE RENEWAL PROGRAM FOR THIS NEIGHBORHOOD AS A PARTIAL ARGUMENT FOR A CONTINUED PINEHURST HISTORIC DISTRICT

*Reviewed in detail
with Aley, March 5th*

Questions

Re:

An Ordinance Amending the Village of Pinehurst Development Ordinance

Submitted by:

Bart O'Connor

*to
Council
March 9, 2021*

- 1) What changes are being made?
- 2) Why are some lines/provisions "lined out?" p. 9
- 3) 8", or larger, diameter oaks are classified as "Protected." p. 2

I believe many homeowners and landscape professionals would strongly disagree with the appearance and value of an oak.

- 4) Some language throughout the Ordinance is unnecessarily complicated. For p. 2
example, the definition of the frontage of a property is:

"The front yard is equal to the depth of the front yard setback of the zoning district extended to the side property lines."

Why not simply: "The front yard is measured at the setback line."

- 5) What is a "Flag Lot Yard?" p. 3
- 6) What is the average cost of a Tree Survey for a residential property? p. 4
- 7) The definition of "Tree Removal" includes, among many things, the . . . "paving p. 4
with concrete, asphalt, or other impervious material within the drip line."

On a given property, this can prevent significant landscape design opportunities.

- 8) Why is a Landscape Designer omitted from the group preparing a Tree Survey? p. 5

- 9) Why is only one 20' driveway allowance permitted? Why not two for circular driveways? p. 6
- 10) The provision to plant trees 15' apart at the front of a residential property can hinder an attractive landscape presentation. Why is this mandated? p. 6
- 11) Why is there a mandate to plant trees at specific intervals at side and rear sections of property if adjoining properties are "fenced" with trees shrubs? p. 6
- 12) There is a 33% to 40% chance that planting a 3" diameter pine tree will fail. p. 9
Why is this requirement demanded, knowing that an expensive replacement will be needed at a later date and worrying that the replacement will never happen.
- 13) Why are berms limited to two horizontal vs. one vertical? p. 11
- 14) Size of shrubs are mandated as follows: "A minimum of 24" in height. . . that can reach 4' to 5' in height and 3' in width . . ." p. 12 & 21
This might be better phrased by the mandatory 5 gallon size for foundation plants only . . . and not other plantings where smaller presentations are desirable.
- 15) Instructions on pages 13 thru 19 are laborious and, in some instances, repetitive. This can be reduced.
- 16) What is the rationale for the following mandate? p. 13
"Tree planting areas shall be located such that no parking space is farther than 75' from a tree trunk."
- 17) It is mandated that . . . "At least one half of planted trees shall be Longleaf Pines." p. 20
Plant selection is a very personal choice. What is the basis of this mandate? Can it legally be mandated?
- 18) In 20 pages of regulations, no mention is made, nor any recognition given to the problem of newly planted trees and shrubs that die. Why?
What is the follow up procedure?

From: Larry Johnson <larra84@gmail.com>
Sent: Monday, March 8, 2021 4:34 PM
To: Public Comments
Subject: Tree Ordinance

I recently was informed about the upcoming vote on the new tree ordinance that would create a fee from the village if the homeowner has a tree removed. I understand the concern to keep the look of Pinehurst intact. However with that said this seems to be just a way to generate more revenue.

First, the trees are part of the property which the homeowner owns, and are not owned by the village. So for the village to charge the homeowner a fee to remove something that belongs to the homeowner seems unfair.

Second and more importantly, more homeowners have a tree removed either when the tree is not healthy or is a threat to property or life. It will be the homeowners who has to bear the responsibility of the damage that a fallen tree causes. I do not see the village standing up to take that roll.

Lastly I will be following to see which members of the village council vote yes on this ordinance. It will help me make my decision on how to cast my vote the next election. I would encourage all other residents of Pinehurst to feel the same way when they go to the polls next time.
Larry Johnson

From: Allen Ashdown <alashdown@nc.rr.com>
Sent: Monday, March 8, 2021 5:19 PM
To: Public Comments
Subject: Pinehurst proposed ordinance on tree removal

I propose a definite NO to this Proposal.

Al Ashdown
Pinewild CC

Virus-free. www.avg.com

From: [Paula Nash](#)
To: [Public Comments](#)
Subject: Tree Ordinance Comment to be read aloud
Date: Tuesday, March 9, 2021 3:09:38 PM

The official comment from the Moore County Home Builders Association.

We appreciate our working relationship with the current staff and the Village Council. We have met and discussed the proposed ordinance at length. Alex and Darryn have been very helpful fostering a better relationship with our association. We would like to request that the ordinance be placed on hold to allow VOP staff to work with our association to come up with a solution that will prevent broadstroke clear cutting of lots mainly by large developments and not place the burden on our builders developing single lots. We understand that most of the issues come from major subdivisions and those are few and far between in our Pinehurst area. The single lot development will suffer the most when we do not feel this is the intent of the ordinance. We stand with staff on saving trees and preserving the appearance of Pinehurst. We request the Village Council help us build our community by working together. Please table the ordinance and let's find a way to accomplish the end goal without punishing the innocent builders that work hard to preserve our Pinehurst image. Again, we thank Alex, Cameron and Jeremy Hooper for their willingness to foster a beneficial partnership with our association and its members.

All the best,

Paula Nash
Executive Officer
Moore County Home Builders Association
280 Pinehurst Ave. Suite 6
Southern Pines, NC 2838
910-944-2992 Office
910-494-2306 Cell (call/text)

As a former P&Z Board Chair and member very familiar with this matter, I'd like to present some history associated with this proposed amendment for Council's benefit and for those in attendance today. This is not a new ordinance put an amendment to existing sections of the PDO that fit right into Chap. 9, Sections 9.5 and 9.14, and Chap. 10.

In the past, several developments in Pinehurst caused a great deal of consternation amongst the citizens about the removal of almost 100% of the vegetation on the sites, otherwise known as clear cutting. So a seed was planted (pun intended) and the Village did something about it. In Jan., 2018 the P&Z Board was charged to develop an ordinance amendment to address the issue.

P&Z formed a sub-committee and began work, of which I was a member. Shortly thereafter Sen. McInnis proposed a bill that would eliminate local government's ability to address this kind of problem, which would further reduce HOME RULE and, in my opinion, putting the State as the Judge and Jury in charge of controlling how a local government could determine its own destiny. The sub-comm work came to a stop in late 2018 because no one wanted to touch the sleeping bear, even though the proposed bill was never passed as law. I understand the proposal

is still smoldering in a back room somewhere in Raleigh.

With the adoption of the 2019 Comp. Long Range Plan and a new Planning Director, the sub-comm. came to life and decided to continue work on what came to be known as the Tree Preservation amendment to the PDO. And that is exactly what the proposed amendment is all about, preserving trees, by requiring areas formed by lot lines and setback lines, within which, existing vegetation can be retained for buffering and screening purposes. It is important to retain as much of the Sandhills long leaf Pine ecosystem as possible. The long leaf pine, holly, magnolia, and other specimen and champion trees are what gives the Village its ambience and charm. This amendment will also help protect and enhance the existing tree canopy along our streets and roads that lends so much to our quality of life that I think was envisioned by Olmsted and Manning, not to mention the habitat for birds, animals, etc that these species provide.

