

ORDINANCE #99-1:

AN ORDINANCE AMENDING THE PINEHURST DEVELOPMENT ORDINANCE AS IT PERTAINS TO TEXT AMENDMENTS TO SECTIONS 8.2.2.g, 8.3.2j, 8.4.2.d, 8.5.2.d, 8.6.2.d, 8.7.2.d AND TABLE 8.1.3.

THAT WHEREAS, the Village Council of the Village of Pinehurst adopted a new Pinehurst Development Ordinance and Map on the 23rd day of October, 1995, for the purpose of regulating planning and development in the Village of Pinehurst and the extraterritorial area over which it has jurisdiction; and

WHEREAS, said Ordinance and Map may be amended from time to time as circumstances and the best interests of the community have required; and

WHEREAS, a Public Hearing was held at 4:00 p.m. on December 21st, 1998, in the Assembly Hall of the Pinehurst Village Hall, Pinehurst, North Carolina after due notice in The Pilot, a newspaper in Southern Pines, North Carolina, with general circulation in the Village of Pinehurst, and its extraterritorial jurisdiction, for the purpose of considering proposed zoning ordinance text changes, at which time all interested citizens, residents and property owners in the Village of Pinehurst and its extraterritorial jurisdiction were given an opportunity to be heard as to whether they favored or opposed the proposed text amendments; and

WHEREAS, the Planning and Zoning Board has recommended that the Village Council amend the Pinehurst Development Ordinance, Sections 8.2.2.g, 8.3.2j, 8.4.2.d, 8.5.2.d, 8.6.2.d, 8.7.2.d and Table 8.1.3; and

WHEREAS, the Village Council, after considering all of the facts and circumstances surrounding the proposed amendments in the text of the Pinehurst Development Ordinance, have determined that it is in the best interest of the Village of Pinehurst and the extraterritorial jurisdiction that the Development Ordinance and Map be further amended, making the amends as requested;

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Village Council of the Village of Pinehurst, North Carolina in Special Session assembled on the 25th day of January 1999, as follows:

SECTION 1. That the Pinehurst Development Ordinance of the Village of Pinehurst and its extraterritorial zoning jurisdiction be and the same hereby is amended by the text amendments to Sections 8.2.2.g, 8.3.2j, 8.4.2.d, 8.5.2.d, 8.6.2.d, 8.7.2.d and Table 8.1.3, attached hereto, and described in Exhibit A, and made a part hereof, the same as if included verbatim.

SECTION 2. That this Ordinance shall be and remain in full force and effect from and after the date of its adoption.

SECTION 3. Adopted this 25th day of January 1999.

(Municipal Seal)

VILLAGE OF PINEHURST
VILLAGE COUNCIL

By: *Virginia F. Fallon*
Virginia F. Fallon, Mayor

Attest:

Mary H. McGraw
Mary H. McGraw, Village Clerk

Approved as to form:

John B. Clayton
John B. Clayton, Village Attorney

EXHIBIT A

**ZT0598: AMENDMENT TO THE PDO (ROADSIDE STANDS)
REPORT TO THE VILLAGE COUNCIL
PUBLIC HEARING DATE: DECEMBER 21, 1998**

Prepared by the Planning and Inspections Department.

Request

The request is to amend Sections 8.2.2.g, 8.3.2.j, 8.4.2.d, 8.5.2.d, 8.6.2.d, 8.7.2.d, and Table 8.1.3 of the Pinehurst Development Ordinance (PDO). In accordance with Section 7.1 of the PDO, the Village Council has the authority to amend the text. The Planning and Zoning Board makes recommendations to the Village Council on requests for text amendments.

Staff Analysis

Currently Sections 8.2.2.g, 8.3.2.j, 8.4.2.d, 8.5.2.d, 8.6.2.d, 8.7.2.d, and Table 8.1.3 of the PDO allow roadside stands in the PC, R210, R30, R20, R15, and R10 zoning districts subject to the following conditions:

1. It is located on a public utility facility site;
2. Permission of the property owner is obtained;
3. No traffic hazard or other public safety risk is created;
4. No signs other than those in Chapter 13 are permitted.

