

ORDINANCE #21-12

**AN ORDINANCE AMENDING THE VILLAGE OF PINEHURST
DEVELOPMENT ORDINANCE AS IT PERTAINS TO COMPLIANCE WITH
NCGS CHAPTER 160D**

Whereas, the Village Council of the Village of Pinehurst adopted a new Pinehurst Development Ordinance 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, 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 4:30 p.m. on July 27, 2021, 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, 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 the Village Council amend the Pinehurst Development Ordinance for these amendments; and

Whereas, these amendments bring the Pinehurst Development Ordinance into compliance with and provide consistency with NCGS Chapter 160D; and

Whereas, the Village Council, after considering all of the facts and circumstances surrounding the proposed amendments to the text of the Pinehurst Development Ordinance, have determined that it is considered reasonable and in the best interest of the Village of Pinehurst and the extraterritorial jurisdiction and that it is not inconsistent with the 2019 Comprehensive Plan that the Pinehurst 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 the regular meeting assembled on the 27th day of July, 2021, make the following amendments to the Pinehurst Development Ordinance:

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

Chapter 1. General Provisions

Section 1.3 General Purposes and Authority

This Ordinance is adopted pursuant to authority granted to the Village of Pinehurst by the General Assembly of the State of North Carolina, and especially the Village Charter; NCGS Chapter 160D, ~~160A~~, Article 19 (Planning and Regulation of Development); NCGS Chapter 143, Art. 21, Part 6 (Floodway Regulation); NCGS Chapter 160D, Part 4 ~~160A~~, ~~Part 3C~~ (Historic Districts and Landmarks); and NCGS Chapter 143-214.5, ~~Article 21~~ (Watershed Protection Rules). This Ordinance, which has been formulated in accordance with the Village of Pinehurst Comprehensive Long Range Plan for the future of the community, is adopted for the following purposes:

Chapter 3. Decision Making and Administrative Bodies

Section 3.1 Village Council

Without limiting any authority granted to the Village Council by State law or by other ordinances of the Village, the Village Council shall have the following powers and duties with respect to this Ordinance, to be carried out in accordance with the terms of this Ordinance.

(D) To adopt design ~~guidelines~~ standards for the Historic Preservation Overlay District or other districts;

(E) To approve or deny requests for major subdivision preliminary plats, special uses, ~~vested rights certificates~~ site specific vesting plans, and general concept plans associated with major site plans; and

Section 3.3 Zoning Board of Adjustment

The Zoning Board of Adjustment shall have the following powers and duties, to be carried out in accordance with the terms of this Ordinance and NCGS Chapter 160D ~~160A~~, Article 19:

Section 3.5 Historic Preservation Commission

The Historic Preservation Commission shall have the following powers and duties, to be carried out in accordance with the terms of this Ordinance and NCGS Chapter 160D Part 4 ~~160A~~, ~~Article 19~~:

(K) Recommend design ~~guidelines~~ standards to the Village Council.
(Ord. 14-35, passed 09-24-2014)

Section 3.8 Conflict of Interest

3.8.1 Village Council

(A) A council member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

(B) Members of any board exercising quasi-judicial functions pursuant to this Chapter shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

3.8.2 Appointed Board

(A) Members of appointed boards, including but not limited to the Planning and Zoning Board, Board of Adjustment and Historic Preservation Commission, shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the board member has a close familial, business, or other associational relationship.

(B) Members of any board exercising quasi-judicial functions pursuant to this Chapter shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

3.8.3 Staff

(A) No staff member shall make a final decision on an administrative decision required by this Chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the supervisor.

(B) No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Chapter unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.

Chapter 4. Public Hearings, Permits and Approvals

Section 4.1 ~~Notices and~~ Quasi-Judicial and Legislative Public Hearings

4.1.1 ~~Notice Requirements~~

- ~~(A) All notices for any action for which this Ordinance requires a public hearing shall be made in accordance with the provisions of NCGS, Chapter 160A, Article 19. In addition, any public hearing required by this Ordinance for rezoning property, for approval of a special use, vested rights certificate, variance, or for an administrative appeal pursuant to Chapter 5 of this Ordinance, the Village Planner shall cause a notice of such hearing to be posted on the property for at least ten (10) days before the scheduled date of the hearing;~~
- ~~(B) Notice of all public hearings before the Historic Preservation Commission will be mailed to adjacent property owners of the affected property and a notice will be posted on said property at least ten (10) days before the scheduled date of the hearing.~~

4.1.1 Quasi-Judicial Hearings

Board shall follow quasi-judicial procedures in determining appeals of administrative decisions, special use permits, certificates of appropriateness, variances, or for any other quasi-judicial decision.

- (A) Notice of Hearing. - Notice of evidentiary hearings shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by this Chapter. In the absence of evidence to the contrary, the Village may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the local government shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.
- (B) Administrative Materials. - Staff to the board shall transmit to the board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.
- (C) Presentation of Evidence. - The applicant, the local government, and any person who would have standing to appeal the decision under Section 4.1.3 shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board. Objections regarding

jurisdictional and evidentiary issues, including, but not limited to, the timeliness of an appeal or the standing of a party, may be made to the board. The board chair shall rule on any objections, and the chair's rulings may be appealed to the full board. These rulings are also subject to judicial review pursuant to G.S. 160D-1402.

