

ORDINANCE #15-17:

AN ORDINANCE AMENDING SECTION 92.16 REGULATING UNREASONABLY LOUD, DISTURBING SOUND LEVELS OF THE PINEHURST MUNICIPAL CODE.

THAT, 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 adopted 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 of the Village of Pinehurst wishes to make an amendment that would allow homeowners to do routine maintenance and home improvement tasks using domestic power tools on Sundays.

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Village Council of the Village of Pinehurst, North Carolina in a regular meeting assembled this 8th day of December, 2015 as follows:

SECTION 1. That the following amendments be made to § 92.16:

§ 92.16 REGULATING UNREASONABLY LOUD, DISTURBING SOUND LEVELS.

(A) *Unlawful sound levels.* It shall be unlawful for any person, firm or corporation to create or assist in creating 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 reasonably prudent person would recognize as likely to unreasonably disturb persons on adjacent property or in the vicinity particularly between the hours of 11:00 p.m. and 7:00 a.m.;

(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 business adjacent to any residential area so as to cause unreasonably loud, disturbing sounds;

(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, ~~at any time on a Sunday or holiday, except in the case of urgent necessity in the interest of public safety, and then only under the direction, and prior approval of an appropriate village official from the Planning and Inspections Department;~~ **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 a reasonably prudent person would recognize as likely to unreasonably disturb persons on adjacent property or in the vicinity, particularly between the hours of 10:00 p.m. and 7:00 a.m.

(C) *Permit required* 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 a specific written approval is obtained from the Village. ~~permit is approved by the village. Applications shall be submitted on forms supplied by the village.~~ Written permission ~~The permit shall not be unreasonably withheld, and may contain appropriate conditions~~ and restrictions, including ~~maximum decibel levels, designed to minimize the disruptive impact.~~ Written permission Permits for activities significantly for religious or political purposes shall be granted, subject only to reasonable time, place and manner restrictions. Written permission Permits 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 ~~permit~~ 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 ~~an application is denied,~~ written permission ~~a permit is~~ provided ~~approved with conditions unacceptable to the application, or~~ permission ~~a permit is~~ revoked, the applicant ~~or permit holder~~ 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.

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

THIS ORDINANCE passed and adopted this 8th day of December, 2015.



VILLAGE OF PINEHURST
VILLAGE COUNCIL

By: Nancy Roy Fiorillo
Nancy Roy Fiorillo, Mayor

Attest:

Lauren M. Craig
Lauren M. Craig, Village Clerk

Approved as to Form:

Michael J. Newman
Michael J. Newman, Village Attorney