

ORDINANCE #14-16:

AN ORDINANCE AMENDING THE PINEHURST MUNICIPAL CODE ADDING CHAPTER 153 FOR ESTABLISHING MINIMUM HOUSING STANDARDS FOR THE VILLAGE OF PINEHURST.

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 of Pinehurst requests additional authority for regulating abandoned and deteriorating homes including the ability to order the repair or eventual removal of the dwelling if necessary.

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 April, 2014, as follows:

SECTION 1. That Section 153 Minimum Housing Standards of the Village of Pinehurst, North Carolina Municipal Code be added as follows:

CHAPTER 153: MINIMUM HOUSING STANDARDS

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GENERAL PROVISIONS

§ 153.01 FINDING; PURPOSE.

(A) Pursuant to G.S. § 160A-441, it is hereby declared that there exist within the jurisdiction of the Village dwellings which are unfit for human habitation due to dilapidation; defects increasing the hazards of fire, accidents, and other calamities; lack of ventilation, light, and sanitary facilities and other conditions rendering such dwellings unsafe or unsanitary, dangerous, and detrimental to the health, safety, and morals, and otherwise inimical to the welfare of the residents of the Village.

(B) In order to protect the health, safety and welfare of the residents within the jurisdiction of the Village as authorized by G.S. Chapter 160A, Article 19, Part 6, it is the purpose of this chapter to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. § 160A-444.

§ 153.02 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BASEMENT. A portion of a dwelling which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

BUILDING INSPECTOR. The Building Inspector of the Village or any Building Inspector for whose services the Village has contracted or any authorized agent of the Inspector.

CELLAR. A portion of a dwelling which is located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

DETERIORATED. A dwelling that is unfit for human habitation but can be repaired, altered, or improved to comply with all of the minimum standards established by this chapter at a cost not in excess of 50% of its value, as determined by the finding or findings of the Inspector.

DILAPIDATED. A dwelling that is unfit for human habitation and cannot be repaired, altered, or improved to comply with all of the minimum standards established by this chapter except at a cost in excess of 50% of its value, as determined by the finding or findings of the Inspector.

DWELLING. Any building, structure, manufactured home, or mobile home or part thereof, used and occupied for human habitation or intended to be so used, and including any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any manufactured or mobile home as defined in G.S. § 143-145(7), which is used solely for a seasonal vacation purpose. The term shall include within its meaning the terms rooming house and rooming unit, as hereinafter defined.

DWELLING UNIT. Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating.

EXTERMINATION. The control and elimination of insects, rodents, or other pests by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, or trapping; or by any other recognized and legal pest elimination methods approved by the Inspector.

GARBAGE. The organic waste resulting from the handling, preparation, cooking, and consumption of food.

HABITABLE ROOM. A room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers, or communicating corridors, closets, and storage spaces.

INFESTATION. The presence, within or around a dwelling, of any insects, rodents, or other pests in such number as to constitute a menace to the health, safety, or welfare of the occupants or the public.

MULTIPLE DWELLING. Any dwelling containing more than two dwelling units.

NOXIOUS GROWTH. Any growth of weeds, grasses, or other plants or bushes that become or threaten to become a fire hazard or a harboring place for rats, mice, snakes, or other vermin or otherwise pose a danger to the public health or safety. Uncontrolled plant growth (i.e. plants not intentionally planted in a garden, shrub bed, flower bed or similar area) that is at least eight (8) inches tall.

OCCUPANT. Any person over one year of age, living, sleeping, cooking, or eating in, or having actual possession of a dwelling, dwelling unit, or rooming unit.

OPERATOR. Any person who has charge, care, or control of a building, or part thereof in which dwelling units or rooming units are let.

OWNER. Any person who alone, jointly, or severally with others:

(A) Shall have title to any dwelling, dwelling unit, or rooming unit, with or without accompanying actual possession thereof; or

(B) Shall be a mortgagee of record for any dwelling, dwelling unit, or rooming unit; or

(C) Shall have charge, care, or control of any dwelling, dwelling unit, or rooming unit, as owner or agent of the actual owner, or as executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the actual owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this chapter, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

PARTY OR PARTIES IN INTEREST. All persons who have interests of record in a dwelling, dwelling unit, or rooming unit and any persons who are in possession thereof.

PERSON. Any individual, corporation, firm, partnership, association, organization, or other legal entity.

PLUMBING. All of the following supplied facilities and equipment: gas pipe, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinders), sewage disposal pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents, and any other similar supplied fixtures, together with all connections to water, sewer, or gas lines.

