

**ORDINANCE #07-34:**

**AN ORDINANCE AMENDING THE PINEHURST DEVELOPMENT ORDINANCE AS IT PERTAINS TO SECTION 2.2 DEFINITIONS, SECTION 10.2.1.3 SR-18 ACCESSORY USES AND SECTION 10.2.1.3 SR-24 TELECOMMUNICATION TOWERS.**

**THAT WHEREAS**, the Village Council of the Village of Pinehurst adopted a new Pinehurst Development Ordinance on the 24<sup>th</sup> day of May, 2005, for the purpose of regulating planning and development in the Village of Pinehurst and the extraterritorial area over which it has jurisdiction; and

**WHEREAS**, said Ordinance may be amended from time to time as circumstances and the best interests of the community have required; and

**WHEREAS**, a Public Hearing was held at 1:00 p.m. on August 28, 2007 in the Assembly Hall of the Pinehurst Village Hall, Pinehurst, North Carolina after due notice in The Pilot, a newspaper in Southern Pines, North Carolina, with general circulation in the Village of Pinehurst, and its extraterritorial jurisdiction, for the purpose of considering proposed Pinehurst Development Ordinance text changes, 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 whether they favored or opposed the proposed text amendments; and

**WHEREAS**, the Planning and Zoning Board has recommended that the Village Council amend Section 2.2, Section 10.2.1.3 SR-18 and Section 10.2.1.3 SR-24 of the Pinehurst Development Ordinance; and

**WHEREAS**, the Village Council, after considering all of the facts and circumstances surrounding the proposed amendments in the text of the Pinehurst Development Ordinance, have determined that it is in the best interest of the Village of Pinehurst and the extraterritorial jurisdiction that the Development Ordinance be further amended, making the amendments as requested;

**NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED** by the Village Council of the Village of Pinehurst, North Carolina in regular session assembled on the 25<sup>th</sup> day of September, 2007, as follows:

**SECTION 1.** That the Pinehurst Development Ordinance of the Village of Pinehurst and its extraterritorial zoning jurisdiction be and the same hereby is amended by adding the following text amendment to Section 2.2:

Section 2.2. Definitions.

**CONCEALED WIRELESS TELECOMMUNICATIONS FACILITY.**  
**A structure that is fabricated in a manner that aesthetically masks its appearance as a communications facility that is installed within or on an existing structure. Examples include church steeples, bell towers, light standards, signs, utility poles, flag poles, building facades, water tanks, silos, and other structures which conceal telecommunications antennas and equipment from visibility. A Communications Tower shall not be considered a Concealed Wireless Telecommunications Facility.**

**COMMUNICATIONS TOWERS:** A structure designed to support antennae used for transmitting or receiving commercial telephone communications and/or commercial telecommunications, **but not including a Concealed Wireless Telecommunications Facility.** Also included in this definition are radio, television, and microwave towers. (Amateur or ham radio towers are not included in this definition.)

**SECTION 2.** That the Pinehurst Development Ordinance of the Village of Pinehurst and its extraterritorial zoning jurisdiction be and the same hereby is amended by adding the following text amendment to Section 10.2.1.3 SR-18:

**SR-18 ACCESSORY USES AND STRUCTURES, FENCES**

**18(n) Concealed Wireless Telecommunications Facilities**

**(1) Concealed Wireless Telecommunications Facilities shall be permitted in all zoning districts as an accessory use provided the following conditions are met:**

- a. In order to be considered an accessory use, a Concealed Wireless Telecommunications Facility must be clearly incidental and subordinate to the main use of a structure.
- b. Antennas associated with a Concealed Wireless Telecommunications Facility shall be concealed from exterior view.
- c. The addition of antenna, support or other equipment shall not add more than ten (10) feet in height to the attached structure unless a variance is obtained from the Zoning Board of Adjustment. Notwithstanding the foregoing, any increase in the height of an existing structure must comply with other provisions of this Ordinance unless appropriate approvals are obtained.
- d. Electronic equipment associated with Concealed Wireless Telecommunication Facilities may be placed inside a building or, if placed on a rooftop, all equipment enclosures shall be mounted behind a parapet wall or facade which is camouflaged to match or complement the color and architectural treatment of the building. If placed on the ground on a concrete pad, equipment enclosures shall be screened so as to make them unobtrusive.
- e. All cabling and wiring connecting antennas, equipment enclosures, and other components of concealed wireless telecommunications facilities shall be colored or concealed in a manner as to render them unobtrusive.
- f. Antennas associated with a Concealed Wireless Telecommunications Facility may not be co-located on a tower or other support structure used by an amateur radio operator.
- g. Antennas associated with a Concealed Wireless Telecommunications Facility shall not be located upon a Single Family Dwelling or Multi-Family Dwelling.
- h. Should the existing support structure require to be replaced and/or rebuilt it shall comply with all applicable codes including but not limited to these provisions.
- i. Any modifications to an existing structure associated with the installation of a Concealed Wireless Telecommunications Facility shall comply with all limitations, requirements, and standards contained in other provisions of this Ordinance including, but, not limited to the receipt of approvals that may be required

by Section 12.3 of this Ordinance should the Concealed Wireless Telecommunications Facility be located within a Historic Preservation District. All other applicable local, state, and federal approvals and permits shall also be obtained.

j. A structural analysis shall be performed by a licensed professional engineer in the State of North Carolina in accordance with the current revision to ANSI EIA/TIA-222 certifying that the structure is capable of supporting the proposed loading.

k. Prior to installation of a Concealed Wireless Telecommunications Facility, a copy of the operators FCC license shall be submitted to the Village Planner. If the party installing the Concealed Wireless Telecommunications Facility is not an FCC licensee, the party must demonstrate that it has binding commitments from one or more FCC licensees to utilize the Concealed Wireless Telecommunications Facility and must submit a copy of each wireless service provider's FCC license.

**SECTION 3.** That the Pinehurst Development Ordinance of the Village of Pinehurst and its extraterritorial zoning jurisdiction be and the same hereby is amended by adding the following text amendment to Section 10.2.1.3 SR-24:

SR-24 TELECOMMUNICATION TOWERS

(14) The siting of Communications Towers may involve complex technical issues that require review and input by outside experts. The Village Planner may require the applicant to pay the reasonable costs of a third-party technical study of either (i) a proposed Communications Tower or (ii) a Concealed Wireless Telecommunications Facility requiring a variance to the provisions set forth in Section 10.2.1.3 SR-18(n). Selection of expert(s) to review the proposal shall be at the sole discretion of the Village Planner.

(15) If an applicant for a Communications Tower or Concealed Wireless Telecommunications Facility claims that one or more standards of this Ordinance are inconsistent with federal law as applied to a particular property, or would prohibit the effective provision of wireless communications within the relevant market area, the Village Planner may require that the application be reviewed by a qualified engineer and a report prepared and presented on the matter to the Village Council. Any costs shall be charged to the applicant.

**SECTION 4.** 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.

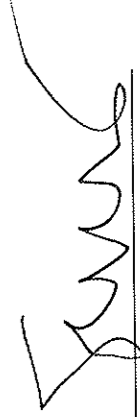
**SECTION 5.** That this Ordinance shall be and remain in full force and effect from and after the date of its adoption.

Adopted this 25<sup>th</sup> day of September, 2007.


(Municipal Seal)



VILLAGE OF PINEHURST  
VILLAGE COUNCIL

By:   
Steven J. Smith, Mayor

Attest:

  
Linda S. Brown, Village Clerk

Approved as to form:

  
Michael J. Newman, Village Attorney