- (D) Appearance of Official New Issues. - The official who made the decision or the person currently occupying that position, if the decision maker is no longer employed by the local government, shall be present at the evidentiary hearing as a witness. The appellant shall not be limited at the hearing to matters stated in a notice of appeal. If any party or the local government would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.
- (E) The chair of the board or any member acting as chair and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.
- (F) Subpoenas. - The board making a quasi-judicial decision through the chair or, in the chair's absence, anyone acting as chair may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, the applicant, the local government, and any person with standing under G.S. 160D-1402(c) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be immediately appealed to the full board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.
- (G) Appeals in Nature of Certiorari. - When hearing an appeal pursuant to N.C.G.S. 160D-947(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below, and the scope of review shall be as provided in N.C.G.S. 160D-1402(j).
- (H) Voting. - The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.
- (I) Decisions. - The board shall determine contested facts and make its decision within a reasonable time. When hearing an appeal, the board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official

who made the decision. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards, and be approved by the board and signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the development regulation specifies. The decision of the board shall be delivered within a reasonable time by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective. The person required to provide notice shall certify to the local government that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud.

- (J) Judicial Review. - Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to N.C.G.S. 160D-1402. Appeals shall be filed within the times specified in N.C.G.S. 160D-1405(d).

4.1.2 Legislative ~~Public~~ Hearing Procedures

The procedures and requirements set forth in this Section shall apply to all legislative public hearings regarding text amendments, the rezoning of property to a conditional district, general use zoning district, overlay zoning district, general concept plans for major site plan approvals and major subdivision preliminary plats, ~~the approval of a special use or variance, the approval of a vested rights certificate, other development processes requiring public hearing by this ordinance, an administrative appeal, pursuant to Chapter 5 of this Ordinance, or for Certificate of Appropriateness;~~

- (A) When the Village Planner has determined that an application is complete and that a public hearing is required by this Ordinance, the Village Planner shall schedule a date, time, and place for a public ~~the required~~ hearing before the Planning and Zoning Board, ~~and shall ensure that all notices are provided pursuant to Section 4.1.1 above;~~

Mailed notice of the hearing for conditional zoning, map amendments, general concept plans for major site plans or major subdivision preliminary plats before the Planning and Zoning Board shall be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing.

- (B) Any person may appear at the public hearing before the Planning and Zoning Board to speak in explanation or rebuttal, either individually or as a representative of an organization, upon receiving proper recognition from the chairperson of the body conducting the hearing;
- (C) Each person who appears at a legislative public hearing shall identify himself or herself and his or her address and, if appearing on behalf of an organization, shall state the name and mailing address of the organization. Anyone representing an organization shall

present written evidence of his or her authority to speak on behalf of the organization in regard to the matter under consideration, unless the chairperson waives this requirement;

- (D) The Planning and Zoning Board shall provide for review and comment in writing to Village Council. If no written report is received within thirty (30) days of referral, Village Council may act on any map and text amendments without the planning board report.
- (E) For map and text amendments, the Planning Board shall advise and comment on whether the proposed action is consistent with the adopted comprehensive plan and any other officially adopted plan.
- (F) Village Council shall conduct a legislative hearing for map and text amendments. Prior to the hearing, a notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.
- (G) For map amendments, the owners of affected parcels of land the owners of all parcels of land abutting that parcel of land shall be mailed a notice of the hearing by first-class mail at the last addresses listed for such owners on the Moore County Tax Registry. Properties are considered abutting even if separated by a street, railroad or other transportation corridor. The notice shall be deposited in the mail not less than ten days nor more than 25 days before the hearing before the Council's legislative hearing.
- (H) In lieu of mailed notice, the Village may use an optional expanded published notice for large-scale map amendments as provided for in N.C.G.S. 160D-602(b) if the change in zoning involves more than fifty (50) properties owned by at least fifty (50) different property owners.
- (I) When a map amendment is proposed, a prominent notice of the hearing shall be posted on the site or adjacent right-of-way not less than ten (10) days nor more than (25) days before the hearing.
- (J) No amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the local government. For purposes of this section, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways:
 - (1) By decreasing the development density of the land to be less dense than was allowed under its previous usage.

- (2) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.
 - (K) When adopting or rejecting a text or map amendment, Village Council shall approve a statement describing if its action is consistent or inconsistent with the adopted comprehensive plan. If a zoning map amendment is approved that is inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending the future land use map. In addition, Council shall adopt a statement analyzing the reasonableness of the proposed amendment.
 - ~~(D) All testimony and evidence given in a public hearing in front of the Historic Preservation Commission on a Certificate of Appropriateness, or the Village Council on a special use permit shall be given under oath or by affirmation to the body conducting the hearing;~~
 - ~~(E) Any person participating in a hearing in front of the Zoning Board of Adjustment or a special use permit held by the Village Council may, upon receiving proper recognition from the chairperson of the body conducting the hearing, question other persons appearing as witnesses who present adverse evidence or testimony;~~
 - ~~(F) The body conducting the hearing shall exclude any testimony, evidence, or questioning that it determines to be incompetent, irrelevant, immaterial, or unduly repetitious;~~
 - (LG) At any time upon reasonable request, any person may examine the application and materials submitted in support of, or in opposition to, an application for approval under this Chapter. The Village Planner shall make copies of such materials available at cost as per the Village adopted fee schedule.
- (Ord. 14-35, passed 09-24-2014)

4.1.3 Standing

The following persons have standing in a quasi-judicial proceeding.