PUBLIC AUTHORITY. Any housing authority or any officer who is in charge of any department or branch of the government of the Village or of the county or the state relating to health, fire, building regulations, or other activities concerning dwellings in the Village.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

RUBBISH. Nonorganic waste materials. The term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, and dust.

SUPPLIED. Paid for, furnished, or provided by, or under the control of, the owner or operator.

UNFIT FOR HUMAN HABITATION. That conditions exist in a dwelling, dwelling unit, rooming house, or room unit which violate or do not comply with one or more of the minimum standards of fitness or one or more of the requirements established by this chapter.

WASTES. All useless, unwanted, or discarded materials and products, resulting from domestic, industrial, commercial or community activities.

YARD WASTES. Organic materials commonly consisting of leaves, pine straw, wheat straw, grass clippings, hedge clippings, dirt, rocks, yard and garden waste, branches, logs, twigs,

and all vegetable matter resulting from landscaping or land clearing activities (i.e. stumps, trees, etc.)

Whenever the words “*DWELLING*,” “*DWELLING UNIT*,” “*ROOMING UNIT*,” and “*PREMISES*” are used in this chapter, they shall be construed as though they were followed by the words “*OR ANY PART THEREOF*.”

§ 153.03 RESPONSIBILITIES OF OWNERS AND OCCUPANTS.

(A) Public areas. Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

(B) Cleanliness. Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit, and premises thereof which he occupies and controls.

(C) Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases, the owner shall be responsible for the availability of rubbish and garbage storage facilities.

(D) Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.

(E) Care of facilities, equipment, and structure. No occupant shall willfully destroy, deface, or impair any of the facilities or equipment, or any part of the structure of a dwelling or dwelling unit.

MINIMUM STANDARDS FOR DWELLINGS AND DWELLING UNIT

§ 153.15 COMPLIANCE REQUIRED.

(A) Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of this subchapter.

(B) No person shall occupy as owner occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of this subchapter.

§ 153.16 STRUCTURAL CONDITIONS.

The following standards shall constitute the minimum standards for structural condition of a dwelling or dwelling unit:

(A) Walls or partitions or supporting members, sills, joists, rafters, or other structural members shall not list, lean, or buckle, and shall not be rotted, deteriorated, or damaged, and shall not have holes or cracks which might admit rodents.

(B) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.

(C) Foundations, foundation walls, piers, or other foundation supports shall not be deteriorated or damaged.

(D) Steps, stairs, landings, porches, or other parts or appurtenances shall be maintained in such condition that they will not fail or collapse.

(E) Adequate facilities for egress in case of fire or panic shall be provided.

(F) Interior walls and ceilings of all rooms, closets, and hallways shall be finished of suitable materials, which will, by use of reasonable household methods, promote sanitation and cleanliness, and shall be maintained in such a manner so as to enable the occupants to maintain reasonable privacy between various spaces.

(G) The roof, flashings, exterior walls, basement walls, floors, and all doors and windows exposed to the weather shall be constructed and maintained so as to be weather and watertight.

(H) There shall be no chimneys or parts thereof which are defective, deteriorated, or in danger of falling, or in such condition or location as to constitute a fire hazard.

(I) There shall be no use of the ground for floors, or wood floors on the ground.

§ 153.17 BASIC EQUIPMENT AND FACILITIES.

(A) Plumbing system.

(1) Each dwelling unit shall be connected to a potable water supply and to a public sewer or other approved sewage disposal system.

(2) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub, or shower, water closet, and adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.

(3) All plumbing fixtures shall meet the standards of the most current edition of the State Plumbing Code and shall be maintained in a state of good repair and in good working order.

(4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

(B) Heating system. Every dwelling and dwelling unit shall have facilities for providing heat in accordance with the following:

(1) Central and electrical heating systems. Every central or electric heating system shall be of sufficient capacity to heat all habitable rooms, bathrooms, and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of 70° measured at a point three feet above the floor during ordinary winter conditions.

(2) Other heating facilities. Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, fires, gas vents, or other facilities to which heating appliances may be connected to heat all habitable rooms with a minimum temperature of 70° measured three feet above the floor during ordinary winter conditions.

(C) Electrical system.

(1) Every dwelling and dwelling unit shall be wired for electrical lights and convenience receptacles. Every habitable room shall contain at least two floor or wall type electric convenience receptacles, connected in such manner as determined by the most current edition of the State Electrical Code. There shall be installed in every bathroom, water closet room, laundry room, and furnace room at least one supplied ceiling or wall type electric light fixture. In the event wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least three floor or wall type electric convenience receptacles.

(2) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.