The effort required to get this far involved a great deal of research and study, thanks to Kathy Liles and the P&Z staff and sub-comm. members. Many existing regulations in other communities such as Hilton Head, Charleston, Aberdeen, Southern Pines, our peer group of towns and others were studied and picked apart to create this proposed amendment.

What you have in front of you is a well thought-out, and in my opinion, a workable system that will go a long way to help preserve our trees and ecosystem. It is something new so it most likely will need to be amended from time to time. Because of the newness there must be the ability of the administrative authority to make adjustments on a case by case basis where certain site specific conditions require changes but still retain the intent and purpose of the regulation.

I believe that the Jan., 2018 change has been completed. The amendment is consistent with several Guiding Principles of the 2019 CLRP. The P&Z Board and staff have recommended the adoption of the amendment. I also strongly urge Council to adopt Ord. #21-06.

Last, but not least, I want to thank Darryn, Alex, Kathy, Kelly and all the PandI staff and sub-comm members for their work in helping to bring this amendment to fruition.

Thank you,
Leo Santurro



March 9, 2021

Village of Pinehurst

Village Council Members and Staff

My company, Bill Reaves Construction Co., Inc. has been an active builder in Moore County for over 40 years since 1980. I have served as President of the MCHBA twice in that time. I have also worked with the Village on numerous committees. I worked with the Village during the early 90's to work out issues of Building Moratoria and the creation of the Residential Assurance Fund. I worked with and provide positive input for the present UDO, the Alternative Energy Commission which not only promoted energy concerns, but other "Green" attributes such as Parks and Greenways that the village citizens now enjoy. I do understand the Village goals and the difficulties of creating a PDO that will deal with present and future planning issues.

I am in receipt of a copy of your proposed tree ordinance draft. After review, I am concerned that it is set with problems not thoroughly thought through and will fail to achieve the desired goals.

I will acknowledge that the Longleaf pine is a native species of the Sandhills Area as well as the native fox squirrel, quail, wire grass and the red cockaded woodpecker. Many are a protected species as they should be, however:

We live in a community that was planned many years ago without the benefit of knowing where we would be today. We live in a community where the property available for building new homes are small in size in comparison to our new modern lifestyle. We no longer live with families that build a cottage size home to come visit during the winter months to play golf and escape winter of the brutal north. Families live here permanently, a family unit of 3 or more with a dog or pet and a need for a place for their children to play. Sometimes a couple who are grandparents who would like to have a home large enough to accommodate their extended family for a summer visit.

Most of the lots within the Village limits are zoned as R-5, R-8, R-10 and in some cases R-15. There are properties for residential development that fall under the R-MF, R-20 and R-30 but are not normal of the "In-fill" lots in the Village jurisdiction. The present Village standard for R-5 through R-20 lots have a 10-to-15-foot side yard. The rear yard of R-5 thru R-10 lots are 20 to 25 feet. R-15 to R-30 lots are 30 feet.

Common "Best Practice" of building would be that large trees within 10 to 15 feet of the foundation of a home should be considered to be removed due to potential damage to the foundation of the home. In addition, to provide proper drainage away from the foundation, the grade should slope 6" in 10 feet away from the foundation. It is also a desire of today's new residential consumer to have a least one "zero step entry" into the residence which requires a low foundation.

Your proposed tree ordinance makes many of these practical considerations very difficult to achieve. A tree by your proposal in the sideline setback would be preserved causing potential damage to the foundation, cause un-natural water drainage issues and a potential for a tree damaged by construction falling on a house. Also consider that the damage to property might not be the property that the tree is on, but the neighboring property. In addition, Magnolia trees, Ilex species and other species mentioned are beautiful when they are on someone else's property, but not when they are on your property and you have to clean up the mess.

I can debate that the Village doesn't have the right to tell someone what to do with their property. I can debate property rights. I can debate jurisdiction or authority to pass such an ordinance. We can debate the right and wrong in a court of law, but at the "end of the day" the only ones that walk away from a court case are the two lawyer's that argued the case. Everyone else walks away unsatisfied and with anger.

So, let me propose that we build this together. Let's table a decision for a time to arbitrate. Perhaps a period of 90 days. Create a committee of professionals in the industry to work with your planning staff. Ask for input from professionals in the building industry such as the local Moore County Homebuilders Association. There are also a number of well-respected local engineers, architects and real estate professionals who would be happy to provide help and input.

In closing, let me say: It is my opinion that the council needs to reconsider the proposal and ask the Village staff to seek local knowledge and input before making a final decision on this matter.

Respectfully,

Bill Reaves



**AUDIT CONTRACT FOR FISCAL YEAR 2021.
ADDITIONAL AGENDA DETAILS:**

FROM:

Brooke Hunter

CC:

Jeff Sanborn & Natalie Hawkins

DATE OF MEMO:

3/9/2021

MEMO DETAILS:

Each year at this time we award the Village's audit contract to an independent auditor in accordance with North Carolina General Statutes. Based upon the professional service we have received from our current auditors, I recommend the Village continue its relationship with the firm Dixon Hughes Goodman, LLP.

The proposed base fee for this year's audit is \$30,180, which is \$880, or 3.0%, higher than the \$29,300 paid the previous year (excluding the Single Audit fee of \$4,800). The table below summarizes the audit contract cost increases over the past few years, averaging approximately 1.5% annually.

<u>Fiscal Year</u>	<u>% Increase</u>
2021	3%
2020	0%
2019	3%
2018	0%

As of today, I do not anticipate a Single Audit being required for FY 2021 due to the reduced amount of State funding we received from the Powell Bill program. However, if we receive State grants before June 30, 2021 that cause us to exceed the \$500,000 threshold, a Single Audit will be required. In the event a Single Audit is required, the proposed fee for this service is \$4,800, which is the same price as last year. Funding for this contract will be appropriated in the FY 2022 Budget.

As the Village's financial staff is able to complete financial statement preparation and all required audit schedules in-house, we are able to maintain the audit fee at what I consider to be a very reasonable amount. Therefore, I recommend the Village Council approve the attached audit contract with Dixon Hughes Goodman, LLP in the amount of \$30,180 for the financial statement audit and \$4,800 per major program if a Single Audit is required.

As always, should you have any questions about the contract please feel free to give me a call.