- (A) Any person possessing any of the following criteria:
 1. An ownership interest in the property that is the subject of the decision being appealed, a leasehold interest in the property that is the subject of the decision being appealed, or an interest created by easement, restriction, or covenant in the property that is the subject of the decision being appealed.
 2. An option or contract to purchase the property that is the subject of the decision being appealed.
 3. An applicant before the decision-making board whose decision is being appealed.
- (B) Any other person who will suffer special damages as the result of the decision being appealed.
- (C) An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an

association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual to challenge the decision being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal.

- (D) Village Council when a decision-making board has made a decision that Council believes improperly grants a variance from or is otherwise inconsistent with the proper interpretation of a development regulation adopted by the governing board.

4.2.11 Village Planner to Determine the Completeness of All Initial Applications

(C) An application shall be deemed complete if it is submitted in the required number and form, includes all requested information, and is accompanied by the applicable fee. A determination of application completeness shall be made within thirty (30) working days of application filing. If an application is determined to be incomplete, written notice shall be provided to the applicant along with an explanation of the application's deficiencies. No further processing of the application shall occur until the deficiencies are corrected. If the deficiencies are not corrected by the applicant within twenty (20) working days, the application shall be considered withdrawn.

(Ord. 14-35, passed 09-24-2014)

Section 4.3 Vested Rights Certificate and Permit Choice

Purpose

NCGS 160D-108 provides mechanisms by way of statutory vested rights for a project to move forward as originally approved. Statutory vested rights run with the land and are not affected by changes in ownership. These rights are subject to development progressing in accordance with all applicable terms and conditions of approval.

Permit choice is provided as an option for establishing the development standard to be used when regulations are in the process of changing during application review.

4.3.1 Permit Choice

1. If an application is submitted for development subject to this ordinance, and the ordinance is amended between the time the application is submitted and a development approval decision is made, the applicant may choose which version of the ordinance will apply.
2. If this ordinance is amended after a development permit is wrongfully denied or after an illegal condition is imposed, as determined in a proceeding challenging the permit denial or the condition imposed, the development permit applicant may choose which adopted version of the rule or ordinance will apply.

4.3.2 Establishment of a Vested Right

A person claiming a common law or statutory vested right shall submit information to the Village Planner to substantiate that claim.

4.3.3 Duration of Vested Rights.

- (A) The following table establishes the term of duration of specific statutory vested rights.
- (B) Except where a longer vesting period has been granted, if a statutory vested right is established and work intentionally and voluntarily ceases for a period of twenty-four (24) consecutive months, the statutory vesting expires.
- (C) Terms may only be extended by action of the Village Council in a Legislative Hearing upon demonstration that a project has or will continue to make substantial progress towards completion. Any extension of time granted under this provision shall not place any other additional conditions on the approval.
- (D) A Site-Specific Vesting Plan is a plan that describes with reasonable certainty the type and intensity of use for specific parcel(s) and includes information such as site boundaries; topographic and natural features; location of proposed buildings, structures and improvements; and dimensional requirements. Site-Specific Vesting Plans include the following: plans approved subject to conditional zoning, preliminary plats, plans approved as part of planned developments, commercial and multifamily site plans, plans associated with special use permits.
- (E) For the purposes of this section, a multi-phased development is one that 1) contains at least 25 acres and 2) is to occur in more than one phase, and 3) is subject to a master development plan showing the type and intensity of each phase.
- (F) The Village Council may provide for rights to be vested for a period exceeding two years but not exceeding five years where warranted due to circumstances such as size and phasing of the project, market and economic conditions, and the level of investment made.
- (G) The establishment of a vested right does not preclude vesting by application of common law principles.

Table 1 Duration of Vested Rights

Type of Approval	Statutory Vested Rights Duration
Building Permit	6 months
Site-Specific Vesting Plan	2 years
Multi-Phased Development	7 years from approval of initial phase of development
All other approvals (includes basic zoning permit for use by right)	1 year
Final Plat	Vested at time of issuance
Development Agreement	As specified in the terms of the agreement

4.3.4 Subsequent Changes Prohibited; Exceptions

(A) Once established, a vested right precludes any zoning action which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of a property set forth in a site-specific vesting plan except under the following circumstances.

- (1) Written consent of the landowner.
- (2) Upon findings by ordinance after notice and an evidentiary hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety and welfare if the project proceeds according to the site-specific vesting plan.
- (3) To the extent that the affected landowner receives compensation for all costs, expenses, and other losses incurred, including but not limited to all fees paid in consideration of financing, and all architectural, planning, marketing, legal and other consulting fees incurred after Village approval, together with interest provided under NCGS 160D-106. Compensation shall not include any diminution in value caused by the action.
- (4) Upon findings, by ordinance after notice and an evidentiary hearing, that the landowner or the landowner’s representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval of the site-specific vesting plan or the phased development plan.
- (5) Upon the enactment or promulgation of a State or Federal law or regulation that precludes development as contemplated in the site-specific vesting plan or the phased development plan, in which case the local government may modify the affected provisions, upon a finding that the change in law has a fundamental effect on the plan, by ordinance after notice and an evidentiary hearing.

- (B) The establishment of a vested right does not preclude the application of overlay zoning or other development regulations which impose additional requirements but do not affect the allowable type or intensity of use, or ordinances or regulations which are general in nature and are applicable to all property subject to development regulation including, but not limited to, building, fire, plumbing, electrical and mechanical codes.
- (C) The establishment of a vested right does not preclude, change, or impair the authority to adopt and enforce development regulations governing nonconforming situations or uses.

