

ORDINANCE #94-28:

**AN ORDINANCE OF THE VILLAGE OF PINEHURST
ADOPTING A MORATORIUM ON CERTAIN REAL ESTATE DEVELOPMENT ACTIVITY
WITHIN THE VILLAGE AND ITS EXTRA-TERRITORIAL ZONING JURISDICTION**

THAT WHEREAS, the Village of Pinehurst, North Carolina is a unique municipality which is experiencing significant real estate development and population growth; and

WHEREAS, the Village Council deems it necessary and in the best interests of the Village and its citizens to revise comprehensively the Village's current land-use plan and the ordinances related thereto; and

WHEREAS, such action will result in the formulation of a new land-use plan and the coordination, revision, and restatement of the ordinances and other documents regulating growth and development in the Village and its extra-territorial jurisdiction; and

WHEREAS, this ordinance shall be known and cited as the Village of Pinehurst Interim Zoning-Moratorium Ordinance; and

WHEREAS, the purpose of this ordinance is to serve as the initial phase of the enactment by the Village of a comprehensive land use plan now being developed, by maintaining the status quo of existing land use and to preserve the integrity of predominately residential communities and areas from the encroachment of commercial, industrial, and mobile home park development for the benefit of future generations in accordance with the comprehensive plan. It is the further purpose of this ordinance to promote the health, safety, morals, and general welfare of the citizens of the Village of Pinehurst, to lessen congestion in the streets, to secure safety from fire, panic, and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements, including consideration to provide for their orderly growth, expansion, and development;

NOW, THEREFORE BE IT ORDAINED AND ESTABLISHED, by the Village Council of the Village of Pinehurst, North Carolina as follows:

Section 1. Area. This ordinance shall be applicable to all property within the boundaries of the Village of Pinehurst, North Carolina, and within its extra-territorial jurisdiction as shown on the official zoning map of the Village of Pinehurst.

Section 2. Duration. This ordinance shall be effective October 24, 1994 and shall be enforceable from that date and

AN ORDINANCE OF THE VILLAGE OF PINEHURST
ADOPTING A MORATORIUM ON CERTAIN REAL ESTATE DEVELOPMENT ACTIVITY
WITHIN THE VILLAGE AND ITS EXTRA-TERRITORIAL ZONING JURISDICTION

WHEREAS, the Village of Pinehurst, North Carolina as a unique municipality which is experiencing significant real estate development and population growth; and

WHEREAS, the Village Council deems it necessary and in the best interests of the Village and its citizens to revise comprehensively the Village's current land-use plan and the ordinances related thereto; and

WHEREAS, such action will result in the formulation of a new land-use plan and the coordination, revision, and restatement of the ordinances and other documents regulating growth and development in the Village and its extra-territorial jurisdiction; and

WHEREAS, this ordinance shall be known and cited as the Village of Pinehurst Interim Zoning-Moratorium Ordinance; and

WHEREAS, the purpose of this ordinance is to serve as the initial phase of the enactment by the Village of a comprehensive land use plan now being developed, by maintaining the status quo of existing land use and to preserve the integrity of predominantly residential communities and areas from the encroachment of commercial, industrial, and mobile home park development for the benefit of future generations in accordance with the comprehensive plan. It is the further purpose of this ordinance to promote the health, safety, morals, and general welfare of the citizens of the Village of Pinehurst, to lessen congestion in the streets, to secure safety from fire, panic, and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements, including consideration to provide for their orderly growth, expansion, and development;

NOW, THEREFORE BE IT ORDAINED AND ESTABLISHED, by the Village Council of the Village of Pinehurst, North Carolina as follows:

Section 1. Area. This ordinance shall be applicable to all property within the boundaries of the Village of Pinehurst, North Carolina, and within its extra-territorial jurisdiction as shown on the official zoning map of the Village of Pinehurst.

Section 2. Duration. This ordinance shall be effective October 24, 1994 and shall be enforceable from that date and

shall continue in full force and effect for an initial period of six months from the effective date with two (2) separate and consecutive periods of extension of ninety (90) days each, which shall be effective upon Council approval, or until earlier terminated by action of the Village Council.

Section 3. Moratorium. Except only as provided in Section 6 hereafter, from and after the effective date of this ordinance and continuing throughout its duration, no major or minor subdivision, detail development plan (and map), parallel conditional use district classification, or rezoning shall be approved by the Village of Pinehurst except in those cases where there exists a vested right pursuant to Ordinance No. 91-22 of the Pinehurst Village Code.