(3) All fixtures, receptacles, equipment, and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the most current edition of the State Electrical Code.

§ 153.18 VENTILATION.

(A) General. Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be 10% of the floor area of such room. Whenever walls or other portions of structures face a window or any room and such light obstructing structures are located less than five feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight type window in the top of such room, the total window area of such skylight shall equal at least 15% of the total floor area of such room.

(B) Habitable rooms. Every habitable room shall have at least one window or skylight which can easily be opened, or such other device as will adequately ventilate the room.

The total operable window area in every habitable room shall be equal to at least 45% of the minimum window area size or minimum skylight type window size as required, or shall have other approved, equivalent ventilation.

(C) Bathrooms and water closet rooms. Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system.

§ 153.19 SPACE, USE, AND LOCATION.

(A) Room sizes.

(1) Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the most current edition of the State Residential Building Code.

(2) Every dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant, at least 100 square feet of additional habitable area for each of the next three occupants, and at least 75 square feet of additional habitable floor area for each additional occupant.

(3) In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

(B) Ceiling height. At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven feet and six inches.

(C) Floor area calculation. Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than 10% of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half feet shall not be considered as part of the floor area for the purpose of determining maximum permissible occupancy.

(D) Cellar. No cellar shall be used for living purposes.

(E) Basements. No basement shall be used for living purposes unless:

(1) The floor and walls are substantially watertight;

(2) The total window area, total operable window area, and ceiling height are equal to those required for habitable rooms; and

(3) The required minimum window area of every habitable room is entirely above the grade adjoining such window area, except where the window or windows face a stairwell, window well, or access way.

§ 153.20 SAFE AND SANITARY MAINTENANCE.

(A) Exterior foundation, walls, and roofs. Every foundation wall, exterior wall, and exterior roof shall be substantially weather tight and rodent proof; shall be kept in sound condition and good repair; shall be capable of affording privacy; and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.

(B) Interior floors, walls, and ceilings. Every floor, interior wall, and ceiling shall be substantially rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon.

(C) Windows and doors. Every window, exterior door, basement, or cellar door and hatchway shall be substantially weather tight, watertight, and rodent proof and shall be kept in sound working condition and good repair.

(D) Stairs, porches, and appurtenances. Every outside and inside stair, porch, and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use would cause to be placed thereon and shall be kept in sound condition and good repair.

(E) Bathroom floors. Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so that it will be reasonably impervious to water and will permit such floor to be easily kept in a clean and sanitary condition.

(F) Supplied facilities. Every supplied facility, piece of equipment, or utility which is required under this chapter shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

(G) Drainage. Every yard shall be properly graded in order to obtain thorough drainage and to prevent the accumulation of stagnant water.

(H) Noxious growth. Every yard and all exterior property areas shall be kept free of noxious growth.

(I) Egress. Every dwelling unit shall be provided with adequate means of egress as required by the State Residential Building Code.

§ 153.21 CONTROL OF INSECTS, RODENTS, AND INFESTATIONS.

(A) Screens. In every dwelling unit, for protection against mosquitoes, flies, and other insects, every door opening directly from a dwelling unit to outdoor space shall be equipped with screens and a self-closing device. Every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be equipped with screens.

(B) Rodent control. Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be equipped with screens or such other approved device as will effectively prevent their entrance.

(C) Infestation. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of insects, rodents, or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent proof or reasonable insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared

or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.

(D) Rubbish storage and disposal. Every dwelling and every dwelling unit shall be supplied with approved containers and covers for storage of rubbish as required by Village ordinances, and the owner, operator, or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.

(E) Garbage storage and disposal. Every dwelling and every dwelling unit shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit, or an approved outside garbage can as required by Village ordinances.

(F) Waste Disposal. Except as provided in subsection (G), no owner or occupant may cause, suffer, or permit wastes, including rubbish and garbage, to accumulate on the premises, including yards and exterior property areas, provided that occupants shall be liable under this section only for those parts of the premises under their control.

(G) Yard Wastes. Yard waste may be allowed to accumulate or remain in yards and exterior property areas for uses such as landscaping and composting, provided that these materials do not become or threaten to become a fire hazard or a harboring place for rats, mice, snakes or other vermin or otherwise pose a danger to the public health and safety. This provision does not authorize the commercial storage of landscaping materials on a residential property; commercial storage is permitted only in accordance with the Pinehurst Development Ordinance.

ADMINISTRATION AND ENFORCEMENT

§ 153.30 POWERS AND DUTIES OF BUILDING INSPECTOR.

