

ORDINANCE #23-08

**AN ORDINANCE AMENDING THE VILLAGE OF PINEHURST DEVELOPMENT
ORDINANCE TO ADDRESS SHORT TERM RENTALS, HOMESTAYS
AND PERMIT REVOCATION**

WHEREAS, Article 8 Section 160A-174 of the North Carolina General Statutes empowers local government to, by ordinance, define, prohibit, regulate, or abate acts, omissions, or conditions detrimental to health, safety or welfare of its citizens and the peace and dignity of community, and may define and abate nuisances; and

WHEREAS, Article 7 Section 160D-701 of the North Carolina General Statutes provides: “Zoning regulation shall be made [by local governments] in accordance with a comprehensive plan and shall be designed to promote the public health, safety, and general welfare. To that end, the regulations may address, among other things, the following public purposes: to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; to facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and to promote the health, safety, morals, or general welfare of the community. The regulations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the local government's planning and development regulation jurisdiction; and

WHEREAS, Article 9 Section 160D-901 of the North Carolina General Statutes provides: “A local government may regulate the uses and areas set forth in this Article in zoning regulations pursuant to Article 7 of this Chapter, a unified development ordinance, or in separate development regulations adopted under this Article. This shall not be deemed to expand, diminish, or alter the scope of authority granted pursuant to those Articles. In all instances, the substance of the local government regulation shall be consistent with the provisions in this Article. The provisions of this Chapter apply to any regulation adopted pursuant to this Article that substantially affects land use and development.”

WHEREAS, pursuant to the foregoing, the Village Council of the Village of Pinehurst adopted a new Pinehurst Development Ordinance (PDO) on the 8th day of October 2014, for the purpose of regulating planning and development in the Village of Pinehurst and the extraterritorial area over which it has jurisdiction; and

WHEREAS, Section 1.2 of the PDO states that the regulations contained in the PDO have been adopted in order to accomplish the following goals as related to this proposed Ordinance:

- a) Preserve and enhance Pinehurst’s residential neighborhoods while addressing the housing needs of current and future residents; and
- b) Promote the health, wellness, and safety of Pinehurst’s residents; and

WHEREAS, on October 22, 2019, the Village Council adopted the 2019 Comprehensive Plan that included seven (7) guiding principles to help preserve and enhance the high quality of life in the Village; and

WHEREAS, Implementation Strategy 3.9 of the 2019 Comprehensive Plan states that the Village should “continue to monitor the legislative authority of the Village to regulate short term rentals and evaluate options to address the impacts of short term rentals on single-family neighborhoods.”; and

WHEREAS, after extensive deliberation over several months Village Council adopted Ordinance #22-15 on October 26, 2022, which defines and regulates “short term rentals” in the planning jurisdiction of the Village; and

WHEREAS, the regulations within Ordinance #22-15 defines a short term rental as a land use and prohibits the establishment of new short term rentals in residential districts; and

WHEREAS, during said deliberations and public hearings members of the public spoke and brought forth to the attention of Village Council another temporary rental use within single family neighborhoods within planned communities; and

WHEREAS, said temporary rental occurs solely within a planned community, allowed or not prohibited by, declarations and managed and regulated by rules and bylaws and overseen by an association of peers within the community; and

WHEREAS, any and all purchasers of property withing a planned community are made aware of the planned community’s governance documents; and

WHEREAS, anyone purchasing property within a planned community then consent to such declarations, rules and regulations; and

WHEREAS, a distinction is made from the lodging uses in non-planned communities than planned communities by way of the self-governance by a peer association and the ability to adopt rules and regulations within a planned community which can be outside the legislative authority of local governments significantly reduces the negative impacts on quality of life attributed to short term rentals; and

WHEREAS, Chapter 47F of the North Carolina General Statutes, the North Carolina Planned Community Act, governs the creation, operation and destruction of planned communities; and

WHEREAS, on March 2, 2023 the Pinehurst Planning and Zoning Board held a public hearing and received public comments on the proposed amendments; and

WHEREAS, the Pinehurst Planning and Zoning Board recommended the Village Council not adopt the proposed amendments; and

WHEREAS, the Pinehurst Planning and Zoning Board adopted a statement that the proposed amendments are not consistent with the 2019 Comprehensive Plan; and

WHEREAS, Village Council held a public hearing on March 28, 2023, in the Assembly Hall of the Pinehurst Village Hall, Pinehurst, North Carolina, for the purpose of considering proposed amendments to the Pinehurst Development Ordinance and the recommendation made by the advisory Pinehurst Planning and Zoning Board, 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 the contents of any proposed text amendments to be made by the Village Council; and

WHEREAS, Section 6 of the PDO and Article 6 of North Carolina General Statute Chapter 160D, state that zoning ordinances or development regulations may be adopted, amended or repealed. The purpose of initiating changes to the text of the zoning ordinances are to make adjustments to development regulations that are necessary in light of changed conditions, adopted plans or changes in public policy, or that are necessary to advance the general welfare of the Village and are in furtherance of Section 1.2 of the PDO; and

WHEREAS, the use of properties for temporary rentals of residences located in planned communities do not present the situations detrimental to neighborhood quality of life that can be found in the rental of residences in single family neighborhoods that are not within a planned community and have rules and regulations governing such, and therefore make it necessary for the Village Council to amend the PDO to regulate short term rental use of land within the Village and its extraterritorial jurisdiction; and

WHEREAS, based on these extensive deliberations, the Pinehurst Village Council has determined that it is reasonable and is in the best interest of the Village of Pinehurst and its extraterritorial jurisdiction, and that it is consistent with the 2019 Comprehensive Plan, and that the Pinehurst Development Ordinance be further amended, making the amendments set forth in this Ordinance; and

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 11th day of April, 2023, make the following amendments to the Pinehurst Development Ordinance:

SECTION 1. The Village of Pinehurst Development Ordinance Chapters and Sections is amended as follows.