Section 2.1.3 of the PDO defines Roadside Stand as "A structure (generally an open air structure) or vehicle used for display and sale of produce (fruits and vegetables) or similar products. Sales are conducted on a temporary or seasonal basis.

Staff recommends that Roadside Stands be prohibited in all zoning districts. The reasons are as follows:

1. A roadside stand is not compatible with the residential development that exists in the residential zoning districts. The presence of a roadside stand may produce non-local traffic in these residential areas that would be bothersome to area residents.
2. It is not fair to established local businesses to allow someone in a truck to come into the Village and compete with them. Established businesses have to meet the criteria of the PDO, landscape their site, and maintain a good appearance. This costs money which could result in higher product costs. As the person selling from the back of the truck does not pay rent or maintain a site, they are likely able to sell at a lower price.
3. Condition #3 (traffic safety) can not be met. Established businesses must have safe driveway designs approved by the Village or NCDOT. Also, established businesses must meet parking requirements to ensure customers do not park in the road and create unsafe conditions. A roadside stand is likely to locate on an unimproved piece of land with no driveway connection or provisions for on-site parking.
4. Staff can not regulate based on what is sold. That is, staff can not treat a vegetable stand differently than a hotdog stand. Consequently, during a big event such as the US Open, various vendors, using the existing Ordinance, could establish a variety of roadside stands resulting in unsafe travel conditions and visual clutter.

If the PDO is amended, existing roadside stands could continue to operate as nonconforming uses.

Planning and Zoning Board Recommendation

The Planning and Zoning Board, after conducting a public hearing on this request at their October 8, 1998 meeting, voted to recommend amending the PDO as proposed.

EXHIBIT A

The Standard Fire Prevention Code is intended to be adopted by reference through statute or ordinance and enforced by state and local governments, governmental agencies or other authorities having jurisdiction. Sample adopting legislation is printed in this document for that purpose. In preparation for adopting this code, the authority having jurisdiction should specifically consider including such items as inspection fees, permit fees and penalties or fines for noncompliance in the adopting legislation since these items vary considerably from one jurisdiction to another and cannot be effectively included in a model code.

This is the eighth edition of the Standard Fire Prevention Code. The code, based on the former American Insurance Association National Fire Prevention Code, was first adopted in November 1974 by the Board of Trustees of Southern Building Code Congress International at the Annual Research Conference in Birmingham, Alabama. Since that time, the code has been revised annually, with new editions published every three years.

Since 1988, the code development process has been administered by the Southeastern Association of Fire Chiefs, a division of the International Association of Fire Chiefs (IAFC) under a formal agreement with Southern Building Code Congress International. The Southeastern Association of Fire Chiefs consists of IAFC members from the states of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia and West Virginia as well as the Commonwealth of Puerto Rico and the territory of the U.S. Virgin Islands. By agreement, members of IAFC's Southwestern Association of Fire Chiefs also participate in the code revision process through code committees and have full voting privileges on final revisions to the code. Southwestern Association of Fire Chiefs members come from the states of Arkansas, Louisiana, New Mexico, Oklahoma and Texas. Although the fire chiefs administer the code revision process, SBCCI remains the publisher and copyright holder of the code and provides administrative and support services to fire prevention code users.

The Standard Fire Prevention Code is dedicated to the organizations and individuals, including code officials, fire chiefs, architects, engineers, and industry representatives, who volunteered their time and talents to update this code to represent the state-of-the-art in fire safety. It is hoped that their contributions will serve as an example for others who are interested in advancing the cause of fire safety in their communities.

Solid vertical bars in the margin indicate North Carolina
1996 Revisions to the 1994 edition of the Standard Fire Prevention Code. |

Solid vertical bars in the margin indicate North Carolina
1997 Revisions to the 1994 edition of the Standard Fire Prevention Code. ||

Solid vertical bars in the margin indicate North Carolina
1998 Revisions to the 1994 edition of the Standard Fire Prevention Code. |||

CHAPTER 4 PERMITS AND CERTIFICATES

The provisions of this chapter are not mandatory. To be legally enforceable, this chapter must be adopted by local ordinance. Decisions on any appeals of the provisions of this chapter which are adopted by local ordinance shall be issued by the local governing body having jurisdiction.

