

**ORDINANCE #22-23:**

**AN ORDINANCE AMENDING CHAPTER 92 OF THE PINEHURST MUNICIPAL CODE**

**WHEREAS**, the Village Council of the Village of Pinehurst adopted an ordinance dated October 20, 1980, establishing, and implementing certain authorized police powers for the purpose of prescribing regulations governing conditions detrimental to the health, safety, and welfare of its citizens; and

**WHEREAS**, on September 13, 2011, the Village Council of the Village of Pinehurst adopted Ordinance 11- 25 which established the general ordinances of the Village of Pinehurst as revised, amended, restated, codified, and compiled in book form and declared that these shall constitute the " Village of Pinehurst, North Carolina Municipal Code" and

**WHEREAS**, the Municipal Code will be subsequently amended from time to time as conditions warrant; and

**WHEREAS**, the Village Council has determined that it is in the best interest of the citizens of Pinehurst to amend Chapter 92 in the Pinehurst Municipal Code in order to further promote and protect quality of life in Pinehurst's various residential neighborhoods; and

**NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED** by the Village Council of the Village of Pinehurst, North Carolina in the regular meeting assembled this 15<sup>th</sup> day of November 2022 as follows:

**SECTION 1.** That the following amendments be made to Chapter 92:

**POLLUTANTS AND NOISE CONTROL**

**§ 92.15 REGULATION OF EMISSION OF POLLUTANTS OR CONTAMINANTS.**

(A) *Emission or disposal of polluting substances prohibited.* Pursuant to authority contained in G.S. § 160A-185 and for the purpose of prescribing regulations governing conditions detrimental to the health, safety and welfare of its citizens, there is hereby adopted and made applicable within the corporate limits of the village from and after the effective date hereon, the following:

(1) The emission or disposal of substances and effluents that tend to pollute or contaminate land, water, or air, rendering or tending to render it injurious to human health or welfare or to animals or plant life or to property, or interfering or tending to interfere with the enjoyment of life or property is prohibited; and

(2) Outdoor burning of any type is prohibited in the corporate limits of the village with the exception of specific permissible open burning as described in the State

Administrative Code, Title 15A Chapter 2, Subchapter 2D, Sections 1903 and 1904. For these exceptions, an open burning permit must be obtained from the State Forest Service prior to the commencement of any burning.

(B) *Compliance with state statutes.* This section shall be consistent with and supplementary to state and federal laws and regulations.

(1986 Code, § 11-1) (Ord. passed 10-20-1980; Ord. 00-05, passed 02-22-2000) Penalty, see § [10.99](#)

## **§ 92.16 REGULATING UNREASONABLY LOUD, DISTURBING SOUND LEVELS.**

(A) *Unlawful sound levels.* It shall be unlawful for any person, or business entity (business entity includes, but is not limited to, a sole proprietorship, limited partnership, limited liability company, and corporation) to create or assist in creating, or to permit, continue, or permit the continuance of any unreasonably loud, disturbing sound levels in the village, taking into consideration volume, duration, frequency, time of day and other characteristics of the sound, unless specifically authorized by the village (see division (C) of this section).

(B) *Prohibited activities.* The following activities, among others, are hereby declared to be unreasonably loud, disturbing sound levels, but the enumeration shall not be deemed to be exclusive:

(1) The playing of any musical instrument or electronic sound amplification equipment in a manner or with such volume, that a sustained noise level of 40 dBs or more between the hours of 10:00 p.m. and 7:00 a.m. or 55 dBs or more at other times can be measured from any nearby residential property (sustained is defined as a continuous measurement over the threshold for at least ten seconds, or at least 15 instances of measurements over the threshold in a 60-second period. When taking measurements, the measuring official will ensure no significant ambient or contributing noise is present, or will measure ambient and contributing noise levels separately when the offending noise is silent so that they can be subtracted);

(2) The keeping of any animal or bird which makes frequent or long continued sounds, that a reasonably prudent person would recognize as likely to unreasonably disturb persons in the vicinity;

(3) The use of any automobile, motorcycle, or vehicle so out of repair, so loaded, or in a manner as to create unreasonably loud, disturbing sounds;