ATTACHMENTS:

Description

❑ Audit Contract FY 2021

The	Governing Board Village Council
of	Primary Government Unit (or charter holder) Village of Pinehurst
and	Discretely Presented Component Unit (DPCU) (if applicable)

Primary Government Unit, together with DPCU (if applicable), hereinafter referred to as Governmental Unit(s)

and	Auditor Name Dixon Hughes Goodman LLP
	Auditor Address 1829 Eastchester Drive, High Point, North Carolina

Hereinafter referred to as Auditor

for	Fiscal Year Ending 06/30/21	Audit Report Due Date 10/31/21
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Must be within four months of FYE

hereby agree as follows:

1. The Auditor shall audit all statements and disclosures required by U.S. generally accepted auditing standards (GAAS) and additional required legal statements and disclosures of all funds and/or divisions of the Governmental Unit(s). The non-major combining, and individual fund statements and schedules shall be subjected to the auditing procedures applied in the audit of the basic financial statements and an opinion shall be rendered in relation to (as applicable) the governmental activities, the business- type activities, the aggregate DPCUs, each major governmental and enterprise fund, and the aggregate remaining fund information (non-major government and enterprise funds, the internal service fund type, and the fiduciary fund types).
2. At a minimum, the Auditor shall conduct his/her audit and render his/her report in accordance with GAAS. The Auditor shall perform the audit in accordance with *Government Auditing Standards* if required by the State Single Audit Implementation Act, as codified in G.S. 159-34. If required by OMB *Uniform Administration Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) and the State Single Audit Implementation Act, the Auditor shall perform a Single Audit. This audit and all associated audit documentation may be subject to review by Federal and State agencies in accordance with Federal and State laws, including the staffs of the Office of State Auditor (OSA) and the Local Government Commission (LGC). If the audit requires a federal single audit performed under the requirements found in Subpart F of the Uniform Guidance (§200.501), it is recommended that the Auditor and Governmental Unit(s) jointly agree, in advance of the execution of this contract, which party is responsible for submission of the audit and the accompanying data collection form to the Federal Audit Clearinghouse as required under the Uniform Guidance (§200.512).

If the audit and Auditor communication are found in this review to be substandard, the results of the review may be forwarded to the North Carolina State Board of CPA Examiners (NC State Board).

3. If an entity is determined to be a component of another government as defined by the group audit standards, the entity's auditor shall make a good faith effort to comply in a timely manner with the requests of the group auditor in accordance with AU-6 §600.41 - §600.42.
4. This contract contemplates an unmodified opinion being rendered. If during the process of conducting the audit, the Auditor determines that it will not be possible to render an unmodified opinion on the financial statements of the unit, the Auditor shall contact the LGC Staff to discuss the circumstances leading to that conclusion as soon as is practical and before the final report is issued. The audit shall include such tests of the accounting records and such other auditing procedures as are considered by the Auditor to be necessary in the circumstances. Any limitations or restrictions in scope which would lead to a qualification should be fully explained in an attachment to this contract.
5. If this audit engagement is subject to the standards for audit as defined in *Government Auditing Standards*, 2018 revision, issued by the Comptroller General of the United States, then by accepting this engagement, the Auditor warrants that he/she has met the requirements for a peer review and continuing education as specified in *Government Auditing Standards*. The Auditor agrees to provide a copy of the most recent peer review report to the Governmental Unit(s) and the Secretary of the LGC prior to the execution of an audit contract. Subsequent submissions of the report are required only upon report expiration or upon auditor's receipt of an updated peer review report. If the audit firm received a peer review rating other than pass, the Auditor shall not contract with the Governmental Unit(s) without first contacting the Secretary of the LGC for a peer review analysis that may result in additional contractual requirements.
- If the audit engagement is not subject to *Government Accounting Standards* or if financial statements are not prepared in accordance with U.S. generally accepted accounting principles (GAAP) and fail to include all disclosures required by GAAP, the Auditor shall provide an explanation as to why in an attachment to this contract or in an amendment.
6. It is agreed that time is of the essence in this contract. All audits are to be performed and the report of audit submitted to LGC Staff within four months of fiscal year end. If it becomes necessary to amend this due date or the audit fee, an amended contract along with a written explanation of the delay shall be submitted to the Secretary of the LGC for approval.
7. It is agreed that GAAS include a review of the Governmental Unit's (Units') systems of internal control and accounting as same relate to accountability of funds and adherence to budget and law requirements applicable thereto; that the Auditor shall make a written report, which may or may not be a part of the written report of audit, to the Governing Board setting forth his/her findings, together with his recommendations for improvement. That written report shall include all matters defined as "significant deficiencies and material weaknesses" in AU-C 265 of the *AICPA Professional Standards (Clarified)*. The Auditor shall file a copy of that report with the Secretary of the LGC.
8. All local government and public authority contracts for audit or audit-related work require the approval of the Secretary of the LGC. This includes annual or special audits, agreed upon procedures related to internal controls, bookkeeping or other assistance necessary to prepare the Governmental Unit's (Units') records for audit, financial statement preparation, any finance-related investigations, or any other audit-related work in the State of North Carolina. Approval is not required on contracts and invoices for system improvements and similar services of a non-auditing nature.
9. Invoices for services rendered under these contracts shall not be paid by the Governmental Unit(s) until the invoice has been approved by the Secretary of the LGC. (This also includes any progress billings.) [G.S. 159-34 and 115C-447] All invoices for Audit work shall be submitted in PDF format to the Secretary of the LGC for approval. The invoice marked 'approved' with approval date shall be returned to

the Auditor to present to the Governmental Unit(s) for payment. This paragraph is not applicable to contracts for audits of hospitals.

10. In consideration of the satisfactory performance of the provisions of this contract, the Governmental Unit(s) shall pay to the Auditor, upon approval by the Secretary of the LGC if required, the fee, which includes any costs the Auditor may incur from work paper or peer reviews or any other quality assurance program required by third parties (federal and state grantor and oversight agencies or other organizations) as required under the Federal and State Single Audit Acts. This does not include fees for any pre-issuance reviews that may be required by the NC Association of CPAs (NCACPA) Peer Review Committee or NC State Board of CPA Examiners (see Item 13).

11. If the Governmental Unit(s) has/have outstanding revenue bonds, the Auditor shall submit to LGC Staff, either in the notes to the audited financial statements or as a separate report, a calculation demonstrating compliance with the revenue bond rate covenant. Additionally, the Auditor shall submit to LGC Staff simultaneously with the Governmental Unit's (Units') audited financial statements any other bond compliance statements or additional reports required by the authorizing bond documents, unless otherwise specified in the bond documents.

12. After completing the audit, the Auditor shall submit to the Governing Board a written report of audit. This report shall include, but not be limited to, the following information: (a) Management's Discussion and Analysis, (b) the financial statements and notes of the Governmental Unit(s) and all of its component units prepared in accordance with GAAP, (c) supplementary information requested by the Governmental Unit(s) or required for full disclosure under the law, and (d) the Auditor's opinion on the material presented. The Auditor shall furnish the required number of copies of the report of audit to the Governing Board upon completion.

13. If the audit firm is required by the NC State Board, the NCACPA Peer Review Committee, or the Secretary of the LGC to have a pre-issuance review of its audit work, there shall be a statement in the engagement letter indicating the pre-issuance review requirement. There also shall be a statement that the Governmental Unit(s) shall not be billed for the pre-issuance review. The pre-issuance review shall be performed prior to the completed audit being submitted to LGC Staff. The pre-issuance review report shall accompany the audit report upon submission to LGC Staff.