The Building Inspector is hereby designated as the officer to enforce the provisions of this chapter and to exercise the duties and powers herein prescribed. The Building Inspector is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this chapter. The Building Inspector shall have the following powers and duties:

(A) To investigate the dwelling conditions, and to inspect dwellings and dwelling units located in the Village in order to determine which dwellings and dwelling units are unfit for human habitation, and for the purpose of carrying out the objectives of this chapter with respect to the repair, closing, or demolition of such dwellings and dwelling units;

(B) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;

(C) To keep a record of the results of inspections made under this chapter and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed;

(D) To administer oaths and affirmations, examine witnesses, and receive evidence;

(E) To enter upon premises for the purpose of making examinations and inspections; provided, such entries shall be made in accordance with § 153.31 and State law, and shall be made in such manner as to cause the least possible inconvenience to the persons in possession; and

(F) To perform such other duties as may be prescribed herein or by the Village Council.

§ 153.31 RIGHT OF ENTRY OF BUILDING INSPECTOR.

(A) For the purpose of making inspections, the Building Inspector is hereby authorized to enter, examine, and survey at all reasonable times all dwellings, dwelling units, rooming houses, rooming units, and the premises associated therewith. The owner or occupant of every dwelling, dwelling unit, rooming house, or rooming unit or the person in charge thereof shall give the Building Inspector free access to such dwelling and its premises at all reasonable times for the purposes of such inspection, examination, and survey.

(B) Every occupant of a dwelling, dwelling unit, rooming house, or rooming unit shall give the owner thereof or his agent or employee, access to any part of such dwelling or dwelling unit and its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or with any lawful order issued pursuant to the provisions of this chapter.

§ 153.32 ENFORCEMENT PROCEDURE.

(A) Preliminary investigation; notice; hearing. Whenever a petition is filed with the Building Inspector by a public authority or by at least five residents of the Village, charging that any dwelling, dwelling unit or the premises thereof is unfit for habitation, or whenever it appears to the Inspector, upon inspection, that any dwelling, dwelling unit or the premises thereof is unfit for human habitation, he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling, dwelling unit or premises thereof a complaint stating the charges in that respect and containing a notice that a hearing will be held before the Inspector at a place therein fixed, not less than ten (10) nor more than thirty (30) days after the serving of the complaint. The owner or any party in interest shall have a right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one (1) of the persons signing a petition relating to such dwelling or premises thereof. Notice shall also be given to the Village Historic Preservation Commission by giving oral or written notice to the Village staff person that serves as the liaison to the Commission. Any person desiring to do so may attend such hearing and give evidence. Rules of evidence prevailing in courts or law or equity shall not be controlling in hearings before the Inspector.

(B) Procedure after hearing.

(1) After such notice and hearing, the Inspector shall state in writing his determination as to whether the dwelling, dwelling unit or the premises thereof are unfit for human habitation, and if so, whether the dwelling or dwelling unit is deteriorated or dilapidated.

(2) If the Inspector determines that the dwelling or dwelling unit is deteriorated, he shall state in writing his findings of fact in support of such determination, and shall issue and

cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter, or improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter within a specified period of time, not to exceed 90 days. Such order may also direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs, alterations, and improvements have been made. The order may require that the property be vacated and closed only if continued occupancy during the time allowed for repair will present a significant threat of bodily harm, taking into account the nature of the necessary repairs, alterations, or improvements; the current state of the property; and any additional risks due to the presence and capacity of minors under the age of 18 or occupants with physical or mental disabilities. The order shall state that the failure to make timely repairs as directed in the order shall make the dwelling subject to the issuance of an unfit order under § 153.34.

(3) If the Inspector determines that the dwelling or dwelling unit is dilapidated, he shall state in writing his findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner either to repair, alter, or improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter, or else to vacate and remove or demolish the same within a specified period of time not to exceed 90 days. If the order permits the owner to repair the dwelling, the order may require that the property be vacated and closed only if continued occupancy during the time allowed for repair will present a significant threat of bodily harm, taking into account the nature of the necessary repairs, alterations, or improvements; the current state of the property; and any additional risks due to the presence and capacity of minors under the age of 18 or occupants with physical or mental disabilities. If repairs are allowed, the order shall state that the failure to make timely repairs as directed in the order shall make the dwelling subject to the issuance of an unfit order under § 153.34.

(4) If the dwelling is located in a historic district of the Village or has been designated a landmark by the Village and the Historic District Commission determines, after a public quasi-judicial hearing that the dwelling is of particular significance or value toward maintaining the character of the historic district, and the dwelling has not been condemned as unsafe, an order issued pursuant to § 153.32(B)(3) may require that the dwelling be vacated and closed consistent with G.S. § 160A-400.14(a).