~~4.3.1 Purpose and Authority~~

~~The purpose of this Section is to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability, and fairness in the land use planning process, secure the reasonable expectations of landowners, and foster cooperation between the public and private sectors in the area of land use planning in recognition that Village approval of land use development typically follows significant landowner investment in site evaluation, land cost, planning, development costs, consultant fees, and related expenses.~~

~~4.3.2 Establishment of Vested Right~~

~~A vested right shall be deemed established with respect to any property upon the approval of a site specific development plan, or by following the vested rights process outlined in 4.3.3 thru 4.3.9 below. Such vested right shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the site-specific development plan. "Site specific development plan" means a plan that has been submitted to the Village by a landowner describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. Such a plan may be in the form of any of the following plans or approvals: a Major or Minor Site Plan, a Special Use Permit, a Conditional District Zoning, or Major or Minor Subdivision Plan. Such plans shall include the required content for a given use or type of development as outlined in Appendix A thru E.~~

~~4.3.3 Procedure~~

~~(A) Action by the Village Council:~~

- ~~(1) Notice and Public Hearing: The Village Council shall not approve any vested rights certificate until after public notice and hearing in accordance with the provisions of this Ordinance. The request for a vested rights certificate shall be held in conjunction with the hearing on the application for a Special Use Permit, Major Site Plan, Conditional District Zoning, or Major Subdivision.~~

~~(2) After holding a public hearing, the Village Council may take action on the application by:~~

- ~~_____ (a) Approving the application;~~
- ~~_____ (b) Denying the application;~~
- ~~(c) Approving the application with additional conditions, which the Council may attach.~~

~~4.3.4 Two Year Vested Rights Period~~

~~Except as provided in Section 4.3.6 through 4.3.7 below, any development for which the Village has approved a site specific development plan prior to the effective date of or any subsequent amendment to this Ordinance which renders the development nonconforming, may be carried out in accordance with the approved plan and shall be deemed lawfully existing under the terms of this Ordinance, provided that the development conforms to all terms and conditions of the approved site specific development plan. This right to carry out the development in accordance with the approved plan shall attach to and run with the land, rather than being personal to the recipient of plan approval. This right shall terminate, however, two years after the effective date of approval of the site specific development plan with respect to all buildings and uses for which the developer has not, by that time, filed a valid building permit application in accordance with Section 4.6.~~

~~4.3.5 Vested Rights Certificate Required~~

~~In order to be entitled to the vested rights period set forth in Section 4.3.4 above, the owner or developer of the property must apply for and receive a vested rights certificate from the Village. In approving the vested rights certificate, the Village Council may extend the two (2) year vested rights period provided in Section 4.3.4 to a period of up to five (5) years, where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of development, economic cycles, and market conditions. This determination shall be at the discretion of the Village Council.~~

~~4.3.6 Exceptions~~

~~The provisions of Section 4.3.5 shall not apply in the following instances:~~

- ~~(A) Where the property owner consents, in writing, to making the development conform to the requirements of this Ordinance, or any amendment thereto;~~
- ~~(B) Where the Village Council finds, after notice and a public hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose~~

~~a serious threat to the public health, safety, and welfare if the project were to proceed in accordance with the approved site specific development plan;~~

- ~~(C) Where the Village Council finds, after notice and a public hearing, that the landowner or his or her representative, intentionally supplied inaccurate information or made material misrepresentations which made a difference in the Village's approval of the site specific development plan;~~
- ~~(D) Where the State or Federal government has enacted or promulgated a law or regulation which precludes developing the property in accordance with the approved plan, in which case the Village Council may, by ordinance, modify the affected provisions of the approved plan upon finding, after notice and a public hearing, that the change in State or Federal law has a fundamental effect on the approved site specific development plan;~~
- ~~(E) Where the Village has compensated the property owner for all costs, expenses, and other losses, not including any diminution in the value of the property, which the owner has incurred after approval of the site specific development plan by the Village, together with interest thereon at the legal rate until paid.~~

~~4.3.7 Effect of Changes to Approved Plan and Vested Rights~~

~~This Ordinance provides for situations in which the property owner or developer may obtain Village approval for particular changes to a site specific development plan that the Village has already approved. The effect of such changes is as follows:~~

- ~~(A) Where the change is one that requires the approval of the Village Council under the terms of this Ordinance, such as a major change to a site plan, then the property owner or developer must submit an application for a new vested rights certificate, along with the application for approval of the plan change, in order to extend or renew the vested rights period. In no case shall the total period of vesting for any piece of property be longer than five (5) years, no matter how many major changes are made to the property. The new vested rights certificate may be issued only in accordance with the requirements of Section 4.3.5 above;~~
- ~~(B) Where the change is one that requires a variance from the Zoning Board of Adjustment, pursuant to Chapter 5 of this Ordinance, then the vested rights period set forth in Section 4.3.4 shall terminate immediately upon the Zoning Board of Adjustment's approval of the variance.~~

~~4.3.8 Provisions To Which Vesting Does Not Apply~~

~~The provisions of Section 4.3.5 shall not preclude the Village from applying zoning regulations, which do not affect the allowable type or intensity of use, regulations governing nonconformities, which appear in Chapter 2 of this Ordinance, or regulations, which are general~~

~~in nature and apply to all property within the Village's jurisdiction. All other regulations shall become effective with respect to the property upon the expiration or termination of the vested rights period set forth in Section 4.3.4.~~

4.3.9 Voluntary Annexation

A petition for annexation filed with the Village under NCGS §160A-31 or NCGS §160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established under NCGS 160D-202(k) ~~§160A-385.1 or NCGS §153A-344.1~~. A statement that declares that no zoning vested right has been established or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any such zoning vested right shall be terminated.