401 GENERAL PROVISIONS

401.1 Scope

401.1.1 A permit shall constitute permission to maintain, store or handle materials, or to conduct processes which produce conditions hazardous to life or property, or to install equipment used in connection with such activities.

401.1.2 Such permit shall not be a substitute for any license required by law.

401.1.3 A permit shall not be transferable and any change in use or occupancy of a building or premises shall require a new permit. A permit shall continue until revoked or for such a period of time as designated at time of issuance.

401.1.4 The Fire Official shall issue all Fire Prevention Code permits as deemed necessary, subject to the approval of the local governing body.

401.2 Inspection Before Issue

401.2.1 Before a permit may be issued, the fire official shall inspect and approve the receptacles, vehicles, buildings, structures, or storage areas to be used and the owner or occupant shall verify to the fire official that a Certificate of Occupancy has been issued by the building official for that occupancy classification.

401.2.2 In cases where laws or regulations enforceable by departments other than the fire department are applicable, joint approval shall be obtained from all departments concerned.

401.3 Applying for a Permit

The application for a permit shall be made in the form prescribed by the fire official having jurisdiction and contain the following information:

1. The signature of the applicant.
2. A statement of the intended use of the building or structure or operation to be conducted on the premises.
3. Plans when required by the fire official.

401.4 Conditions of Permits

401.4.1 The fire official shall act upon an application for permit without unreasonable delay and when issued such permit shall remain on the premises designated therein and shall at all times be subject to inspection.

401.4.2 Whenever the provision of this code requires more than one permit for the same establishment or location, such permits may be combined into a single permit, but each provision shall be listed in the permit. In cases where a Certificate of Occupancy has been issued, the Fire Official may accept this in lieu of permits required by this code when all fire code provisions have been met.

401.5 Compliance with Permit

All permits issued under this code shall require that the applicant, his agents and employees shall carry out the proposed activity in compliance with all the requirements of this code and any other laws or regulations applicable thereto, whether specified in the permit or not in complete accordance with the approved plan and application.

401.6 Revocation of Permit

The fire official may revoke a permit issued under this code when it is found by inspection or otherwise that any one of the following conditions exist:

1. The permit is used for a location or establishment other than that for which it was issued.
2. The permit is used for a condition or activity other than that listed in the permit.
3. Conditions and limitations set forth in the permit have been violated.
4. There have been any false statements or misrepresentations as to a material fact in the application for permit or plans submitted or a condition of the permit.
5. The permit is used by a different person or firm other than the name for which it was issued.

402 PERMITS BY USE

402.1 Airports, Heliports and Helistops

402.1.1 No person shall use any building, shed or enclosure as an aircraft hangar, or for the purpose of servicing or repairing any aircraft, without a permit.

EXCEPTION: Residential aircraft hangars.

402.1.2 No person shall operate an aircraft refueler unless a valid permit has been issued for such vehicle.

402.2 Bowling Pin and Bowling Alley Resurfacing and Refinishing

No person shall conduct bowling pin refinishing and bowling alley resurfacing and refinishing operations involving the use and application of flammable liquids or materials without a permit.

402.3 Cellulose Nitrate Motion Picture Film

402.3.1 A permit shall be required for the storage, keeping or handling of 25 lb (11.3 kg) or more (for 35 mm film approximately 5,000 ft (1524 m)) of nitrate motion picture film.

402.3.2 No person shall sell, lease or otherwise dispose of any nitrate motion picture film to any person not having a permit to handle, use or display such film.

402.4 Cellulose Nitrate Plastic (Pyroxylin)

402.4.1 A permit shall be required for the handling of more than 25 lb (11.3 kg) of pyroxylin.

402.4.2 A permit shall be required for the manufacture of articles of pyroxylin which shall include the use of pyroxylin in the manufacture or assembling of other articles.

402.5 Combustible Fibers

Storing or handling combustible fibers in quantities in excess of 100 cu ft (2.83 m³) shall require a permit.

