

DRAFT

ORDINANCE #21-__ :

AN ORDINANCE OF THE VILLAGE OF PINEHURST ADOPTING A MORATORIUM ON REAL ESTATE DEVELOPMENT ACTIVITY IN SPECIFIC GEOGRAPHIC AREAS WITHIN THE VILLAGE OF PINEHURST AND THE VILLAGE OF PINEHURST'S EXTRA-TERRITORIAL JURISIDCTION.

THAT WHEREAS, the Village of Pinehurst, North Carolina is experiencing significant real estate development and population growth within its corporate boundaries and its extra-territorial jurisdiction;

WHEREAS, on October 22, 2019 the Village of Pinehurst adopted the 2019 Comprehensive Plan which provides recommendations to manage future growth of the community and identified five Focus Areas as important areas to influence and manage growth and development:

1. Existing Extra-Territorial Jurisdiction (ETJ)
2. NC Highway 5 Commercial Area - (Pinehurst South)
3. Medical District
4. Village Place/Rattlesnake Trail Corridor
5. NC Highway 211 Commercial Area

WHEREAS, the goals, standards, and guidelines, as outlined in the 2019 Comprehensive Plan for the NC Highway 5 Commercial Area – Pinehurst South (Focus Area 2) is for office, medical, life science, and research facilities supported with small-scale retail services and residential uses and the vision for the Village Place/Rattlesnake Trail Corridor (Focus Area 4) is to create a more mixed-use, walkable area that is more conveniently connected to the Village Center;

WHEREAS, the Village's existing zoning and development regulations applicable to Focus Areas 2 and 4 are incompatible and incongruous with the intended character and vision for the Focus Areas described in the 2019 Comprehensive Plan;

WHEREAS, allowing any real estate development activity to occur prior to adoption of Small Area Plans for Focus Areas 2 and 4 is an inadequate alternative to a moratorium because it may result in development and land uses that are incompatible and incongruous with the 2019 Comprehensive Plan's goals, standards, and guidelines;

WHEREAS, proactively rezoning the areas without a comprehensive analysis of Focus Areas 2 and 4 is an inadequate alternative to a moratorium because it could also result in development and land uses that are incompatible and incongruous with the 2019 Comprehensive Plan's goals, standards, and guidelines;

WHEREAS, the 2019 Comprehensive Plan specifically recommended that Small Area Plans and design standards with Form Based Codes be developed for the NC Highway 5 Commercial Area – Pinehurst South (Focus Area 2) and the Village Place/Rattlesnake Trail Corridor (Focus Area 4);

WHEREAS, the Village of Pinehurst has entered into a contract with Design Collective Inc., to prepare Small Area Plans and Form Based Codes for Focus Areas 2 and 4, which are expected to be completed and adopted in the early fall of 2021;

WHEREAS, the goals, standards, and guidelines outlined in the 2019 Comprehensive Plan are best achieved if development in these Focus Areas is temporarily halted during the period which the Small Area Plans are being developed to determine the appropriate zoning necessary to achieve consistency and congruity with the 2019 Comprehensive Plan adopted by the Pinehurst Village Council;

WHEREAS, this ordinance shall be known and cited as the Village of Pinehurst Small Area Plans 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 Small Area Plans, which are to be preserved by maintaining the status quo of existing land uses and development patterns in the areas shown on the attached maps, referred to as Exhibit A and Exhibit B, in accordance with the 2019 Comprehensive Long Range Plan of the Village of Pinehurst. 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, specifically within the areas depicted on Exhibit A and on Exhibit B, by lessening congestion in the streets, securing safety from fire, panic, and other dangers, providing adequate light and air, preventing the overcrowding of land, avoiding undue concentration of population, facilitating 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 areas depicted on the maps attached hereto, referred to as Exhibit A and Exhibit B, subject to the exclusions provided in Section 6.

Section 2. Duration. This Ordinance shall be effective and enforceable from the date of adoption and shall continue in full force and effect for an initial period of nine months from the date of adoption, which is the estimated time necessary for the Village of Pinehurst to complete and adopt the Small Area Plans and the related zoning and development standards. The Village Council, consistent with the requirements of NCGS 160D-107(e) may renew this moratorium or extend its duration with two (2) separate and consecutive periods of extension of ninety (90) days each, which shall be effective upon Council approval. The Village Council may terminate this moratorium earlier by action of the Village Council.

Section 3. Moratorium. From and after the effective date of this Ordinance and continuing throughout its duration, no development shall occur in the areas depicted on the maps identified as Exhibit A and Exhibit B, unless the development is that conducted by a public utility or public agency and/or it can be demonstratively shown to the Village Council that the health, safety and welfare of the public requires that the moratorium be waived with regard to that specifically proposed development.

Section 4. Definition. As used in this Ordinance, the term listed below shall have the following meaning, as defined in North Carolina General Statute (NCGS) 160D-102(12):

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; or
- b. The excavation, grading, filling, clearing, or alteration of land; or
- c. The subdivision of land as defined in NCGS 160D-802; or
- d. The initiation or substantial change in the use of land or the intensity of use of land.

Section 5. Enforcement. If any person, firm, corporation, organization or association shall violate or attempt to violate any terms of this ordinance the Village of Pinehurst may enforce its terms by any means available pursuant to NCGS 160D-404.

Section 6. Exclusions. In accordance with NCGS 160D-107(c), absent an imminent threat to public health or safety, a development moratorium adopted pursuant to this section shall not apply to:

1. Any project for which a valid building permit issued pursuant to G.S. 160D-1108 is outstanding,
2. Any project for which a special use permit application has been accepted as complete ,
3. Development set forth in a site-specific or phased vesting plan approved pursuant to G.S. 160D-108,
4. Development for which substantial expenditures have already been made in good-faith reliance on a prior valid development approval,
5. Preliminary or final subdivision plats that have been accepted for review prior to the call for a hearing to adopt the moratorium. Any preliminary subdivision plat accepted for review by the local government prior to the call for a hearing, if subsequently approved, shall be allowed to proceed to final plat approval without being subject to the moratorium.
6. Existing single-family residential uses as regulated by current North Carolina Residential Building Codes,
7. Projects currently undergoing Technical Review Committee as of the effective date of the moratorium ordinance,
8. Alterations and repairs to existing buildings regulated by North Carolina State Building Codes.
9. Site improvements required to comply with the American with Disabilities Act.
10. Changes in occupancy or use of existing structures not involving building or site additions and not requiring rezoning action.

11. Development in an approved subdivision in which substantial infrastructure expenditures have been incurred, including roadway, water, and/or sewer infrastructure, regardless of whether individual parcel owners within the subdivision have submitted a complete application for development approval.

Notwithstanding the foregoing, if a complete application for a development approval has been submitted prior to the effective date of this moratorium, the permit choice provisions of NCGS 160D-108(b) shall be applicable when permit processing resumes. This allows an applicant to choose which version of the development regulation will apply if development regulations change between the time the application was submitted and a decision is made.

THIS ORDINANCE passed and adopted this ___th day of _____, 2021.

VILLAGE OF PINEHURST
VILLAGE COUNCIL

(Municipal Seal)

By: _____
John C. Strickland, Mayor

Attest:

Approved as to Form:

Beth Dunn, Village Clerk

Michael J. Newman, Village Attorney