(Ord. 14-35, passed 09-24-2014)

4.5.5 Action on Special Uses

- (A) Review by the Village Council: The Village Council shall review the application and conduct a quasi-judicial public hearing. Notice of public hearing shall be provided and the public hearing shall be conducted in accordance with Section 4.1 of this Ordinance. The Village Council shall review the application materials and General Concept Plan if required, the general purpose and standards set forth in this Section for the approval of special uses, any additional standards set forth in this Ordinance for approval of the proposed use, and all evidence and testimony received by the Village Council at the public hearing;
- (B) Action by the Village Council: At the conclusion of the quasi-judicial public hearing, the Village Council shall approve, approve with conditions, deny or take any other action consistent with its usual rules of procedure on the Special Use Permit Application. Any approval or denial of the application shall state the findings of fact that establish whether the proposed use meets or does not meet each of the standards set forth in Section 4.5.6 below and all other requirements set forth by this Chapter for the proposed special use. The decision on the application shall be by a simple majority vote of the members of the Village Council. The Council is required to take action within sixty (60) days from the date of the public hearing;

4.5.6 Standards of Review

The Village Council shall not approve the special use unless and until it makes the following findings, based on the evidence and testimony received at the quasi-judicial public hearing or otherwise appearing in the record of the case:

Chapter 5. Variances and Administrative Appeals

5.1.3 Application Requirements; Determination of Completeness

(D) The Village Planner shall determine whether the application for a variance is complete. If the Planner determines that the application is not complete, then he or she shall notify the applicant in writing of any deficiencies and shall take no further steps to process the application

until the deficiencies are remedied. Once the application is complete, the Village Planner shall schedule the application for consideration at a quasi-judicial public hearing before the Zoning Board of Adjustment;

5.1.4 Action by the Zoning Board of Adjustment

- (A) Upon receiving the application materials from the Village Planner, the Zoning Board of Adjustment shall hold a quasi-judicial public hearing on the proposed variance. Notice of the public hearing shall be provided and the public hearing shall be conducted in accordance with Section 4.1 of this Ordinance;
- (B) In considering the application, the Zoning Board of Adjustment shall review the application materials, the general purpose and standards set forth in this Section for the granting of variances, and all testimony and evidence received by the Zoning Board of Adjustment at the quasi-judicial public hearing;
- ~~(E) A concurring vote of four-fifths of the board shall be necessary to grant a variance. The Zoning Board of Adjustment shall not grant any variance unless there is a concurring vote of at least four (4) of its five (5) members;~~

5.1.5 Standards of Review

When unnecessary hardships would result from carrying out the strict letter of this ordinance, the Board of Adjustment shall vary any of the provisions of this ordinance upon a showing of all of the following:

- (B) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability;

5.3.3 Persons Who May File An Appeal

An appeal to the Zoning Board of Adjustment may be brought by any person of standing or the Village of Pinehurst under North Carolina General Statute ~~§160A-393(d)~~ 160D-405(b) ~~or the Village of Pinehurst.~~

5.3.4 Filing of Appeal

- (D) The Village Planner shall determine whether the appeal application is complete. If the Village Planner determines that the application is not complete, then he or she shall notify the applicant in writing of any deficiencies and shall take no further steps to process the application until the deficiencies are remedied. Once the application is

complete, the Village Planner shall schedule the appeal for consideration at a quasi-judicial public hearing before the Zoning Board of Adjustment;

5.3.5 Action by the Zoning Board of Adjustment

- (A) Upon receiving the application materials from the Village Planner, the Zoning Board of Adjustment shall hold a quasi-judicial public hearing on the appeal. Notice of the public hearing shall be provided and the public hearing shall be conducted in accordance with Section 4.1 of this Ordinance;

5.3.7 Appeal from the Zoning Board of Adjustment

Any appeal from the decision of the Zoning Board of Adjustment in regards to administrative review shall be to the Superior Court of Moore County by petition for a writ of certiorari. Any such petition to the Superior Court shall be filed no later than thirty (30) days after the date the decision of the Zoning Board of Adjustment is filed in the Village Planner's office. The copy of the decision shall be delivered either by personal delivery, electronic mail or first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. When first-class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.

(Ord. 14-35, passed 09-24-2014)

Chapter 6. Text Amendments and Rezonings

6.1.3 Filing and Content of Applications

- (D) The Village Planner shall determine whether the application is complete. If the Village Planner determines that the application is not complete, then he or she shall notify the applicant in writing of any deficiencies and shall take no further steps to process the application until the deficiencies are remedied. Once the application is complete, the Village Planner shall schedule the application for consideration at a public meeting before the Planning and Zoning Board and legislative public hearing before the Village Council;

6.1.6 Review and Action by the Village Council

- (A) A text amendment or rezoning may be adopted only after the Village Council has conducted a legislative public hearing on the proposed amendment, at which parties interested in the proposed amendment shall have an opportunity to be heard. Notice of the hearing shall be provided and the legislative public hearing shall be conducted in accordance with Section 4.1 of this Ordinance and as required by this Ordinance;

6.1.8 Development Agreements

Development agreements provide for a written agreement between a developer and the village to address the challenges and timing of build-out of large-scale projects. Agreements are appropriate for multi-phase projects requiring long-term commitment for public and private resources requiring careful coordination for planning, financing, and construction, but are not size-restricted. A development agreement is not a mechanism for a variance from the standards of this ordinance.