402.6 Compressed Gas

A permit shall be required for the storage, handling or use at normal temperature and pressure of more than 2,000 cu ft (56.64 m³) of flammable compressed gas or 6,000 cu ft (169.9 m³) of nonflammable compressed gas.

402.7 Crude Oil Production

402.7.1 No person shall drill, own, operate or maintain an oil well without a permit. Each oil well permit shall be valid only for the calendar year for which issued.

402.7.2 The permit for any new oil well shall be issued only after it has been determined that such location for an oil well complies with the provisions of this code.

402.7.3 The application for a permit to drill an oil well shall be accompanied by a plot plan drawn to scale or with dimensions showing all buildings and improvements within a radius of 300 ft (91.4 m) of the exact location of the proposed well.

402.8 Cryogenic Fluids

Except when regulated by Federal or state regulations a permit shall be obtained for:

1. Production, storage or sale of cryogenic fluids.
2. Transportation on the highway of flammable cryogenic fluids in excess of 120 gal (455 L).
3. Transportation on the highway of liquefied oxygen or cryogenic oxidizers in excess of 120 gal (455 L).
4. Storage and transportation of nonflammable, nontoxic cryogenic fluids in excess of 500 gal (1.89 m³).
5. Storage or use of more than 10 gal (37.9 L) of liquefied oxygen, flammable cryogenic fluids or cryogenic oxidizers.

402.9 Dry Cleaning Plants

402.9.1 No person shall engage in the business of dry cleaning without a permit. Such permit shall prescribe the type of system to be used.

402.9.2 No change shall be made in the solvent used in the equipment to a solvent in a more hazardous class unless permission for such change shall first have been obtained from the fire official and a new permit issued.

402.10 Explosive Materials

402.10.1 Where permits are required to be issued by the fire official, the intent is to grant that authority to the agency having enforcement jurisdiction.

Permits shall be obtained for the following:

1. To manufacture, possess, store, sell or otherwise dispose of explosive materials.
2. To transport explosive materials.
3. To use explosive materials.
4. To operate a terminal for handling explosive materials.

402.10.2 Permits for the following materials shall be invalidated and the materials disposed of in an approved, safe manner:

1. Dynamite having an unsatisfactory absorbent or one that permits leakage of a liquid explosive ingredient under any conditions liable to exist during storage.
2. Nitrocellulose in a dry and uncompressed condition in quantity greater than 10 lb (4.54 kg) net weight in one package.
3. Fulminate of mercury in a dry condition and fulminate of all other metals in any condition except as a component of manufactured articles not hereinafter forbidden.
4. Explosive compositions that ignite spontaneously or undergo marked decomposition, rendering the products of their use more hazardous, when subjected for 48 consecutive hours or less to a temperature of 167°F (75°C).
5. New explosive materials until approved by DOT, except that permits may be issued to educational, governmental, or industrial laboratories for instructional or research purposes.
6. Explosive materials condemned by DOT.
7. Explosive materials containing an ammonium salt and a chlorate.

402.10.3 Prohibitions:

1. No person shall keep or store, nor shall any permit be issued to keep or store, any explosives at any place of habitation, or within 100 ft (30.5 m) thereof.
2. No person, possessing a permit for storage of explosives at any place, shall keep or store an amount greater than authorized in such permit. Only the kind of explosive specified on such permit shall be kept or stored.
3. The fire official may require that any operations permitted under the provisions of 402.10 be supervised at any time by employees of the fire official, to see that all safety and fire regulations are observed.

402.11 Flammable and Combustible Liquids

A permit shall be obtained for the following:

1. Storage, handling or use of Class I flammable liquids in excess of 3 gal (11.4 L) in any dwelling or other place of human habitation, or in excess of 6 gal (22.7 L) in any other building or other occupancy, or in excess of 10 gal (37.9 L) outside of any building.