Section 4. Definitions. As used in this ordinance the terms:

Commercial and Industrial - shall refer to any building or structure which is not exclusively used for owner occupied residential purposes, or as an annexation to a residence such as a garage or storage facility for household use. The term "commercial" and "industrial" shall also not apply to bona fide farms, but any use of farm property for a non-farm purpose is subject to regulation by this ordinance.

Mobile Home Park - shall refer to any place, tract of land, or adjoining tracts of land maintained, offered or used for the location of two (2) or more mobile homes or trailer houses, used or intended to be used for living or sleeping quarters.

Section 5. Procedure. From and after the effective date of this ordinance and continuing throughout its duration, (i) no building permit may be issued for the construction of a commercial, industrial building or structure, or mobile home park and (ii) no conditional use permit of any nature shall be issued without the application for the building permit or conditional use permit first being submitted to the Village of Pinehurst for investigation and consideration. The Village Council shall conduct such inquiry as it deems necessary to determine whether or not in the opinion of the Village Council the respective permit should be issued. Such inquiry shall include the opportunity of the applicant and any other interested parties to be heard at a meeting of the Village Council after first having posted notice of the date, time and place of said meeting on the property no less than five (5) days before the meeting. The Village Council may, but is not compelled to, hold a special meeting of the Village Council for this purpose with due notice in accordance with law. In making its decision the Village Council shall consider the following criteria plus any other relevant information as it applies to the property for which a building or conditional use permit has been requested.

shall continue in full force and effect for an initial period of six months from the effective date with two (2) separate and consecutive periods of extension of ninety (90) days each, which shall be effective upon Council approval, or until earlier terminated by action of the Village Council.

Section 3. Moratorium. Except only as provided in Section 6 hereafter, from and after the effective date of this ordinance and continuing throughout its duration, no major or minor subdivision, detail development plan (and map), parallel conditional use district classification, or rezoning shall be approved by the Village of Pinehurst except in those cases where there exists a vested right pursuant to Ordinance No. 91-22 of the Pinehurst Village Code.

Section 4. Definitions. As used in this ordinance the terms:

Commercial and Industrial - shall refer to any building or structure which is not exclusively used for owner occupied residential purposes, or as an annexation to a residence such as a garage or storage facility for household use. The term "commercial" and "industrial" shall also not apply to bona fide farms, but any use of farm property for a non-farm purpose is subject to regulation by this ordinance.

Mobile Home Park - shall refer to any place, tract of land, or adjoining tracts of land maintained, offered or used for the location of two (2) or more mobile homes or trailer houses, used or intended to be used for living or sleeping quarters.

Section 5. Procedure. From and after the effective date of this ordinance and continuing throughout its duration, (i) no building permit may be issued for the construction of a commercial, industrial building or structure, or mobile home park and (ii) no conditional use permit of any nature shall be issued without the application for the building permit or conditional use permit first being submitted to the Village of Pinehurst for investigation and consideration. The Village Council shall conduct such inquiry as it deems necessary to determine whether or not in the opinion of the Village Council the respective permit should be issued. Such inquiry shall include the opportunity of the applicant and any other interested parties to be heard at a meeting of the Village Council after first having posted notice of the date, time and place of said meeting on the property no less than five (5) days before the meeting. The Village Council may, but is not compelled to, hold a special meeting of the Village Council for this purpose with due notice in accordance with law. In making its decision the Village Council shall consider the following criteria plus any other relevant information as it applies to the property for which a building or conditional use permit has been requested.

- a. The predominate existing character of the property and the surrounding area.
- b. The peculiar suitability of the property for particular uses.
- c. The conservation of the value of the buildings and the encouragement of the most appropriate use of land throughout the Village.
- d. The anticipated zoning of the area in accordance with the comprehensive land use plan.
- e. The promotion of the health, safety, morals, and general welfare of the citizens.
- f. The congestion of the streets.
- g. The safety from fire, panic, and other damages.
- h. The provision of adequate light and air.
- i. The overcrowding of land.
- j. The undue concentration of population.
- k. The facilitation of adequate provision for transportation, water, sewerage, schools, parks, and other public requirements.
- l. The environmental impact of the proposed building, structure or mobile home park.

Following its investigation, the Village Council shall make written findings of fact to support its decision as to whether or not a building or conditional use permit should be issued.