14. The Auditor shall submit the report of audit in PDF format to LGC Staff. For audits of units other than hospitals, the audit report should be submitted when (or prior to) submitting the final invoice for services rendered. The report of audit, as filed with the Secretary of the LGC, becomes a matter of public record for inspection, review and copy in the offices of the LGC by any interested parties. Any subsequent revisions to these reports shall be sent to the Secretary of the LGC along with an Audit Report Reissued Form (available on the Department of State Treasurer website). These audited financial statements, excluding the Auditors' opinion, may be used in the preparation of official statements for debt offerings by municipal bond rating services to fulfill secondary market disclosure requirements of the Securities and Exchange Commission and for other lawful purposes of the Governmental Unit(s) without requiring consent of the Auditor. If the LGC Staff determines that corrections need to be made to the Governmental Unit's (Units') financial statements, those corrections shall be provided within three business days of notification unless another deadline is agreed to by LGC Staff.

15. Should circumstances disclosed by the audit call for a more detailed investigation by the Auditor than necessary under ordinary circumstances, the Auditor shall inform the Governing Board in writing of the need for such additional investigation and the additional compensation required therefore. Upon approval by the

Secretary of the LGC, this contract may be modified or amended to include the increased time, compensation, or both as may be agreed upon by the Governing Board and the Auditor.

16. If an approved contract needs to be modified or amended for any reason, the change shall be made in writing and pre-audited if the change includes a change in audit fee (pre-audit requirement does not apply to charter schools or hospitals). This amended contract shall be completed in full, including a written explanation of the change, signed and dated by all original parties to the contract. It shall then be submitted to the Secretary of the LGC for approval. No change to the audit contract shall be effective unless approved by the Secretary of the LGC, the Governing Board, and the Auditor.

17. A copy of the engagement letter, issued by the Auditor and signed by both the Auditor and the Governmental Unit(s), shall be attached to this contract, and except for fees, work, and terms not related to audit services, shall be incorporated by reference as if fully set forth herein as part of this contract. In case of conflict between the terms of the engagement letter and the terms of this contract, the terms of this contract shall take precedence. Engagement letter terms that conflict with the contract are deemed to be void unless the conflicting terms of this contract are specifically deleted in Item 28 of this contract. Engagement letters containing indemnification clauses shall not be accepted by LGC Staff.

18. Special provisions should be limited. Please list any special provisions in an attachment.

19. A separate contract should not be made for each division to be audited or report to be submitted. If a DPCU is subject to the audit requirements detailed in the Local Government Budget and Fiscal Control Act and a separate audit report is issued, a separate audit contract is required. If a separate report is not to be issued and the DPCU is included in the primary government audit, the DPCU shall be named along with the primary government on this audit contract. DPCU Board approval date, signatures from the DPCU Board chairman and finance officer also shall be included on this contract.

20. The contract shall be executed, pre-audited (pre-audit requirement does not apply to charter schools or hospitals), and physically signed by all parties including Governmental Unit(s) and the Auditor, then submitted in PDF format to the Secretary of the LGC.

21. The contract is not valid until it is approved by the Secretary of the LGC. The staff of the LGC shall notify the Governmental Unit and Auditor of contract approval by email. The audit should not be started before the contract is approved.

22. Retention of Client Records: Auditors are subject to the NC State Board of CPA Examiners' Retention of Client Records Rule 21 NCAC 08N .0305 as it relates to the provision of audit and other attest services, as well as non-attest services. Clients and former clients should be familiar with the requirements of this rule prior to requesting the return of records.

23. This contract may be terminated at any time by mutual consent and agreement of the Governmental Unit(s) and the Auditor, provided that (a) the consent to terminate is in writing and signed by both parties, (b) the parties have agreed on the fee amount which shall be paid to the Auditor (if applicable), and (c) no termination shall be effective until approved in writing by the Secretary of the LGC.

24. The Governmental Unit's (Units') failure or forbearance to enforce, or waiver of, any right or an event of breach or default on one occasion or instance shall not constitute the waiver of such right, breach or default on any subsequent occasion or instance.

25. There are no other agreements between the parties hereto and no other agreements relative hereto that shall be enforceable unless entered into in accordance with the procedure set out herein and approved by the Secretary of the LGC.

26. E-Verify. Auditor shall comply with the requirements of NCGS Chapter 64 Article 2. Further, if Auditor utilizes any subcontractor(s), Auditor shall require such subcontractor(s) to comply with the requirements of NCGS Chapter 64, Article 2.

27. **Applicable to audits with fiscal year ends of June 30, 2020 and later.** For all non-attest services, the Auditor shall adhere to the independence rules of the AICPA Professional Code of Conduct and Governmental Auditing Standards, 2018 Revision (as applicable). Financial statement preparation assistance shall be deemed a "significant threat" requiring the Auditor to apply safeguards sufficient to reduce the threat to an acceptable level. If the Auditor cannot reduce the threats to an acceptable level, the Auditor cannot complete the audit. If the Auditor is able to reduce the threats to an acceptable level, the documentation of this determination, including the safeguards applied, must be included in the audit workpapers.

All non-attest service(s) being performed by the Auditor that are necessary to perform the audit must be identified and included in this contract. The Governmental Unit shall designate an individual with the suitable skills, knowledge, and/or experience (SKE) necessary to oversee the services and accept responsibility for the results of the services performed. If the Auditor is able to identify an individual with the appropriate SKE, s/he must document and include in the audit workpapers how he/she reached that conclusion. If the Auditor determines that an individual with the appropriate SKE cannot be identified, the Auditor cannot perform both the non-attest service(s) and the audit. See "Fees for Audit Services" page of this contract to disclose the person identified as having the appropriate SKE for the Governmental Unit.

28. **Applicable to audits with fiscal year ends of June 30, 2021 and later.** The auditor shall present the audited financial statements including any compliance reports to the government unit's governing body or audit committee in an official meeting in open session as soon as the audited financial statements are available but not later than 45 days after the submission of the audit report to the Secretary. The auditor's presentation to the government unit's governing body or audit committee shall include:

- a) the description of each finding, including all material weaknesses and significant deficiencies, as found by the auditor, and any other issues related to the internal controls or fiscal health of the government unit as disclosed in the management letter, the Single Audit or Yellow Book reports, or any other communications from the auditor regarding internal controls as required by current auditing standards set by the Accounting Standards Board or its successor;
- b) the status of the prior year audit findings;
- c) the values of Financial Performance Indicators based on information presented in the audited financial statements; and
- d) notification to the governing body that the governing body shall develop a "Response to the Auditor's Findings, Recommendations, and Fiscal Matters," if required under 20 NCAC 03 .0508.

29. Information based on the audited financial statements shall be submitted to the Secretary for the purpose of identifying Financial Performance Indicators and Financial Performance Indicators of Concern.

30. Applicable to charter school contracts only: No indebtedness of any kind incurred or created by the charter school shall constitute an indebtedness of the State or its political subdivisions, and no indebtedness of the charter school shall involve or be secured by the faith, credit, or taxing power of the State or its political subdivisions.

31. All of the above paragraphs are understood and shall apply to this contract, except the following numbered paragraphs shall be deleted (See Item 16 for clarification).

32. The process for submitting contracts, audit reports and invoices is subject to change. Auditors and units should use the submission process and instructions in effect at the time of submission. Refer to the N.C. Department of State Treasurer website at <https://www.nctreasurer.com/state-and-local-government-finance-division/local-government-commission/submitting-your-audit>

33. All communications regarding audit contract requests for modification or official approvals will be sent to the email addresses provided on the signature pages that follow.