EXCEPTIONS:

1. The storage or use of flammable liquids in the fuel tank of a motor vehicle, aircraft, motorboat, mobile power plant or mobile heating plant.
2. The storage or use of paints, oils, varnishes or similar flammable mixtures when such liquids are stored for maintenance, painting or similar purposes for a period of not more than 30 days.
2. Storage, handling or use of Class II or III liquids in excess of 25 gal (94.6 L) in a building; or in excess of 60 gal (227 L) outside a building, except for fuel oil used in connection with oil burning equipment.
3. For the manufacturing, processing, blending, or refining of flammable or combustible liquids. Applications for a permit shall be accompanied by plans showing the topography of the proposed site, the proximity of the plant to places of assembly, residential, or mercantile occupancies, and adequacy of water supply for fire control.
4. For the storage of flammable or combustible liquids in stationary tanks.

402.12 Flammable Finishes

A permit shall be obtained for spraying or dipping operations utilizing flammable liquids included within the scope of Chapter 10.

402.13 Fruit Ripening Processes

A permit shall be required for any fruit ripening process.

402.14 Fumigation and Thermal Insecticide Fogging

402.14.1 No person shall engage in the business of fumigation or thermal insecticidal fogging without a permit.

402.14.2 No fumigation room, vault or chamber using a toxic or flammable fumigant shall be maintained without a permit.

402.15 Hazardous Chemicals

402.15.1 No person, firm or corporation shall store, dispense, use or handle hazardous materials in excess of those quantities specified in Table 402.15.2 unless a valid permit has been issued. No person, firm, or corporation shall abandon, remove, place temporarily out of service, close,

or substantially modify a storage or processing facility, or other area regulated by this code until a permit has been issued by the fire official.

402.15.2 A permit shall be obtained from the fire official for the storage, dispensing, use, or handling of hazardous materials in excess of those quantities listed in Table 402.15.2.

402.15.3 A permit shall be required to store, handle or use hazardous production materials regulated by Chapter 42.

**Table 402.15.2
Permit Exempt Quantities¹**

Material/ Condition	Solid (lb)	Liquid (gal)	Gas (cu ft)	NFiPA Standard
Corrosive	1000	55	0	
Flammable Solid	100	N/A	N/A	65,480,481, 482,651,655
Highly Toxic	0	0	0	
Irritant	1000	100	0	
Other Health Hazards	55	55	0	
Organic Peroxide				43B
Unclassified				
detonatable	0	0	N/A	
Class I	0	0	N/A	
Class II	0	0	N/A	
Class III	10	10	N/A	
Class IV	20	20	N/A	
Oxidizer				430
Class 4	0	0	N/A	
Class 3	50	1	N/A	
Class 2	100	10	N/A	
Class 1	500	55	N/A	
Oxidizer Gas				
Gaseous	N/A	N/A	500	
Liquefied	N/A	50	N/A	
Pyrophoric	0	0	0	
Radioactive ²	Note 3	Note 3	Note 3	801
Sensitizer	1000	100	0	
Toxic	125	125	0	
Unstable Reactive				49
Class 4	0	0	0	
Class 3	0	0	0	
Class 2	100	10	0	
Class 1	500	55	0	
Water Reactive				
Class 3	0	0	N/A	
Class 2	100	10	N/A	
Class 1	500	55	N/A	

1 lb = 0.453 kg
 1 gal = 3.785 L
 1 cu ft = 0.02832 m³

Notes:

N/A — Not Applicable

1. A zero indicates any amount of material requires a permit.
2. Licensed, sealed sources in instruments, calibration devices and equipment shall be exempted from 402.15.2.
3. Any amount for which a license is required from the Nuclear Regulatory Commission.

402.16 High Piled Combustible Stock

No person shall use any building or portion of a building, exceeding 2,500 sq ft (232.3 m²) for the storage of high piled combustible stock without first obtaining a permit from the fire official. A floor plan showing the dimensions and location of stock piles and aisles shall be submitted upon application for a permit.

402.17 Liquefied and Compressed Natural Gas

No person shall construct or operate a facility within the scope of Chapter 16 without a permit or other appropriate authorization.

402.18 Liquefied Petroleum Gas

DELETED

402.19 Lumber Storage

No person shall store in excess of 100,000 board ft (236 m³) of lumber without a permit.

402.20 Magnesium

A permit shall be obtained for the melting, casting, heat treating, machining, or grinding of more than 10 lb (4.54 kg) of magnesium per working day.