(A) Concurrent Submittal

The agreement may be considered concurrently with a zoning map or text amendment affecting the property and development subject to the development agreement. A development agreement may be concurrently considered with and incorporated by reference with a sketch plan or preliminary plat required under a subdivision regulation or a site plan or other development approval required under a zoning regulation. If incorporated into a conditional district, the provisions of the development agreement shall be treated as a development regulation in the event of the developer's bankruptcy.

(B) Content. A development agreement shall contain the following.

1. A description of the property and the names of legal and equitable property owners.
2. Length of the agreement.
3. Development uses permitted including population densities, intensities, building types, placement on site and design.
4. A description of public facilities defining:
 - i. Who will provide the facility,
 - ii. When the facility will be provided,
 - iii. A schedule demonstrating services will be provided concurrent with the development requiring the service,
 - iv. Determination of project deliverables by the developer that trigger successful performance for the requirement of the service.
5. A description of land reserved or dedicated for public purposes.
6. Any other terms regarding public health, safety, or welfare.
7. Any provisions for the preservation and restoration of historic structures.
8. A development schedule may be provided including commencement and completion dates.
9. The agreement may contain penalties for material breach of the agreement.
10. Other matters agreed to by the parties within the scope consistent with this ordinance.

- (C) Parties to the agreement.
The agreement may include other local government or regional utility authorities but must specify which local government is responsible for overall administration.
- (D) Procedural Requirements.
1. Before entering into a development agreement, Village Council shall conduct a legislative hearing on the proposed agreement subject to the notice provisions of NCGS 160D-602 for zoning map amendments. The notice shall contain the following:
 - i. Location of the subject property.
 - ii. Proposed uses.
 - iii. Where a copy of the proposed agreement may be obtained.
 2. The applicant is encouraged to move the development agreement concurrent with other project approvals such as zoning amendments. No development approvals may be issued until such time as the agreement is recorded.
 3. Upon approval, the development agreement shall be recorded at the Moore County Register of Deeds within 14 days of execution.
- (E) Breach and Cure
1. The Zoning Administrator is authorized to periodically review the agreement annually to ensure good-faith compliance with the agreement.
 2. If the developer has committed a material breach of the agreement, the developer shall be notified in writing the nature of the breach, the evidence supporting the finding and a time-period in which to correct the breach.
 3. If the developer fails to correct the material breach within the time given, the local government may unilaterally terminate or modify the agreement subject to appeal to the Board of Adjustment.
 4. The agreement is enforceable by any party to the agreement, and action for injunctive relief may be filed to enforce the terms of the agreement.
- (F) Amendment or termination
A development agreement may be amended or terminated by mutual consent of the parties.

Section 6.2 Special Provisions for Conditional Districts

It is recognized that certain types of zoning districts would be inappropriate at certain locations in the absence of special conditions. Conditional District rezonings are provided as a voluntary alternative method of petitioning the Village Council for a zoning map amendment. In accordance with NCGS ~~§160A-382~~ 160D-703 (b), the owner or their authorized agent is authorized to submit a rezoning application that proposes conditions and/or use limitations that are more restrictive than would otherwise be allowed in the corresponding general use zoning

district. Requests for the rezoning of property to a Conditional District shall be considered and treated the same as any other rezoning in accordance with the procedures set forth in Section 6.1, except as modified by this section.

6.2.2 Formal Review

(B) Changes to Conditional District Application

1. After required public notice for a legislative public hearing has been given, no changes shall be made to the conditions associated with the Conditional District General Concept Plan and the application which are less restrictive than those stipulated in the application. However, more restrictive conditions may be added to the General Concept Plan and the application during the public hearing upon the mutual agreement of the applicant and the body conducting the public hearing or meeting.

Chapter 8. Zoning

8.3.2.3 Certificate of Appropriateness Required

- (A) From and after the designation of a historic district and the adoption of Review Criteria and Design ~~Guidelines~~ Standards by the Historic Preservation Commission and approved by the Village Council, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features), no above-ground utility structure, nor any type of outdoor advertising sign or business identification sign shall be erected, altered, restored, moved, or demolished within the historic district until after an application for a Certificate of Appropriateness as to exterior features has been submitted to and approved by the Historic Preservation Commission. Such a certificate shall be issued by the Commission and/or Village Planner prior to the issuance of a development permit. Such certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this Section. A Certificate of Appropriateness shall be required whether or not a building permit is required;
- (B) Publication dispensers shall be required to comply with the Local Historic District Standards and ~~Guidelines~~, and a Certificate of Appropriateness must be obtained prior to display.

8.3.2.4 Certificate of Appropriateness Procedure

- (C) Applications that are categorized or fall within the category description of normal maintenance or minor work within the Local Historic District Standards and ~~Guidelines~~, will be approved or denied on a staff level. If staff does not approve the application or if the work is questionable as to whether it is consistent with the Standards and ~~Guidelines~~, then the application will be heard at the next PHPC meeting as a regular agenda item.
- (D) Prior to issuance or denial of a Certificate of Appropriateness for a major work project, the Commission shall conduct a quasi-judicial public hearing in accordance with this

Ordinance. The Village Planner shall be responsible for notifying the affected parties in accordance with Section 4.1 of this Ordinance;

- (E) The Commission shall take action on the application and in doing so, shall apply the Review Criteria contained in this section and within the Local Historic District Standards ~~and Guidelines~~;

8.3.2.5 Review Criteria

- (B) Exterior Form and Appearance:

1. The following criteria shall be considered, when relevant, by the Commission or Village Planner reviewing applications for a Certificate of Appropriateness. All applications for Certificate of Appropriateness shall be subject to review based upon the Design ~~Guidelines~~ Standards then in effect. These ~~guidelines~~ standards are set forth in a manual prepared by the Commission and approved by Village Council:

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

SR-30 Small/Micro Wireless Facility

- (J) When located in the Historic Preservation Overlay District a Certificate of Appropriateness (COA) is required and shall be constructed in accordance with the Historic District Standards ~~and Guidelines~~.