(5) If the dwelling is located in a historic district of the Village or has been designated a landmark by the Village, the Inspector may, but is not required to, issue an order pursuant to §153.32(B)(2) or (3) that extends beyond 90 days the time the owner of the property has to comply with the order, provided that during such additional time the owner actively seeks the issuance of a certificate of appropriateness from the Historic Preservation Commission to authorize repairs or other work mandated by the order.

(6) If the Village Council shall have adopted an ordinance pursuant to § 153.34, or the Inspector shall have issued an order, ordering a dwelling to be repaired or vacated and closed, as § 153.32(B)(2), and if the owner has vacated and closed such dwelling and kept such dwelling vacated and closed for a period of one year pursuant to the ordinance or order, then if the Village Council shall find that the owner has abandoned the intent and purpose to repair, alter or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, morals and welfare of the Village in that the dwelling would continue to deteriorate, would create a fire and

safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this State, then in such circumstances, the Village Council may, after the expiration of such one year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

a. If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 90 days; or

b. If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within 90 days. This ordinance shall be recorded in the Moore county Registry and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this ordinance, the public officer shall effectuate the purpose of the ordinance.

(7) Whenever a determination is made pursuant to § 153.32(B)(2) or (3) that a dwelling must be vacated and closed, or removed or demolished, notice of the order shall be given by first-class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of 45 days from the mailing of such notice shall be given before removal or demolition by action of the Inspector, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease, or purchase the property for the purpose of providing affordable housing. The Inspector or Village Clerk shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the public officer to wait 45 days before causing removal or demolition.

§ 153.33 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.

(A) Complaints or orders issued by the Inspector pursuant to an ordinance adopted under this chapter shall be served upon persons either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, or if the regular mail is not returned by the post office within 10 days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

(B) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the Inspector in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by registered or certified mail, and the Inspector makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the village at least once no later than the time at which personal service would be required under the

provisions of this chapter. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

§ 153.34 IN REM ACTION BY INSPECTOR; PLACARDING.

(A) After failure of an owner of a dwelling or dwelling unit to comply with an order of the Building Inspector issued pursuant to the provisions of this chapter, and upon adoption by the Village Council of an ordinance authorizing and directing him to do so, as provided by G.S. § 160A-443(5) and § 153.32 (B) of this code, the Inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered, or improved to comply with the minimum standards of fitness established by this chapter, or to be vacated and closed and removed or demolished, as directed by the ordinance of the Village Council, and shall cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a misdemeanor.

(B) Each ordinance so adopted shall be recorded in the Moore County Registry, and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. §160A-443(5).

§ 153.35 COSTS, A LIEN ON PREMISES.

(A) That the amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition by the Inspector shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in G.S. Chapter 160A, Article 10.

(B) If the real property upon which the cost was incurred is located within the corporate limits of the Village, then the amount of the cost is also a lien on any other real property of the owner located within the Village limits or within one mile thereof except for the owner's primary residence. The additional lien provided in this subsection is inferior to all prior liens and shall be collected as a money judgment.

(C) If the dwelling is removed or demolished by the Inspector, he shall sell the materials of the dwelling, and any personal property, fixtures or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the Inspector, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the Village to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise.

§ 153.36 ALTERNATIVE REMEDIES.

(A) In addition to the remedies provided in § 153.32, 153.34, and 153.35, the remedies provided in Code of Ordinances § 10.99 may also be used to enforce the provisions of this chapter.

(B) Neither this chapter nor any of its provisions shall be construed to impair or limit in any way the power of the Village to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this chapter by criminal process as authorized by G.S. 14-4, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

(C) Nothing in this chapter shall be construed to otherwise abrogate or impair the other powers of the Village to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by any other law.

§ 153.37 OTHER PROVISIONS.

In the event any provision, standard, or requirement of this chapter is found to be in conflict with any provision of any other ordinance or code of the town, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the village shall prevail.

§ 153.38 VIOLATIONS.

(A) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect, or refuse to repair, alter, or improve the same, or to vacate and close and remove or demolish the same, upon order of the Inspector duly made and served as herein provided, within the time specified in such order. Each day that any such failure, neglect, or refusal to comply with such order continues shall constitute a separate and distinct offense.

(B) It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to § 153.32, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration, or improvement or its vacation and closing. Each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

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

SECTION 3. That this Ordinance shall be and remain in full force and effect from and after the date of its adoption.

This Ordinance adopted this 8th day of April, 2014.



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