402.21 Mechanical Refrigeration

No person shall install or operate a refrigeration unit or system containing in excess of 20 lb (9.1 kg) of refrigerant other than air or water without a permit.

EXCEPTION: Air-conditioning units or systems.

402.22 Motion Picture Projection

402.22.1 No person shall operate a motion picture projection machine in any institutional occupancy or place of public assembly without a permit.

402.22.2 No person shall operate, or cause or permit the operation of any motion picture projection machine, unless such person so operating possesses a valid permit issued by the fire official.

402.23 Organic Coatings

A permit shall be required for any organic coating manufacturing operation making more than 1 gal (3.79 L) of an organic coating on any working day.

402.24 Ovens

402.24.1 No person shall operate an oven to which this code applies without a permit.

402.24.2 Application for a permit shall be accompanied by plans showing all essential details and calculations for safe operation. The process and material involved shall be fully described.

402.25 Pipelines for Flammable or Combustible Liquids

402.25.1 No pipeline used for the transportation of flammable or combustible liquids shall be installed or operated without a permit.

402.25.2 No excavation or below grade work shall be performed within 10 ft (3.0 m) of any pipeline used for the transportation of flammable or combustible liquids without a permit.

402.26 Places of Assembly

No place of assembly as defined in Chapter 2 shall be maintained, operated or used as such without a permit. The permit shall not be issued unless all seats, stands, and structures conform to the requirements of Chapter 12 in the building code.

402.27 Pulverized Particles (Dust)

No person shall operate any grain elevator, flour, starch or feed mill, or plant pulverizing aluminum, coal, cocoa, magnesium, spices, sugar or other material producing dust as defined in Chapter 2 without a permit.

402.28 Repair Garages

No person shall use any building, shed or enclosure as a place of business for the purpose of repairing any motor vehicle therein, without a permit.

402.29 Tank Vehicles for Flammable and Combustible Liquids

No person shall engage in the business of delivering flammable or combustible liquids from tank vehicles without a permit.

402.30 Tents and Air Supported Structures

No person shall erect, operate or maintain a tent or air supported structure covering an area in excess of 120 sq ft (11.15 m²) without a permit.

EXCEPTIONS:

1. Tents used exclusively for camping purposes.
2. Funeral tents and curtains or extensions attached thereto, when used for funeral services.
3. Tents meeting the requirements of Section 3901.3.

402.31 Tire Rebuilding Plant

No person shall operate or maintain any tire recapping or rebuilding plant without a permit.

402.32 Wrecking Yard, Junk Yard or Waste Handling Plant

No person shall conduct or maintain any wrecking yard, junk yard or waste material handling plant without a permit.

402.33 Aerosol Products

A permit shall be required for the manufacture, storage and retail display of Level 2 and Level 3 aerosol products in excess of 500 lb (227 kg) net weight.

402.34 Permit Required for Welding or Cutting

402.34.1 A permit shall be required of each company, corporation, copartnership or owner-operator performing welding or cutting operations except as provided by the provisions of Section 402.34.2. This permit shall not be required for each welding or cutting job location. The company, corporation, copartnership or owner-operator shall notify the Fire Official in advance where such work is taking place, except where such work is done in response to an emergency call that does not allow time for the Fire Official to be notified in advance of the work.

402.34.2 A permit shall not be required of any company, corporation, copartnership or owner-operator:

1. Where the welding or cutting is performed in areas approved for the purpose, or
2. Having an approved permit system established for control of the fire hazards involved.

402.34.3 Application for a permit required by this code shall be made by the company, corporation, copartnership or owner-operator performing the welding or cutting operation or by his duly authorized agent.

402.34.4 A permit for welding or cutting operations shall not be issued unless the individuals in charge of performing such operations are capable of doing such work in a safe manner. Demonstration of a working knowledge of the provisions of this code shall constitute acceptable evidence of compliance with this requirement.

402.34.5 Companies, corporations, copartnerships and owner-operators required to have a permit shall maintain a record of all locations where welding or cutting operations are performed and have it available for inspection by the Fire Official.