The Village Council shall place the consideration of the Village Council's decision on its agenda for a public hearing at the next regularly scheduled meeting available after publication of the Notice of the Public Hearing for once a week for two (2) successive calendar weeks prior to the hearing. The notice shall be published the first time not less than ten (10) days or more than twenty-five (25) days before the date fixed for the hearing. In computing such period, the day of publication is not to be included, but the day of the hearing shall be included. At such hearing the Village Council shall hear any other persons who wish to speak to the issue. The Village Council, after hearing, shall make final the findings of fact of the Village Council, or may make contrary or additional findings of fact in writing, and decision based thereon. The Village Council shall then allow the issue, if the applicant is otherwise entitled, or deny issuance

- a. The predominant existing character of the property and the surrounding area.
- b. The peculiar suitability of the property for particular uses.
- c. The conservation of the value of the buildings and the encouragement of the most appropriate use of land throughout the Village.
- d. The anticipated zoning of the area in accordance with the comprehensive land use plan.
- e. The promotion of the health, safety, morals, and general welfare of the citizens.
- f. The congestion of the streets.
- g. The safety from fire, panic, and other damages.
- h. The provision of adequate light and air.
- i. The overcrowding of land.
- j. The undue concentration of population.
- k. The facilitation of adequate provision for transportation, water, sewerage, schools, parks, and other public requirements.
- l. The environmental impact of the proposed building, structure or mobile home park.

Following its investigation, the Village Council shall make written findings of fact to support its decision as to whether or not a building or conditional use permit should be issued.

The Village Council shall place the consideration of the Village Council's decision on its agenda for a public hearing at the next regularly scheduled meeting available after publication of the Notice of the Public Hearing for once a week for two (2) successive calendar weeks prior to the hearing. The notice shall be published the first time not less than ten (10) days or more than twenty-five (25) days before the date fixed for the hearing. In computing such period, the day of publication is not to be included, but the day of the hearing shall be included. At such hearing the Village Council shall hear any other persons who wish to speak to the issue. The Village Council, after hearing, shall make final the findings of fact of the Village Council, or may make contrary or additional findings of fact in writing, and decision based thereon. The Village Council shall then allow the issue, if the applicant is otherwise entitled, or deny issuance

of the building or conditional use permit in accordance with its findings of fact. The decision of the Village Council is subject to review by the Superior Court as the procedures are set forth in N.C.G.S. 160A-381, which procedures are incorporated herein by reference.

Section 6. Exceptions. This ordinance shall have no applicability to (i) improvements proposed and constructed by or for any public utility and (ii) the approval of a detailed development plan (and map) submitted within twelve (12) months after the date on which a general concept plan (and map) were approved for the respective development. It is provided, however, that such general concept plan (and map) must have been approved prior to the enactment of this ordinance.

Section 7. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid or unconstitutional for any reason whatsoever, it is the declared intent of the Village of Pinehurst that the remainder of this ordinance shall not be affected thereby and shall remain in full force and effect.

Section 8. Enforcement. If any person, firm, corporation, organization or association shall violate or attempt to violate any terms of this ordinance the Village may enforce its terms by any means available pursuant to N.C.G.S. 160A-175.

Adopted this the 19th day of September, 1994.

(Municipal Seal)

VILLAGE OF PINEHURST
VILLAGE COUNCIL

Attest:

By:


Charles L. Mangels, Mayor


Mary H. McGraw, Village Clerk

Approved as to form:


John B. Clayton, Village Attorney

of the building or conditional use permit in accordance with its findings of fact. The decision of the Village Council is subject to review by the Superior Court as the procedures are set forth in N.C.G.S. 160A-381, which procedures are incorporated herein by reference.

Section 6. Exceptions. This ordinance shall have no applicability to (i) improvements proposed and constructed by or for any public utility and (ii) the approval of a detailed development plan (and map) submitted within twelve (12) months after the date on which a general concept plan (and map) were approved for the respective development. It is provided, however, that such general concept plan (and map) must have been approved prior to the enactment of this ordinance.

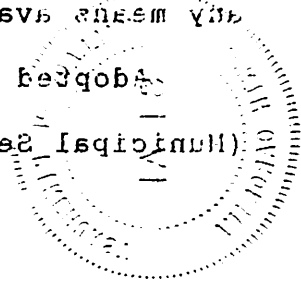
Section 7. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid or unconstitutional for any reason whatsoever, it is the declared intent of the Village of Pinehurst that the remainder of this ordinance shall not be affected thereby and shall remain in full force and effect.

Section 8. Enforcement. If any person, firm, corporation, organization or association shall violate or attempt to violate any terms of this ordinance the Village may enforce its terms by any means available pursuant to N.C.G.S. 160A-175.

Adopted this 15th day of September, 1994.

VILLAGE OF PINEHURST
VILLAGE COUNCIL

(Municipal Seal)



By: _____
Charles L. Sanders, Mayor

Attest:

Mary H. McGraw, Village Clerk

Approved as to form:

John B. Clayton, Village Attorney