Chapter 9. Design and Development Standards and Processes

Section 9.1 General Standards

- (B) Solar Panels

6. All solar panels being located within the Historic Preservation Overlay District shall comply with the ~~guidelines and~~ standards for that district and must get appropriate approvals.

9.2a Table of Dimensional Requirements

USE TYPES	PC	RD	R-210	R-30	R-20	R-15	R-10	R-8	R-5
Minimum Principal Building size (heated sq.-ft.)			2000	2000	2000	1800	1800	1500	600

Section 9.3 Village Districts Design Standards

The Village Mixed Use District shall be developed in a way that it is functionally and structurally compatible with the existing Village Center and a pedestrian friendly area. All development shall comply with the design standards set forth below. In addition, reference

should be made to the design guidelines and content found in the NewCore Master Plan, as well as the Local Historic District Standards ~~and Guidelines~~.

9.3.2 Village Cottage Professional District Design Standards

The Village Cottage Professional District shall be developed in a way that is functionally and structurally compatible with the existing Village Center and a pedestrian friendly area. All development shall comply with the design standards set forth below. In addition, reference should be made to the design guidelines and content found in the NewCore Master Plan, as well as the Local Historic District Standards ~~and Guidelines~~.

9.3.3 Village Residential District Design Standards

The Village Residential District shall be developed in a high density residential fashion, providing pedestrian access to the Village Center and compatible in design to the residential development adjacent to the existing Village Center. All development shall comply with the design standards set forth below. In addition, reference should be made to the design guidelines and content found in the NewCore Master Plan, as well as the Local Historic District Standards ~~and Guidelines~~.

9.5 Landscaping Requirements

9.5.1.3 Landscape Screens

- (A) The purpose of a screen is to use plants and/or other landscape or architectural elements to obscure views from all corridors or adjacent properties.

Structures such as loading docks, mini-warehouses, service courts, dumpster areas, mechanical equipment, and outside storage of material stocks or equipment, either for sale or not for sale on the premises, such as, but not limited to, motor vehicles, equipment, or construction equipment shall be screened from unobstructed off-site views. Uses requiring screening as noted in this Ordinance shall be screened according to the requirements of this Section. This screening requirement does not pertain to outdoor display of merchandise located within the Historic Preservation Overlay District that complies with the regulations and design ~~guidelines~~ standards of that district.

9.7 Sign Regulations

9.7.1.3 General Provisions

- (A) General Permanent Sign Regulations

All signs shall comply with the following:

1. All signs on property within the Historic Preservation Overlay District shall be additionally reviewed by the Village Planner and/or Historic Preservation Commission and shall comply with the Local Historic District Standards ~~and Guidelines~~.

Section 9.14 Design Standards for Single Family Dwellings

9.14.5 Exterior Building Materials and Colors

- (A) Homes found in the Local Historic District Overlay are subject to the ~~guidelines~~ standards

- and requirements of that district and other applicable standards of this Ordinance;
- (C) Solar panels are permitted on single family structures with the following standards being met:
7. All solar panels being located within the Historic Preservation Overlay District shall comply with the ~~guidelines and~~ standards for that district and must get appropriate approvals.

9.16.1.5 Consideration of Major Site Plans

5. The Planning and Zoning Board shall conduct a public hearing in accordance with section 4.1.21(A) of this ordinance and review the General Concept Plan, the recommendations of the Village Planner and the Technical Review Committee, and the requirements of this Ordinance, and formulate a recommendation to the Village Council for appropriate action on the site plan. Failure of the Planning and Zoning Board to make a recommendation to the Village Council within ninety (90) days of the first public meeting in which the item is on the agenda for consideration by the Board shall be considered a favorable recommendation.

- (B) Action by Village Council on Major Site Plans: The application, the General Concept Plan, the recommendation of the Planning and Zoning Board, along with the staff report of recommendation of the Village Planner and other pertinent materials shall then be forwarded to the Village Council for action after an administrative public hearing is held by the Village Council in accordance with section 4.1.21(A) of this ordinance. The Village Council shall review this information and either approve, approve with conditions, or reject the site plan:

Section 9.17 Subdivision Standards

9.17.1.1 Plat Approval Required; Major Subdivisions and Minor Subdivisions

1. Exempt subdivisions shall include the following:
 - (f) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 or the General Statutes.
3. Expedited Minor Subdivision: Exception for the Division of a Tract of Land in Single Ownership. The Village shall require only a final plat for recordation for the division of a tract of land if all of the following criteria are met: (a) The tract or parcel is owned by one person or legal entity; and (b) The parcel proposed for division is not greater than 10 acres and no street right-of-way dedication is involved; and (c) The area of the tract or parcel to be divided is greater than 5 acres; and (d) After division, no more than three lots will exist; and (e) After division, all of the lots will meet the following three standards: 1) The lot dimension size requirements; and 2) The use of the lots conform with the standards of the Pinehurst Development Ordinance; and 3) A permanent means of practicable ingress and egress is recorded for each lot.