34. Modifications to the language and terms contained in this contract form (LGC-205) are not allowed.

FEES FOR AUDIT SERVICES

1. For all non-attest services, the Auditor shall adhere to the independence rules of the AICPA Professional Code of Conduct (as applicable) and *Governmental Auditing Standards, 2018 Revision*. Refer to Item 27 of this contract for specific requirements. The following information must be provided by the Auditor; contracts presented to the LGC without this information will not be approved.

Financial statements were prepared by: ☐ Auditor ☒ Governmental Unit ☐ Third Party

If applicable: Individual at Governmental Unit designated to have the suitable skills, knowledge, and/or experience (SKE) necessary to oversee the non-attest services and accept responsibility for the results of these services:

Name:**Title and Unit / Company:****Email Address:**

Brooke Hunter, Finance Officer

Village of Pinehurst

bhunter@vopnc.org

OR Not Applicable ☐ (Identification of SKE Individual not applicable for GAAS-only audit or audits with FYEs prior to June 30, 2020.)

2. Fees may not be included in this contract for work performed on Annual Financial Information Reports (AFIRs), Form 990s, or other services not associated with audit fees and costs. Such fees may be included in the engagement letter but may not be included in this contract or in any invoices requiring approval of the LGC. See Items 8 and 13 for details on other allowable and excluded fees.

3. Prior to submission of the completed audited financial report, applicable compliance reports and amended contract (if required) the Auditor may submit invoices for approval for services rendered, not to exceed 75% of the billings for the last annual audit of the unit submitted to the Secretary of the LGC. Should the 75% cap provided below conflict with the cap calculated by LGC Staff based on the billings on file with the LGC, the LGC calculation prevails. All invoices for services rendered in an audit engagement as defined in 20 NCAC .0503 shall be submitted to the Commission for approval before any payment is made. Payment before approval is a violation of law. (This paragraph not applicable to contracts and invoices associated with audits of hospitals).

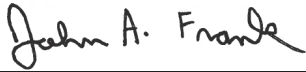
PRIMARY GOVERNMENT FEES

Primary Government Unit	Village of Pinehurst
Audit Fee	\$ 30,180 financial statement audit
Additional Fees Not Included in Audit Fee:	
Fee per Major Program	\$ 4,800
Writing Financial Statements	\$
All Other Non-Attest Services	\$
75% Cap for Interim Invoice Approval (not applicable to hospital contracts)	\$ 22,635

DPCU FEES (if applicable)

Discretely Presented Component Unit	
Audit Fee	\$
Additional Fees Not Included in Audit Fee:	
Fee per Major Program	\$
Writing Financial Statements	\$
All Other Non-Attest Services	\$
75% Cap for Interim Invoice Approval (not applicable to hospital contracts)	\$

SIGNATURE PAGE**AUDIT FIRM**

Audit Firm* Dixon Hughes Goodman LLP	
Authorized Firm Representative (typed or printed)* John Frank, CPA	Signature* 
Date* March 5, 2021	Email Address* John.Frank@dhg.com

GOVERNMENTAL UNIT

Governmental Unit* Village of Pinehurst	
Date Primary Government Unit Governing Board Approved Audit Contract* (G.S.159-34(a) or G.S.115C-447(a))	
Mayor/Chairperson (typed or printed)* John C. Strickland	Signature*
Date	Email Address jstrickland@vopnc.org

Chair of Audit Committee (typed or printed, or "NA")	Signature
Date	Email Address

GOVERNMENTAL UNIT – PRE-AUDIT CERTIFICATE

Required by G.S. 159-28(a1) or G.S. 115C-441(a1).
Not applicable to hospital contracts.

This instrument has been pre-audited in the manner required by The Local Government Budget and Fiscal Control Act or by the School Budget and Fiscal Control Act.

Primary Governmental Unit Finance Officer* (typed or printed) Brooke Hunter	Signature*
Date of Pre-Audit Certificate*	Email Address* bhunter@vopnc.org

SIGNATURE PAGE – DPCU
(complete only if applicable)

DISCRETELY PRESENTED COMPONENT UNIT

DPCU*	
Date DPCU Governing Board Approved Audit Contract* (Ref: G.S. 159-34(a) or G.S. 115C-447(a))	
DPCU Chairperson (typed or printed)*	Signature*
Date*	Email Address*

Chair of Audit Committee (typed or printed, or "NA")	Signature
Date	Email Address

DPCU – PRE-AUDIT CERTIFICATE

Required by G.S. 159-28(a1) or G.S. 115C-441(a1).
 Not applicable to hospital contracts.

This instrument has been pre-audited in the manner required by The Local Government Budget and Fiscal Control Act or by the School Budget and Fiscal Control Act.

DPCU Finance Officer (typed or printed)*	Signature*
Date of Pre-Audit Certificate*	Email Address*

Remember to print this form, and obtain all
 required signatures prior to submission.

PRINT



Dixon Hughes Goodman LLP
1829 Eastchester Drive
High Point, NC 27265
D 336.889.5156
F 336.889.6168
dhg.com

March 5, 2021

Village Council
Village of Pinehurst
395 Magnolia Road
Pinehurst, North Carolina 28374

We are pleased to confirm our understanding of the services we are to provide for Village of Pinehurst, (the "Village") for the year ending June 30, 2021. This attachment to item 16, "Contract to Audit Accounts" (LGC-205) is intended to further clarify certain provisions of the Contract.

Audit Services

We will audit the financial statements of the governmental activities, each major fund, and the aggregate remaining fund information, including the related notes to the financial statements, which collectively comprise the basic financial statements, of the Village as of and for year ending June 30, 2021.

John Frank is the engagement partner and is responsible for supervising the engagement and signing the report or authorizing another individual to sign it. We plan to begin our audit work in July 2021.

Audit Objective

The objective of our audit is the expression of an opinion about whether the Village's financial statements are fairly presented, in all material respects, in conformity with accounting principles generally accepted in the United States of America. The objective also includes reporting on:

- Internal control related to the financial statements and compliance with the provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- Internal control related to major programs and an opinion (or disclaimer of opinion) on compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on each major program in accordance with the Single Audit Act, as amended, Title 2 U.S. Code of Federal Regulations ("CFR") Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards ("Uniform Guidance") and the State Single Audit Implementation Act (collectively referred to as the "Single Audit").

The *Government Auditing Standards* report on internal control over financial reporting and on compliance and other matters will include a paragraph that states that; (1) the purpose of the report is solely to describe the scope of testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance; and (2) the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. The Uniform Guidance report on internal control over compliance will include a paragraph that states that the purpose of the report on internal control over compliance is solely to describe the scope of testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. The reports will state that the report is not suitable for any other purpose. If during our audit we become aware that the Village is subject to an audit requirement that is not encompassed in the terms of this engagement, we will communicate to management and those charged with governance that an audit in accordance with auditing standards generally accepted in the United States of America and the standards for financial audits contained in *Government Auditing Standards* may not satisfy the relevant legal, regulatory, or contractual requirements.

Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America; the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act; and the provisions of the Uniform Guidance, and will include tests of accounting records, a determination of major Program(s) in accordance with the Uniform Guidance, and other procedures we consider necessary to enable us to express such an opinion. We will issue written reports upon completion of our audits. Our reports will be addressed to identify parties such as governing board of the Village. We cannot provide assurance that an unmodified opinion will be expressed. Circumstances may arise in which it is necessary for us to modify our opinion or add an emphasis-of-matter or other-matter paragraph. If our opinion on the financial statements or the Single Audit is other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed an opinion, we may decline to express an opinion or issue reports, or we may withdraw from this engagement.

Audit Procedures - General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable, rather than absolute, assurance about whether the financial statements are free from material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the Village or to acts by management or employees acting on behalf of the entity. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is an unavoidable risk that material misstatements may exist and not be detected by us, even though the audit is properly planned and performed in accordance with auditing standards generally accepted in the United States of America and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or major programs. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or misappropriation of assets that comes to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential, and of any material abuse that comes to our attention. We will include such matters in the reports required for a Single Audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, tests of the physical existence of inventories, and direct confirmation of certain assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We may also request written representations from the Village's attorneys as part of the engagement, and they may bill the Village for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from management about management's responsibilities for the financial statements; schedule of expenditures of federal awards; federal award programs; compliance with laws, regulations, contracts, and grant agreements; and other responsibilities required by generally accepted auditing standards. Because of the importance of management's written or verbal representations to an effective audit, you agree to release and indemnify Dixon Hughes Goodman LLP and its personnel from any liability and costs relating to our services under this letter attributable to any knowing misrepresentations by management.

In providing our audit services we are required by law and our professional standards to maintain our independence from the Village. We take this mandate very seriously and thus guard against impermissible relationships which may impair the very independence which you and the users of our report require. As such you should not place upon us special confidence that in the performance of our audit services we will act solely in your interest. Therefore, you acknowledge and agree we are not in a fiduciary relationship with you and we have no fiduciary responsibilities to you in the performance of our services described herein.

Audit Procedures - Internal Control

Our audit includes obtaining an understanding of the entity and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures, but not for the purpose of expressing an opinion on the effectiveness of the Village's internal control over financial reporting. Accordingly we will express no such opinion. An audit is not designed to provide assurance on internal control or to identify deficiencies in internal control. However, during the audit, we will communicate to you and those charged with governance internal control related matters that are required to be communicated under auditing standards generally accepted in the United States of America, *Government Auditing Standards*, and the Uniform Guidance and State Single

Audit Implementation Act.

As required by the Uniform Guidance, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to the Uniform Guidance and State Single Audit Implementation Act.

Audit Procedures - Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the Village's compliance with provisions of applicable laws, regulations, contracts and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance, and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

The Uniform Guidance requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with applicable federal statutes, regulations, and the terms and conditions of federal awards applicable to major programs. Our procedures will consist of tests of transactions and other applicable procedures described in the *OMB Compliance Supplement* for the types of compliance requirements that could have a direct and material effect on each of the Village's major programs. The purpose of these procedures will be to express an opinion on the Village's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to the Uniform Guidance and State Single Audit Implementation Act.

Management's Responsibilities

Management is responsible for designing, implementing and maintaining effective internal controls, including internal controls over federal and state awards, and for evaluating and monitoring ongoing activities to help ensure that appropriate goals and objectives are met; (2) following laws and regulations; (3) ensuring that there is reasonable assurance that government programs are administered in compliance with compliance requirements; and (4) ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. Management is responsible for the selection and application of accounting principles; for the preparation and fair presentation of the financial statements, schedule of expenditures of federal awards, and all accompanying information in conformity with U.S. generally accepted accounting principles; and for compliance with applicable laws and regulations (including federal statutes), and the provisions of contracts and grant agreements (including award agreements).

Management is also responsible for making all financial records and related information available to us, and for the accuracy and completeness of that information. Management is also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) access to personnel, accounts, books, records, supporting documentation, and other

information as needed to perform an audit under the Uniform Guidance, (3) additional information that we may request for the purpose of the audit, and (4) unrestricted access to persons within the Village from whom we determine it necessary to obtain audit evidence.

Management's responsibilities also include identifying significant contractor relationships in which the contractor has responsibility for program compliance and for the accuracy and completeness of that information. Management's responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

Management is responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the Village involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Management's responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the Village received in communications from employees, former employees, grantors, regulators, or others. In addition, management is responsible for identifying and ensuring that the Village complies with applicable laws and regulations, contracts, agreements, and grants for taking timely and appropriate steps to remedy any fraud, illegal acts, violations of contracts or grant agreements, or abuse that we may report. As required by the Uniform Guidance, it is management's responsibility to follow up and take corrective action on reported audit findings and to prepare a Summary Schedule of Prior Audit Findings and a Corrective Action Plan if necessary.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying for us previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the "Audit Objective" section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. Management is also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as planned corrective actions, for the report, and for the timing and format for providing that information.

Management is responsible for identifying all federal awards received and understanding and complying with the compliance requirements and for the preparation of the Schedule of Expenditures of Federal Awards (including notes and noncash assistance received) in conformity with the Uniform Guidance and State Single Audit Implementation Act. Management agrees to include our report on the schedule of expenditures of federal awards in any document that contains and indicates that we reported on the schedule of expenditures of federal awards. Management agrees to include the audited financial statements with any presentation of the schedule of expenditures of federal awards that includes our report thereon. Management's responsibilities include acknowledging to us in the representation letter that (1) management is responsible for presentation of the Schedule of Expenditures of Federal Awards in accordance with the Uniform Guidance and State Single Audit Implementation Act; (2) management believes the Schedule of Expenditures of Federal and State

Awards, including its form and content, are stated fairly in accordance with the Uniform Guidance and State Single Audit Implementation Act; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) management has disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the Schedule of Expenditures of Federal and State Awards.

We understand that the Village's employees will prepare all cash, accounts receivable, and other confirmations we request, and will locate any documents selected by us for testing.

Required Supplementary Information

Our audit is for the purpose of forming an opinion on the financial statements taken as a whole. Accounting principles generally accepted in the United States ("GAAP") provide for certain required supplementary information ("RSI") to accompany the basic financial statements. We understand the following RSI will accompany the basic financial statements:

1. Management's Discussion and Analysis ("MD&A")
2. Schedule of the Proportionate Share of the Net Pension Liability (Asset) - Local Government Employees' Retirement System
3. Schedule of Contributions - Local Government Employees' Retirement System
4. Schedule of Changes in Total Pension Liability - Law Enforcement Officers' Special Separation Allowance
5. Schedule of Total Pension Liability as a Percentage of Covered Payroll - Law Enforcement Officers' Special Separation Allowance

Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context.

The Village's management is responsible for the fair presentation of the RSI. As part of our engagement, we will apply certain limited procedures to the RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Supplementary Information

Our audit is for the purpose of forming an opinion on the financial statements taken as a whole. We understand that the following supplementary information will accompany the financial statements.