(4) The operating of any non-construction business activity in or near any residential area in the village so loud that a sustained noise level of 40 dBs or more between the hours of 10:00 p.m. and 7:00 a.m. or 55 dBs or more at other times can be measured from any nearby residential property (sustained is defined as a continuous measurement over the threshold for at least ten seconds, or at least 15 instances of measurements over the threshold in a 60-second period. When taking measurements, the measuring official will ensure no significant ambient or contributing noise is present, or will measure ambient and contributing noise levels separately when the offending noise is silent so that they can be subtracted);

(5) The creation of unreasonably loud, disturbing sound levels adjacent to any school, educational facility, church, or court during their normal operating hours, or within 150 feet of any hospital, which a reasonably prudent person would recognize as likely to unreasonably interfere with the working of the institutions, provided signs are displayed indicating that the area is a school, educational facility, church, court, or hospital;

(6) The erection (including excavation), demolition, alteration, or repair of any building in any district other than between the hours of 7:00 a.m. and 7:00 p.m. on Monday through Saturday, excluding holidays. This restriction shall not pertain to the following:

(a) Interior work on an occupied dwelling at any time that does not produce noise that a reasonably prudent person would recognize as likely to unreasonably disturb persons on adjacent property or in the vicinity.

(b) Emergency repairs to dwellings or structures that are needed to protect health or property.

(c) On Sundays and holidays, home maintenance and improvement tasks may be performed by home occupants with or without unpaid/un-contracted assistance, between the hours of 10:00 a.m. and 7:00 p.m. using power and hand tools that are generally available for retail sale from home improvement and hardware stores as long as said work does not produce noise that a reasonably prudent person would recognize as likely to unreasonably disturb persons on adjacent property or in the vicinity.

(d) Upon receipt of prior written approval from the Village Planning and Inspections Department, any construction, demolition, alteration, or repair not otherwise allowed by this restriction may be performed. This provision is intended to accommodate work that is in the best interests of the village as a whole, as well as work contracted or paid for by a home occupant that must be done on a Sunday or holiday for valid reasons.

(7) The operation of power equipment including but not limited to lawn and garden maintenance equipment, generators (not including home stand-by power generators in operation during periods of utility power outages and test periods) and landscaping construction and maintenance equipment between the hours of 8:00 p.m. and 7:00 a.m.

(8) The use of any electronic sound amplification equipment for advertising, paging or solicitation purposes, except with an appropriate permit; and

(9) The conduct of, or participation in, any recreational activity in a residential district in the village which creates sound levels so loud that a sustained noise level of 40 dBs or more between the hours of 10:00 p.m. and 7:00 a.m. or 55 dBs or more at other times can be measured from any nearby residential property (sustained is defined as a continuous measurement over the threshold for at least ten seconds, or at least 15 instances of measurements over the threshold in a 60-second period. When taking measurements, the measuring official will ensure no significant ambient or contributing noise is present or will measure ambient and contributing noise levels separately when the offending noise is silent so that they can be subtracted).

*(C) Approval of exceptions.*

(1) Persons wishing to engage in activities other than those involving the erection (including excavation), demolition, alteration or repair of any building prohibited by this section may do so when specific written approval is obtained from the village. Written permission shall not be unreasonably withheld and may contain appropriate conditions and restrictions designed to minimize the disruptive impact. Written permission for activities significantly for religious or political purposes shall be granted, subject only to reasonable time, place and manner restrictions. Written permission issued under this section may specify that the permission granted will continue for a stated period or until revoked after actual notice. Persons shall not be held in violation of this section when acting in conformity with permitted conditions, but any permission may be revoked if it is determined that the authorized activity has resulted in generation of unreasonably loud, disturbing sound levels, or significant complaints from residents.

(2) In case permission is denied, written permission is provided with conditions unacceptable to the application, or permission is revoked, the applicant shall be entitled to a prompt, informal hearing with the Village Manager or his or her designee, upon submission of a written request. Any person aggrieved by a matter regulated by this section may submit to the Village Manager written comments, including requests for appropriate relief.

