

ORDINANCE #22-15

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

WHEREAS, 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, 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, the Village of Pinehurst finds that the growth of the tourism industry in North Carolina has led to a greatly expanded market of privately owned residences that are rented to tourists for vacations, leisure, and recreational purposes. Use of properties for short term rental located in single family neighborhoods is conducted by the owners of these residences or licensed real estate brokers acting on their behalf located present unique situations not normally found in the rental of primary residences for long terms, and therefore make it necessary for the Village Council, through its grant of zoning authority by G.S. 160D-701 to encourage the most appropriate use of land within the Village and to regulate the competing interests of landlords of short term rentals and residents owning property and living long term and/or full-time in the Village’s single family residential zoning districts; and

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 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, a "short term rental" (STR) is a transient lodging use of a residential dwelling unit whereby the dwelling unit is rented for a period of less than thirty (30) days for financial or other consideration and is not currently defined by the PDO as a separate land use; and

WHEREAS, an STR as an undefined land use does not currently have adopted regulatory development and use standards similar in nature to how other transient land uses are regulated within the Village, including into which zoning districts such land uses may be permitted through placement on the Table 8.51a Table of Permitted and Special Uses and Special Requirements and whether any Special Requirements apply to the land use; and

WHEREAS, the use of dwelling units for short term rental land use has increased significantly within the Village according to data provided by Host Compliance (a short term rental monitoring company) that showed a 21% growth of listings from 2021 to 2022; and

WHEREAS, approximately 43% of short term rental units are located within areas planned and zoned for single family use; and

WHEREAS, the growth and concentration of short term rental land uses within areas zoned for single family use disrupt and adversely affect the residential fabric of the neighborhood by replacing more permanent residents with transient users that do not have the same sense of attachment and affiliation to the neighborhood than do longer term residents; and

WHEREAS, continued unregulated growth of transient lodging short term rental uses within single family residential neighborhoods threatens to alter and diminish the long term residential character of these neighborhoods; and

WHEREAS, the areas zoned for single family land use (R-5, R-10, R-15, R-20, R-30, and R-210) are primarily comprised of single family uses. The lower density residential development and full-time residents of these neighborhoods contribute to their economic stability and neighborhood character. Restricting short term rentals maintains and promotes housing opportunities for full-time residents, reduces nuisances to full-time residents, and preserves the overall neighborhood character of single family residential districts; and

WHEREAS, short term rentals are more appropriate in Village Commercial (VC) and Village Mixed Use (VMU) zoning districts that are closer to the Village's center that provide greater guest amenities to transitory tourists/visitors such as shopping and restaurants; and

WHEREAS, areas zoned multiple family (R-MF) traditionally have had more transient populations, and historically have been the location for short term rental properties and second homes (e.g. Diamondhead condominium developments), and their location in areas zoned for multiple family use (R-MF) are therefore more appropriate for short term rental use; and

WHEREAS, on September 1, 2022 the Pinehurst Planning and Zoning Board held a public hearing and received public comments on the proposed amendments; and

WHEREAS, on September 6, 2022 the Pinehurst Planning and Zoning Board recommended the Village Council amend Sections 4 and 10.2 of the Pinehurst Development Ordinance as drafted; and

WHEREAS, on September 6, 2022 the Pinehurst Planning and Zoning Board recommended the Village Council amend Sections 8.5 and 8.6 of the Pinehurst Development Ordinance with the following revisions:

Section 8.5 Table of Permitted and Special Uses and Special Requirements

- Add all residential districts, NC, OP, VCP, and VR as permitted by right with "SR"

Section 8.6 Special Requirements (SR) to the Table of Permitted and Special Uses and Special Requirements

- Item 4: Add "and one fully operational fire extinguisher."
- Item 12: Capitalize "Special Events" and remove "large gatherings"
- Item 13 E: Modify first sentence to "verified violation is a determination made by a code enforcement officer or a judge. Following such determination, notice of violation shall be issued by the Village."
- Item 16: To read "Contact information and these special requirements shall be conspicuously posted or otherwise made available to tenants."

WHEREAS, the Pinehurst Planning and Zoning Board adopted a statement that the proposed amendments, as recommended by the Planning and Zoning Board, are consistent with the 2019 Comprehensive Plan; and

WHEREAS, a public hearing was held on September 27, 2022, 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 amendments to the Pinehurst Development Ordinance and the recommendations 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, 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 the text of the 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 short term rentals located in single family neighborhoods present unique situations not normally found in the rental of primary residences for long terms, 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, the Village Council, after carefully considering all of the facts and circumstances surrounding the proposed amendments to the text of the Pinehurst Development Ordinance, have 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 27th day of September 27, 2022, make the following amendments to the Pinehurst Development Ordinance:

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

4.2.12 Revocation of Development Permit

A development permit may be revoked by the Village Planner after notifying the permit holder in writing and stating the reason for the revocation. The permit revocation shall follow the same process required for issuance of the development permit, including any required notice or hearing, in the review and approval of any revocation of that approval.

Terms under which a development permit may be revoked include:

- (A) Any substantial departure from the approved application, plans, or specifications; or
- (B) Refusal or failure to comply with the requirements of this ordinance or any applicable local development regulation or any State law delegated to the Village for enforcement purposes in lieu of the State; or
- (C) False statements or misrepresentations made in securing the approval; or
- (D) Any development approval mistakenly issued in violation of an applicable State or local law.