Chapter 10 Village of Pinehurst Ordinance Definitions

Section 10.2 Definitions

Planned Community Neighborhood (PCN) is a contiguous area containing at least twenty (20) acres, or twenty (20) dwelling units as included within a platted subdivision or condominium development for which any person or corporation, by virtue of ownership of a lot

or Dwelling Unit within the PCN, is by Declaration governed by a Master Association with powers to enforce and adopt and amend, the bylaws, rules, and regulations and which property owners within the PCN are obligated to pay real property taxes, insurance premiums, or other expenses to maintain, improve, or benefit other lots or common areas or other real estate described in the Declaration. This definition also applies to planned communities created prior to January 1, 1999, that elect to make NCGS Chapter 47F applicable to the planned community by an affirmative vote or written agreement signed by lot owners of lots, or unit owners of units, to which at least sixty-seven percent (67%) of the votes in the association are allocated.

Declaration: any instruments, however denominated, that create a Planned Community Neighborhood and any amendments to those instruments.

Neighborhood Lodging Accommodation (NLA): is the lodging use of a Dwelling Unit within a Planned Community Neighborhood where the Dwelling Unit is leased, offered or made available by short term lease or other financial consideration for a time period or lease term of less than 30 consecutive days which use is permitted or not prohibited through Declaration or other governing documents and is authorized and managed through the Master Association of the Planned Community Neighborhood.

Master Association: a nonprofit organization established pursuant to NCGS 47F-3- 101, or 47C-3-101, by Declaration, or its common law equivalent, or other nonprofit organization formed prior to the NC Planned Community Act and referenced in a Declaration with powers to enforce, adopt and amend the bylaws, rules, and regulations pursuant to NCGS 47F-3-102 or 47C- 3-102, or and by Declaration, or other governing documents, is responsible to maintain or provide for maintenance of ALL common property AND management of ALL Neighborhood Lodging Accommodations within the Planned Community Neighborhood.

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8.5.1a Table of Permitted and Special Uses and Special Requirements

LODGING	PC	RD	R-210	R-30	R-20	R-15	R-10	R-8	R-5	R-MF	NC	H	HD	OP	VCP	VR	VMU	VC	SR
<u>Neighborhood Lodging Accommodation</u>			<u>X, SR</u>	<u>X, SR</u>	<u>X, SR</u>	<u>X, SR</u>	<u>X, SR</u>	<u>X, SR</u>	<u>X, SR</u>	<u>X, SR</u>						<u>X, SR</u>			<u>10*</u>
<u>OFFICE/SERVICE</u>	PC	RD	R-210	R-30	R-20	R-15	R-10	R-8	R-5	R-MF	NC	H	HD	OP	VCP	VR	VMU	VC	SR
Dry Cleaning & Laundry Services										X				X	X, SR		X, SR	X, SR	10 <u>23</u>

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Section 8.6 Special Requirements to the Table of Permitted and Special Uses and Special Requirements

Principal Uses

SR-10 Neighborhood Lodging Accommodation (NLA)

- 1) After the effective date of this Ordinance, all Neighborhood Lodging Accommodations (NLA) shall be required to obtain a Development Permit from the Village. All NLA's, whether lawful nonconforming uses or newly established after the effective date of this Ordinance, shall comply with following standards:
 - a. Compliance with SR9 Standards 1) a-k.
 - b. Submission of documentation that the Neighborhood Lodging Accommodation is located within a Planned Community Neighborhood as defined in Section 10.2 of this Ordinance.
 - c. Submission of documentation that the Neighborhood Lodging Accommodation has been authorized or is not prohibited by the Declaration.
 - d. Submission of documentation that the Neighborhood Lodging Accommodation is authorized and managed by a Master Association.
 - e. Installation of a Landscape Screen per Section 9.5.2.4 (A)(2) of the PDO along the property line of the adjacent residential use not part of the Planned Community Neighborhood.

SR-23 Reserved Drycleaning and Laundry Services

- (1) Coin operated laundries are not allowed in VCP, VMU or VC districts.

SECTION 2. That all ordinances or sections thereof in conflict herewith are hereby repealed and declared null and void from and after the date of adoption of this ordinance

SECTION 3. Severability: Should any section or provision of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall affect the validity of any ordinance as a whole or any part thereof which is not specifically declared to be invalid. If any court of competent jurisdiction invalidates the application of any provision of this ordinance, then such judgement shall not affect the remaining portions not specifically included in that judgment.

SECTION 4. 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

By: *John C. Strickland*
John C. Strickland, Mayor

Attest:

Kelly Chance
Kelly Chance, Village Clerk

Approved as to Form: *[Signature]*
Michael J. Newman, Village Attorney