43. Major subdivision: any subdivision other than an exempt or minor subdivision. Major subdivision applications shall be reviewed by the Planning and Zoning Board after staff has completed its review. The Planning and Zoning Board shall conduct a public hearing in accordance with section 4.1.21(A) and formulate a recommendation and forward the plat to the Village Council. The Village Council shall conduct an administrative public hearing in accordance with section 4.1.21(A) and may approve or deny the plat or return it to the Planning and Zoning Board for further consideration. The Village Council and the Planning and Zoning Board shall evaluate the plat application in accordance with Section 9.17.1.3 through Section 9.17.1.6 below.

9.17.1.3 Summary of Approval of Major Subdivisions

- (B) Summary of Procedures: The approval of plats for major subdivisions is a multi-step process. A proposed preliminary plat (Appendix E) is first submitted to the Village Planner. The Village Planner and TRC reviews the application for completeness and errors and provides written comments to the applicant. The applicant then makes revisions and corrections to the preliminary plat in response to the comments of the Village Planner. The Planning and Zoning Board shall conduct a public hearing in accordance with section 4.1.4(A) 2 of this ordinance and then review the preliminary plat along with the comments and recommendations of the Village Planner. This process continues until compliance is determined. The Planning and Zoning Board then submit its recommendations regarding the preliminary plat to the Village Council. Once the Planning and Zoning Board has submitted its recommendation on a proposed subdivision to the Village Council, the Village Council shall conduct an administrative public hearing in accordance with section 4.1.4(A) 2 of this ordinance and then review the preliminary plat and the Planning and Zoning Board's recommendations, and approves, conditionally approves, or rejects the preliminary plat; Prior to the submittal of the preliminary plat to the Village Planner, the subdivider, at their discretion may submit a sketch plan (Appendix A) for initial review and comment.

9.17.1.26

- (B) Types of Guarantees: Such guarantee may be in the form of a surety bond made by a surety company licensed to do business in North Carolina or certified check drawn in favor of the Village, or cash deposited with the Village, or a letter of credit issued by any financial institution licensed to do business in North Carolina ~~from a local bank~~, or any other form of guarantee that provides equivalent security to a surety bond or letter of credit.
- ~~(C) Local bank defined: Any bank, savings and loan association, or trust company with a physical branch located in the State of North Carolina and within a one hundred (100) miles radius of the Village of Pinchurst.~~

Chapter 10. Village of Pinehurst Development Ordinance Definitions

Section 10.2 Definitions

Administrative Decision: decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards. Also known as ministerial or administrative determinations.

Administrative Hearing: a proceeding to gather facts needed to make an administrative decision.

Bona Fide Farm: agricultural activities set forth in N.C.G.S. 160D-903.

Building: any structure ~~built~~ used or intended for supporting or sheltering ~~or enclosure for~~ any occupancy or ~~storage~~ use.

Comprehensive ~~Long Range~~ Plan: ~~policies and documents adopted and revised from time to time by the Village of Pinehurst to guide future development. The comprehensive plan, land-use plan, small area plans, neighborhood plans, transportation plan, capital improvement plan, and any other plans regarding land use and development that have been officially adopted by the governing board.~~

Conditional Zoning District: ~~an area on which special conditions are placed upon the request of the property owner as part of a rezoning of the property.~~ A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

Determination: A written, final, and binding order, requirement, or determination regarding an administrative decision.

Developer: A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.

Development: ~~any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.~~

Unless the context clearly indicates otherwise, the term means any of the following:

- a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- b. The excavation, grading, filling, clearing, or alteration of land.
- c. The subdivision of land as defined in N.C.G.S. 160D-802.
- d. The initiation or substantial change in the use of land or the intensity of use of land.

Development Approval: an administrative or quasi-judicial approval that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, certificates of appropriateness, plat approvals, building permits and development agreements.

~~Dwelling or Dwelling Unit: a building or structure or part of a building or structure single unit providing complete, independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation and meeting the habitability requirements of the Village of Pinehurst Minimum Housing Code and the State of North Carolina Building Code.~~

Evidentiary Hearing: a hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision.

Legislative Decision: the adoption, amendment, or repeal of a regulation in this Ordinance. This term also includes the decision to approve, amend, or rescind a development agreement.

Legislative Hearing: a hearing to solicit public comment on a proposed legislative decision.

Quasi-judicial decision: a decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.

~~Site Plan: a plan depicting the proposed development of a property, in terms of the location, scale, and configuration of buildings and other features. A scaled drawing and supporting text showing the relationship between the lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legal required development regulations that are applicable to the project and the site plan review. A site plan review based solely upon application of objective standards is an administrative decision, and a site plan approval based in whole or in part upon the application of standards involving judgment and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision.~~

Site-Specific Vesting Plan: a plan submitted in which the applicant requests vesting describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. The plans may be of the following types: a planned unit development plan, a subdivision plat, a preliminary or general development plan, a special use permit, a conditional district zoning plan, or any other land-use approval designation.

Sleeping Unit: A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

Small/Micro Wireless Facility: these facilities shall be defined by NCGS § ~~160A-400.51~~ 160D-931.

Vested Right: the right to undertake and complete the development and use of property under the terms and conditions of an approved site-specific vesting plan ~~development plan as defined in NCGS § 160A-385.1.~~

Appendix E of the Pinehurst Development Ordinance
Subdivision Plan Information
Subdivision Plans

Certificate of Exemption

I hereby certify that this plat is exempt from the development ordinance under the definitions of subdivision contained in N.C.G.S. ~~160A-376~~ 160D-802 and Section 10 of the Village of Pinehurst Development Ordinance for one of the following reasons:

SECTION 5. 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 Attorn