Revocation of a development permit by the Village Planner may be appealed as provided in Chapter 5 and pursuant to G.S. 160D-405.

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
Bed and Breakfast Homes			X,SR									X,SR			X,SR	X,SR	X,SR		7
Boarding or Rooming House																			
Dormitory																			
Hotel												X	X				X,SR	X,SR	8
Recreational Vehicle Park																			
<u>Short Term Rental</u>										<u>X</u>							<u>X</u>	<u>X</u>	<u>9</u>
Accessory Use																			
<u>Homestay</u>																			

X Permitted by Right

SU Special Use Permit

SR Special Requirement

Section 8.6 Special Requirements (SR) to the Table of Permitted and Special Uses and Special Requirements

Principal Uses

SR-9 Banks, Credit Unions, Financial Services, Professional Services (to be recodified as SR-21 below)

SR-21 Banks, Credit Unions, Financial Services, Professional Services

SR-9 Short Term Rental

- 1) Development Permit is required for establishment of all new short term rental units after the effective date of this ordinance. Development Permits are non-transferable when a property is sold or transferred. Nonconforming short term rental units shall be regulated by subsections 14 and 15 below.
- 2) Maximum occupancy per unit is based on two (2) adult guests per bedroom.
- 3) A minimum of one (1) parking space shall be provided per bedroom on approved surfaces and locations per the applicable parking regulations of this Ordinance.
- 4) A minimum of one (1) smoke detector shall be provided per bedroom.
- 5) A minimum one (1) carbon monoxide detector shall be provided per level or floor of the dwelling unit.
- 6) Bedrooms and other habitable rooms shall meet the minimum light and ventilation requirements of Section 153.18 of the Pinehurst Municipal Code.
- 7) Bedrooms shall meet the minimum size requirements of Section 153.19 of the Pinehurst Municipal Code.
- 8) Ceiling Height. At least one-half of the floor area of every bedroom shall have a ceiling height of not less than seven feet and six inches.
- 9) Egress. Every dwelling unit shall be provided with adequate means of egress as required by the applicable provisions of the North Carolina State Building Code.
- 10) Cooking facilities are not permitted in any bedroom. For the purposes of this regulation, cooking facilities include any refrigerator in excess of seven (7) cubic feet; any stovetop range that operates on 220-volt electric service, any appliance that operates on natural gas; or any cooktop, whether integrated into a countertop or a separate appliance which contains more than two cooking surfaces or burners. This regulation shall not apply to single dwelling unit room rentals with a sleeping area, living area, and kitchen/eating area consolidated into one room.

- 11) Accessory Dwelling Units may be permitted for short term rental where Permitted by Right in Table 8.5.1a Table of Permitted and Special Uses and Special Requirements.
- 12) In residential zoning districts, short term rental units shall not be used for special events or large gatherings.
- 13) Revocation. If it is determined that more than 3 verified violations occur within a 365 day period the development permit may be revoked for a period of 365 days after which a new permit may be issued. For purposes of this Section any three or more verified violations of any combination of the following occurring at the short term rental premises shall apply:
- a. Any Pinehurst Development Ordinance regulation as adopted as Chapter 152 of the Pinehurst Municipal Code; or
 - b. Section 92.16 of the Pinehurst Municipal Code Regulating Unreasonably Loud, Disturbing Sound Levels; or
 - c. Section 92.17 of the Pinehurst Municipal Code Regulating Unruly Gatherings
 - d. Chapter 153 of the Pinehurst Municipal Code Establishing Minimum Housing Standards.
 - e. A verified violation is a determination made by a code enforcement official, law enforcement officer, or a judge, following notice of a violation being issued by the Village. Noticed violations of the Pinehurst Development Ordinance may be appealed as provided in Chapter 5 of this Ordinance pursuant to G.S. 160D-405.
- 14) Compliance Period; Existing Nonconforming Short Term Rental Units Permitted By Right
- a. Owners of existing short term rental units where Permitted by Right in Table 8.5.1a Table of Permitted and Special Uses and Special Requirements owners shall apply for a development permit and come into full compliance with SR-9 no later than January 1, 2024 or cease operation as a short term rental on that date. For purposes of this Section a non-conforming short term rental unit is a dwelling unit used for short term rental purposes and is located in a General Use Zoning District where it is identified as being Permitted by Right in Table 8.5.1a and does not have a Development Permit approved for use as a Short Term Rental Unit as of the effective date of this ordinance.
- 15) Amortization Period; Existing Short Term Rental Units Not Permitted by Right
- a. Owners of existing short term rental units where not Permitted by Right in Table 8.5.1a are prohibited and shall cease operation as a short term rental by October 1, 2025. For purposes of this Section a short term rental unit not permitted by right is a dwelling unit used for short term rental purposes where it is not identified as being Permitted by Right in Table 8.5.1a.

Section 10.2 Definitions

Short Term Rental: a whole house lodging occupancy where a dwelling unit is 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 for a cumulative total of more than 14 days in any calendar year. Short term rentals do not include other lodging uses as identified on Table 8.5.1a of the Table of Permitted and Special Uses and Special Requirements.

Homestay is a rental of a habitable room or rooms within a dwelling unit or attached accessory dwelling unit made available by short-term lease or other financial consideration for a period of less than 30 consecutive days while the full-time resident resides on-site during the duration of the rental period.

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

(Municipal Seal)

By: _____
John C. Strickland, Mayor

Attest:

Approved as to Form:

Kelly Chance, Village Clerk

Michael J. Newman, Village Attorney