1. Budgetary schedules for all funds required to adopt a budget other than the General Fund and annually adopted major special revenue funds
2. Schedule of Ad Valorem Taxes Receivable
3. Analysis of Current Tax Levy - Village-Wide Levy
4. Schedule of Expenditures of Federal and State Awards, if applicable
5. Schedules of Capital Assets used in the Operation of Governmental Funds

Such information is presented for the purpose of additional analysis of the financial statements and is not a required part of the financial statements. The Village's management is responsible for the fair presentation of the supplementary information. We will subject the supplementary information to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the accounting and other records used to prepare the financial statements or to the financial statements themselves in accordance with auditing standards generally accepted in the United States of America.

Management's responsibilities include acknowledging to us in the written representation letter that (a) management is responsible for presentation of the supplementary information in accordance with GAAP; (b) management believes the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (c) that the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (d) management has disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Our responsibility is to report whether such information is fairly stated in all material respects in relation to the basic financial statements taken as a whole. Management agrees to include our report on supplementary information in any document that contains and indicates that we have reported on the supplementary information. Management agrees to include the audited financial statements with any presentation of the supplementary information OR make the audited financial statements readily available to users of the supplementary information that includes our report thereon.

Other Information

Our audit is for the purpose of forming an opinion on the financial statements taken as a whole. We understand that the following other information will accompany the basic financial statements: identify other information. Such information is presented for the purpose of additional analysis of the financial statements and is not a required part of the basic financial statements. The Village's management is responsible for such information. We will not subject such information to the auditing procedures applied in the audit of the basic financial statements and, accordingly, we will not express an opinion or provide any assurance on it.

Management Responsibility for Non-attest Services

Management agrees to assume all management responsibilities and to oversee the non-attest services we will provide by designating an individual possessing suitable skill, knowledge and/or experience. Management acknowledges that non-attest services are not covered under Government Auditing Standards. Management is responsible for evaluating the adequacy and results of the services performed and accepting responsibility for the results of such services. Management is responsible for designing, implementing, and maintaining internal controls.

We will provide the following additional non-attest services:

- We will advise management about appropriate accounting principles and their application and will assist in preparation of the Village's basic financial statements. The responsibility for the basic financial statements and all representations contained therein remains with management, which includes members of the governing board.
- At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form that summarizes our audit findings. We will coordinate with management the electronic submission and certification. If applicable, we will provide copies of our report for management to include with the reporting package management will submit to pass-through entities. The Data Collection Form and the reporting package must be submitted within the earlier of 30 days after receipt of the auditor's reports or nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency for audit.
- At the conclusion of the engagement, we will upload the audited financial statements and compliance reports on the North Carolina State Treasurer's website.

Management is responsible for evaluating the adequacy and results of the above non-attest services performed and accepting responsibility for the results of such services. This includes management's review and approval of all adjustments we may propose to the accounting records of the Village or its financial statements as a result of these services.

With respect to any non-attest services provided, management is responsible for downloading and storing such deliverables in information systems controlled by your Village within ninety days of the completion date of the non-attest service. To the extent a web-based portal is utilized for the transmission of non-attest service deliverables, management agrees that any web-based portal controlled by Dixon Hughes Goodman LLP will not be relied on as a data repository and acknowledge that any non-attest service deliverables will be removed from the web-based portal ninety days after the non-attest service completion date.

Use of Financial Statements

Client Prepared Documents

If the Village's financials are to be included in a client-prepared document, other than the Village's *Comprehensive Annual Financial Report*, which includes other information, the Village should notify us of the nature of the document and allow us to read such document prior to submitting the document to others.

Examples of other documents would include:

- reports to shareholders which provide commentary on the financial position or results of operations,
- private placement offerings, or
- other offers to sell securities.

Exempt Offerings

Should the Village wish to include our audit report on the financial statements described above in a document related to an offering of securities exempt from registration with the Securities and Exchange Commission ("SEC"), but does not intend to engage us to perform procedures in connection with the proposed offering (beyond reading the document as required in the preceding paragraph), the Village agrees that the following disclosure will be prominently displayed in the official statement or other document for the proposed offering:

Dixon Hughes Goodman LLP, has not been engaged to perform and has not performed, since the date of their report included herein, any procedures on the financial statements addressed in that report. Dixon Hughes Goodman LLP, also has not performed any procedures relating to this Official Statement.

Should the Village wish to include or incorporate by reference our report on these financial statements into a future offering of securities exempt from registration with the SEC, and requests or is required to obtain our acknowledgement to including our report in such filing or other offering document, prior to our acknowledging to include or incorporate by reference our report thereon, we will be required to perform procedures as indicated by our professional standards, including, but not limited to, reading other information incorporated by reference in the offering document, and performing subsequent event procedures. Our reading of the other information included or incorporated by reference in the offering document will consider whether such information, or the manner of its presentation, is materially inconsistent with information, or the manner of its presentation, appearing in the financial statements. However, we will not perform procedures to corroborate such other information (including forward-looking statements). The specific terms of our future services with respect to future filings or other offering documents will be negotiated and agreed to at the time the services are to be performed.

This engagement is limited to the services outlined above. We will perform all services in accordance with applicable professional standards.

Engagement Fees

Our fees for these services will be based upon the time, skill and resources, including our proprietary information required to complete the services, plus all out-of-pocket expenses. A surcharge of 5% will also be included to cover technology and administrative costs associated with our services. However, you acknowledge the complexity of the issues involved and unforeseen circumstances may result in additional charges. In such event, we will discuss with you the basis of any such charge.

Our fee for these services and any additional services is detailed in the "Contract to Audit Accounts" (LGC-205) dated March 5, 2021 between Village of Pinehurst and Dixon Hughes Goodman LLP. The fee and expense estimate is a guide only and should not be regarded as a firm quotation. This estimate is based on the assumption there will be no significant bookkeeping assistance required or significant changes in the Village's operations including (but not limited to): issuance of new debt; new construction projects; creation of new funds; new or "State Mandated" major programs required to be tested for Single Audit; or additional procedures required in response to the discovery of fraud. We will issue contract addendums for additional fees related to any bookkeeping or changes mentioned above. The additional fees will be billed at our standard hourly rates depending on the experience level of the individuals performing the work.

Our invoices for these fees will be rendered each month as work progresses and are payable on presentation in U.S. Dollars. A 1½ percent per month interest charge will be added to all accounts not paid within thirty (30) days. If there is a significant change in your organizational structure or size due to acquisitions or other events, we reserve the right to revise our fees. We shall have the right to halt or terminate entirely our services until payment is received on past due invoices.

Should you require additional services incidental to those specified herein which are not the subject of a separate engagement letter, upon your request for the performance of those services we will confirm to you in writing or by electronic mail the requested services we will provide. Such services, including our fees, shall be rendered subject to and in accordance with the provisions of this letter.

Other Standard Terms and Conditions

In providing our audit services we are required by law and our professional standards to maintain our independence from the Village. We take this mandate very seriously and thus guard against impermissible relationships which may impair the very independence which you and the users of our report require. As such you should not place upon us special confidence that in the performance of our audit services we will act solely in your interest. Therefore, you acknowledge and agree we are not in a fiduciary relationship with you and we have no fiduciary responsibilities to you in the performance of our services described herein.

