

ORDINANCE #06-29:

AN ORDINANCE AMENDING THE PINEHURST DEVELOPMENT ORDINANCE AS IT PERTAINS TO SECTION 10.2.11 FLOOD DAMAGE PREVENTION STANDARDS.

THAT WHEREAS, the Village Council of the Village of Pinehurst adopted a new Pinehurst Development Ordinance on the 24th 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 5:30 p.m. on August 8, 2006 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 10.2.11 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 10th day of October 2006, 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 Chapter 10:

Section 10.2.11 Flood Damage Prevention Standards

10.2.11.1 Applicability Purposes, Disclaimer of Liability, Interpretation

All development within the jurisdiction of this ordinance shall comply with the Village of Pinehurst's Flood Damage Prevention Ordinance.

- (a) ~~The areas of special flood hazard of the Village of Pinehurst and its extraterritorial jurisdiction are subject to periodic inundation that could result in loss of life and property, hazards to public health and safety, disruption of commerce and governmental services, damage to and disruption of public utilities, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. These losses and hazards are caused by the cumulative effect of obstructions in floodplains, which increase flood heights and velocities, and by the occupancy in flood-prone areas by uses which are vulnerable to floods, or hazardous to other properties, because they are inadequately elevated, flood-proofed, or otherwise protected from flood damages. Therefore, the regulations set forth in this Section are designed to:~~

- ~~(1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion or which result in damaging increases in erosion or in flood heights or velocities;~~
- ~~(2) Require that uses which are vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;~~
- ~~(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers that accommodate and restrain flood waters;~~
- ~~(4) Prevent or control filling, grading, dredging, and other development that may increase erosion or flood damage;~~
- ~~(5) Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or which may increase flood hazards to other lands.~~

10.2.11.2 Applicability

- ~~(a) This Section shall apply to all areas of special flood hazard within the jurisdiction of this Ordinance and in any adjoining areas that are at an elevation lower than the elevation of the 100-year flood plus two feet. Areas of special flood hazard consist of the stream and its flood plains. For purposes of these regulations the floodplain is further divided into the floodway and the floodway fringe;~~
- ~~(b) Areas of special flood hazard are identified by the Federal Emergency Management Agency in its Flood Insurance Study dated December 15, 1989. This Flood Insurance Study, as may be amended and updated from time to time by the Federal Emergency Management Agency (FEMA), along with the accompanying Flood Insurance Rate Maps, Flood Hazard Boundary Maps, and Floodway Maps, and any revisions thereto, is hereby adopted by reference and declared to be a part of this Ordinance;~~
- ~~(c) Areas covered by any studies conducted by the Village that comply with FEMA standards.~~

10.2.11.3 General Standards for Development In and Adjoining Areas of Special Flood Hazard

- ~~(a) The following standards and restrictions shall apply in all areas in or adjacent to areas of special flood hazard:

 - ~~(1) All new construction and substantial improvements to existing construction shall be anchored to prevent flotation, collapse, or lateral movement of the structure;~~
 - ~~(2) All new construction and substantial improvements to existing construction shall be constructed with materials and utility equipment resistant to flood damage;~~
 - ~~(3) All new construction and substantial improvements to existing construction shall be constructed by methods and practices that minimize flood damage;~~
 - ~~(4) All new and replacement electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities shall be designed and constructed to prevent water from entering or accumulating in or on the components;~~~~

- ~~(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;~~
- ~~(6) New and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters;~~
- ~~(7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding;~~
- ~~(8) No Occupancy Permit or Certificate of Completion shall be issued by the Department of Planning and Inspections unless an Elevation Certificate for the development has been prepared in accordance with FEMA guidelines by a registered land surveyor and submitted to the Department of Planning and Inspections.~~

10.2.11.4 Uses Allowed in Flood Hazard Areas

- ~~(a) The following uses shall be permitted in the floodway to the extent they are permitted by the underlying general zoning district and provided they do not employ structures or fill except as specified herein:

 - ~~(1) General farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agriculture, wildlife and related uses;~~
 - ~~(2) Ground level loading areas, ground level automobile parking areas, heliports and other similar uses;~~
 - ~~(3) Lawns, gardens, play areas, and other similar uses;~~
 - ~~(4) Golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, swimming pools, hiking or horseback riding trails, open space and other similar private and public recreational uses;~~
 - ~~(5) Streets, bridges, utility lines, storm drainage facilities, sewerage lines and facilities, water supply facilities, and other similar public utility uses, but only if the proposed activity combined with the allowable encroachment in the flood area will not increase the base flood elevation more than one foot. Fill material for utilities shall be permitted only if approved by the Village Engineer;~~
 - ~~(6) Temporary facilities such as displays, circuses, fairs, or similar transient amusement enterprises;~~
 - ~~(7) Boat docks, ramps, piers, or similar structures;~~
 - ~~(8) Dams;~~
 - ~~(9) Grading, but not fill. Grading shall not cause impediments to water flow;~~~~
- ~~(b) The following uses shall be permitted in the floodway fringe to the extent they are permitted by the underlying general zoning district and provided they do not employ structures or fill except as specified herein:

 - ~~(1) Any use as permitted and regulated in the floodway;~~
 - ~~(2) Fill material graded to drain, provided such is protected against erosion. Such fill material shall only be permitted for the purpose of elevating a permitted residence. Such fill shall be extended at grade ten (10) feet beyond the limits of the structure foundation~~~~

and shall have a side slope no steeper than two (2) feet horizontal to one (1) foot vertical;

(3) ~~Single family residences may be permitted on existing lots of record platted prior to the adoption of this Ordinance provided that:~~

(i) ~~The structure is located at least twenty (20) feet outside the floodway boundary;~~

(ii) ~~The lowest floor is elevated above flood protection elevation;~~

(iii) ~~The foundation shall:~~

- a. ~~Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters;~~
- b. ~~The bottom of all openings shall be no higher than one (1) foot above grade;~~
- c. ~~Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters;~~
- d. ~~Access to the enclosed area shall be the minimum necessary to allow for vehicle parking or the limited storage of maintenance equipment used in connection with the premises or an entryway to the living area;~~
- e. ~~The interior portion of such an enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas;~~
- f. ~~Heating, air conditioning, and electrical equipment shall be flood proofed.~~

(iv) ~~Accessory buildings and structures to a permitted residence provided they are designed to have low flood damage potential, designed, constructed and located on the lot as to offer minimal resistance to the flow of floodwaters, and anchored to prevent flotation, collapse or lateral movement.~~

10.2.11.5 Standards for Streams, Lakes, and Ponds Without Established Base Flood Elevations and/or Floodways

~~Located within the areas of special flood hazard established in Section 10.2.11.2 are small streams, lakes, and ponds where no base flood data has been provided or where no floodways have been identified. The following provisions apply within such areas:~~

(a) ~~No encroachments, including fill, new construction, or substantial improvements of new development shall be permitted within a distance of the stream, lake, or pond bank equal to five (5) times the width of the stream, lake, or pond at the top of the bank or 20 feet each side from top of bank, which is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge;~~

(b) ~~If Section 10.2.11.5(a) is satisfied and base flood elevation data is available from other sources, all new construction and substantial improvements within such areas shall comply with all applicable flood~~

hazard ordinance provisions of this Section and shall be elevated or flood proofed according to elevations established in accordance with Section 10.2.11.3. When base flood elevation data is not available from a federal, state, or other source, the lowest floor, including basement, shall be elevated at least two (2) feet above the highest adjacent grade.

10.2.11.6 ~~Special Requirements for Development Proposals Requiring Subdivision or Site Plan Approval~~

~~In addition to satisfying the other requirements of this Ordinance, all proposals for subdivisions and site plans shall:~~

- ~~(a) Have public utilities and facilities, such as wastewater, gas, electrical and water systems, located and constructed using best flood damage prevention engineering practices;~~
- ~~(b) Have all proposed structures located outside the area of special flood hazard, with the lowest floor, including basement, elevated at least two (2) feet above the base flood elevation;~~
- ~~(c) Have all drainage structures located within the special flood hazard area designed to accommodate the 100-year flood without causing increased base flood elevations on properties other than that for which development approval is being requested;~~
- ~~(d) Provide base flood elevation data along with the subdivision plat or site plan that is submitted to the Village for approval.~~

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

SECTION 4. Adopted this 10th day of October, 2006.


(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