(1986 Code, § 11-2) (Ord. 96-02, passed 01-22-1996; Ord. 05-18, passed 06-07-2005; Ord. 05-22, passed 08-23-2005; Ord. 13-46, passed 11-12-2013; Ord. 13-48, passed 12-10-2013; Ord. 15-17, passed 12-08-2015; Ord. 20-13, passed 10-13-2020)

**§ 92.17 UNRULY GATHERINGS.**

(A) Unruly gatherings at residential properties are prohibited. For the purpose of regulating this prohibited activity, the following shall constitute an unruly gathering:

- (1) The presence of at least one person who is not a permanent resident of the residential property, and
- (2) Three or more validated offenses among the following types committed within 100 yards of the subject property and within a 24-hour period during which the non-resident of the property was present, and committed by persons present at the subject property within that same 24-hour period:
  - a) Disorderly conduct
  - b) Serving alcohol to minors or contributing to delinquency of minors
  - c) Illegal substance use or possession
  - d) DWI or DUI
  - e) Violations of § 92.16
  - f) Assault charges
  - g) Vandalism charges
  - h) Urinating or defecating in public
  - i) Indecent exposure or other lewd conduct constituting a criminal offense
  - j) Any felony offense charges

(B) Any additional groupings of three or more validated and qualifying offenses during any qualifying 24-hour period, even if it overlaps the 24-hour period for another Unruly Gathering violation, will constitute an additional violation of § 92.17.

(C) Penalty, see § 92.99.

### **§ 92.18 REGULATING LIGHT POLLUTION IN RESIDENTIAL NEIGHBORHOODS.**

(A) Any exterior lighting on a residential property not falling within one of the following categories must not be illuminated between the hours of 10:00 pm and 6:00 am:

- (1) Eave or soffit mounted flood lights that are generally oriented downward to illuminate the ground within the same residential property.
- (2) Ground mounted accent lights that are oriented on and primarily illuminate the exterior walls of structures within the same residential property.
- (3) No more than two post-mounted lights per driveway cut that are used to identify the location of driveways to users of the adjoining road.
- (4) Holiday decorations during the period of November 15 to January 10.
- (5) Ceiling or wall mounted lights that illuminate residential doorways and porches.

(B) This § 92.18 provision will be enforced by officials of the Planning and Zoning department upon verification and collection of photographic evidence by officers within the Pinehurst Police Department.

### **§ 92.99 PENALTY.**

(A) All provisions of § [92.17](#) will be enforced by the Chief of Police and the Police Department's assigned officers.

(B) Any person, or business entity (business entity includes but is not limited to a sole proprietorship, limited partnership, limited liability company, and corporation) violating any of the provisions of §§ [92.17\(B\)\(1\)](#), [92.17\(B\)\(4\)](#) and [92.17\(B\)\(9\)](#), or failing or neglecting or refusing to comply with the same, shall be issued a notice of civil infraction subject to a maximum penalty of \$500 and/or shall be guilty of a Class 3 misdemeanor and subject to a fine of \$100 or imprisonment not to exceed 30 days. Civil penalties will start at \$100 for the first infraction within a 24-month period and will escalate by \$100 for each subsequent infraction within a 24-month period up to the maximum of \$500. For penalty purposes each violation recorded and subsequently abated on any distinct enforcement officer visit shall constitute a separate offense (See G.S. § 14-4(a) and § 160A-175).

(C) In cases where violations of §§ [92.17\(B\)\(1\)](#), [92.17\(B\)\(4\)](#) and [92.17\(B\)\(9\)](#) are committed by a person or persons under contract (rental or otherwise) with the legal

owner of the property on which the violation occurs and the legal owner of the property is not present during the offense, the owner is subject to civil penalty under § 92.17. This provision does not prevent additional penalty enforcement against the person or persons under contract or other code violators on the property (See G.S. § 14-4(a) and § 160A-175).

(D) In all other cases under Chapter 92, violators are subject to penalty, under § [10.99](#).

(Ord. 20-13, passed 10-13-2020)

**SECTION 5.** That these Ordinance amendments shall be and remain in full force and effect from November 15, 2022.

**THIS ORDINANCE** is passed and adopted this 15<sup>th</sup> day of November 2022.



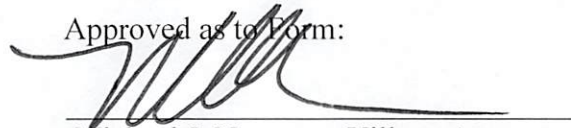
VILLAGE OF PINEHURST  
VILLAGE COUNCIL

By:   
John C. Strickland, Mayor

Attest:

  
Kelly Chance, Village Clerk

Approved as to Form:

  
Michael J. Newman, Village Attorney