In connection with providing our professional services described herein, Dixon Hughes Goodman LLP may utilize the services of third-party service providers to complete these services. In addition, Dixon Hughes Goodman LLP may use third-party providers to provide, at Dixon Hughes Goodman LLP's discretion, administrative, clerical and data analysis services to Dixon Hughes Goodman LLP in connection with our professional services. In the performance of these services for Dixon Hughes Goodman LLP, we may share confidential information with the third-party service providers but remain committed to maintaining the confidentiality and security of your information. Accordingly, we maintain internal policies, procedures, and safeguards to protect the confidentiality of your information. Dixon Hughes Goodman LLP represents to that each such third-party service provider has agreed to conditions of confidentiality with respect to Village's information to the same or similar extent as Dixon Hughes Goodman LLP has agreed. Furthermore, we are responsible for the adequate oversight of services provided by these third-party service providers.

The audit documentation for this engagement is the property of Dixon Hughes Goodman LLP and constitutes confidential information. However, we may be requested to make certain audit documentation available to the U.S. Department of Health and Human Services or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office pursuant to authority given to it by law or regulation. If requested, access to such audit documentation will be provided under supervision of our personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

In providing our services we may direct you to provide your information to us through a separate web based client portal accessible through a client experience dashboard as indicated by Dixon Hughes Goodman LLP in an effort to provide greater security with respect to the information. In the event we request you provide your information to us through such a client portal, (i) to the extent you fail to do so, or (ii) in using the client portal you fail to monitor and restrict access only to your authorized personnel (any such failure being referred to herein as a "Portal Failure") we disclaim, and you release us and shall indemnify and hold us harmless against any and all liability for loss and damage, including direct, indirect, consequential, incidental, and special damages such as loss of revenue or anticipated profits ("Damages"), arising from any interception, unintentional disclosure or communication or unauthorized use of such information incident to a Portal Failure or arising from claims by any third-party with whom you provide use or access to the client portal even if we are aware or have been advised of the use of or the access to, the client portal by such third-party in contravention of the restrictions set forth herein.

Many of our clients choose to communicate with us by email, and we may use email in connection with this engagement unless you direct us otherwise. We will use reasonable precautions to protect your confidential information. As emails can be intercepted and read, disclosed, or otherwise used or communicated by an unintended third-party, or may not be delivered to each of the parties to whom they are directed, we cannot guarantee or warrant that email from us will be properly delivered and read only by the addressee. Therefore, we specifically disclaim, and you release us from any claims for any Damages for interception or unintentional disclosure or communication of email transmissions, or for the unauthorized use or failed delivery of emails transmitted by us in connection with the performance of this engagement, or the disclosure or communication of confidential or proprietary information arising therefrom (hereinafter collectively referred to as "Email Interruption") except to the extent resulting from our gross negligence or willful misconduct.

You represent and warrant to us that Village does not derive substantial or a material amount of revenue from the manufacture, sale or distribution of cannabis or related products ("Cannabis Products") or from activities which in any material manner support the manufacture, sale or distribution of Cannabis Products.

In the event Dixon Hughes Goodman LLP is required to respond to a subpoena, court order, government regulatory inquiry or other legal process relating to you or your management for the production of documents and/or testimony relative to information we obtained or prepared incident to this or any other engagement, you shall compensate Dixon Hughes Goodman LLP for all time we expend in connection with such response at normal and customary hourly rates, and to reimburse us for all out of pocket expenses incurred in regard to

such response.

This agreement and any claim arising out of the services provided shall be governed by the laws of the state of North Carolina, exclusive of its conflict of laws rules. The parties agree that any action between them related to or arising out of this engagement shall be brought only in the state or federal courts of North Carolina.

Whenever possible, each provision of this agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision hereof shall be ineffective or invalid, such ineffectiveness or invalidity shall be only to the extent of such prohibition or invalidity, without invalidating the remainder of the provision or the remaining provisions of this agreement, which shall otherwise remain in full force and effect. The agreements of Village of Pinehurst and Dixon Hughes Goodman LLP contained in this engagement letter shall survive the completion or termination of this engagement.

You have requested that we provide you with a copy of our most recent external peer review report and any subsequent peer review reports received during the contract period. Accordingly, our 2020 peer review report accompanies this letter.

This engagement is limited to the services outlined above.

Please indicate your acceptance of the above understanding by signing this letter in the space below and returning it to our office. If your needs change during the year, the nature of our services can be adjusted appropriately. Likewise, if you have special projects with which we can assist, please let us know.

We want to express our appreciation for this opportunity to work with Village of Pinehurst.

Sincerely,

Dixon Hughes Goodman LLP

DIXON HUGHES GOODMAN LLP

Attachment

Accepted and Agreed:

This letter correctly sets forth the understanding of Village of Pinehurst.

John C. Strickland, Mayor

Date _____

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Brooke Hunter, Finance Officer



December 11, 2020

Ralph Snow
Dixon Hughes Goodman LLP
4350 Congress ST Ste 900
Charlotte, NC 28209-4866

Dear Ralph Snow:

It is my pleasure to notify you that on December 11, 2020, the National Peer Review Committee accepted the report on the most recent System Review of your firm. The due date for your next review is August 31, 2023. This is the date by which all review documents should be completed and submitted to the administering entity.

As you know, the report had a peer review rating of pass. The Committee asked me to convey its congratulations to the firm.

Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink that reads "Michael Fawley".

Michael Fawley
Chair, National PRC
+1.919.402.4502

cc: Candace Wright, David Hinshaw

Firm Number: 900010017108

Review Number: 576076

Report on the Firm's System of Quality Control

To the Partners of
Dixon Hughes Goodman LLP
and the National Peer Review Committee

We have reviewed the system of quality control for the accounting and auditing practice of Dixon Hughes Goodman LLP (the firm) applicable to engagements not subject to PCAOB permanent inspection in effect for the year ended February 29, 2020. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants (Standards).

A summary of the nature, objectives, scope, limitations of, and the procedures performed in a System Review as described in the Standards may be found at www.aicpa.org/prsummary. The summary also includes an explanation of how engagements identified as not performed or reported in conformity with applicable professional standards, if any, are evaluated by a peer reviewer to determine a peer review rating.

Firm's Responsibility

The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. The firm is also responsible for evaluating actions to promptly remediate engagements deemed as not performed or reported in conformity with professional standards, when appropriate, and for remediating weaknesses in its system of quality control, if any.

Peer Reviewer's Responsibility

Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review.

Required Selections and Considerations

Engagements selected for review included engagements performed under *Government Auditing Standards*, including compliance audits under the Single Audit Act; audits of employee benefit plans, audits performed under FDICIA, an audit of a broker-dealer, and examinations of service organizations [SOC 1 and SOC 2 engagements].

As part of our peer review, we considered reviews by regulatory entities as communicated to the firm, if applicable, in determining the nature and extent of our procedures.

Opinion

In our opinion, the system of quality control for the accounting and auditing practice of Dixon Hughes Goodman LLP applicable to engagements not subject to PCAOB permanent inspection in effect for the year ended February 29, 2020, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. Dixon Hughes Goodman LLP has received a peer review rating of *pass*.



Baton Rouge, Louisiana
November 13, 2020