

ORDINANCE NO. 2015-_____

AN ORDINANCE OF THE VILLAGE OF PINECREST, FLORIDA, AMENDING CHAPTER 30 "LAND DEVELOPMENT REGULATIONS" OF THE VILLAGE CODE OF ORDINANCES BY AMENDING ARTICLE 6 "ENVIRONMENTAL REGULATIONS" TO INCLUDE "LANDSCAPER REGISTRATION" AND "TREE CUTTING PERMIT REQUIREMENTS,"; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village of Pinecrest (the "Village") has adopted certain tree cutting standards and regulations within the Village; and

WHEREAS, to ensure compliance with those standards, the Village desires to require annual registration of those landscapers intending to trim or cut any trees or plants within the Village; and

WHEREAS, the Village also desires to require landscapers wishing to trim or cut any trees within the commercially zoned district with the Village to obtain a tree cutting permit; and

WHEREAS, the Village Council, sitting in its capacity as the Local Planning Agency, has review reviewed this Ordinance and recommends approval; and

WHEREAS, the Village Council finds that this Ordinance is necessary for the preservation of the public health, safety and welfare of the Village's residents.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF PINECREST, FLORIDA, AS FOLLOWS¹:

¹ Additions to this Ordinance are reflected in underline. Deletions to this Ordinance are reflected in ~~striketrough~~.

Section 1. Recitals Adopted. That the above stated recitals are hereby adopted and confirmed.

Section 2. Village Code Amended. The Village Council of the Village of Pinecrest hereby amends Chapter 30 of the Code of Ordinances as follows:

CHAPTER 30 LAND DEVELOPMENT REGULATIONS

Div. 6.2. Tree preservation and protection.

(d) Landscaper Registration

For purposes of this section only, the following definitions shall apply:

1. Definitions.

- a. Landscaper shall mean any person, company, corporation or service which does regularly, for compensation or fee, transplant, remove, trim, repair, inject, or perform surgery on a tree or plant.
- b. Trim shall mean to cut away, remove, cut off or cut back any part of a tree or plant.

2. Registration requirements.

- a. Any Landscaper or tree service performing work within the Village shall be required to register with the Village manager or the Village manager's designee on registration forms provided by the Village. Each registration shall include the following supplemental documents:
 - i. A copy of the applicant's valid driver's license or other form of photo identification.
 - ii. A copy of the applicant's current Local Business Tax Receipt.
 - iii. Signed acknowledgment that the applicant has been provided a copy of the Village's tree pruning and removal regulations and that the applicant has read and agreed to the requirements.

- iv. A certificate of insurance, reflecting a minimum of three hundred thousand dollars (\$300,000.00) of commercial general liability insurance to include bodily injury and property damage. The applicant shall certify compliance with Chapter 440, Florida Statutes, Workers' Compensation Insurance, as amended. The Workers' Compensation Insurance shall be for landscapers and tree trimmers. The policy(ies) of insurance shall be issued in the name of the applicant or the business organization. The Village of Pinecrest shall be named as additional insured. A copy of the required policy(ies) or a copy of a certificate of insurance shall be available for inspection at each site where landscaping or tree trimming activities are in progress.
- b. A Landscaper's or tree service's registration shall be valid for a period of one (1) year from the date of issuance. Registrations are not transferable or assignable to any other person or entity.
- c. Registered Landscapers and tree services shall maintain a copy of such registration on site and available for inspection at all times when performing work within the Village.
- d. The Village may revoke or deny renewal of a Landscaper or tree service registration if such Landscaper fails to conform to the tree cutting standards prescribed in section (b) above or if found to have committed tree abuse, hatracking, or to have effectively destroyed a tree. In addition to revocation or non-renewal of registration, a Landscaper who violates the provisions of this chapter, shall be subject to the penalties set forth in section (e)3 below.
- e. Landscapers or tree services who have been found to have committed tree abuse shall be required to take remedial measures to correct said abuse, as determined by the Village's arborist, including, but not limited to, payment to the tree trust fund for the replacement value of said tree, as set forth in this chapter.
- f. Landscapers or tree services performing work within the Village shall have the name as shown on their Landscaper or tree service registration clearly marked on each of their vehicles located on site.

(e) Tree Cutting Permit Required

1. Any registered Landscaper person or company who wishes to trim a tree located within the commercially zoned district within the Village shall be required to

obtain a tree cutting permit prior to performing any tree cutting services within the Village.

2. If after review of the permit application, the Village manager, or Village manager's designee, determines that the following criteria are met, then a permit shall be issued:

- a. Whether cutting the tree is necessary for health of the tree;
- b. Whether cutting the tree is necessary for safety of public;
- c. Whether cutting the tree will have a detrimental impact on the tree canopy over U.S. 1.

3. Penalties:

- a. Any person or company found to be in violation of this Section shall be assessed a fine as specified pursuant to the Village's Schedule of Civil Penalties as provided in Chapter 2, Administration, of the Village's Code of Ordinances, Article V, Code Enforcement, Division 2, Civil Citation Procedures, Section 2-174, Schedule of Civil Penalties.
- b. Any person or company who is found to be in violation of this Section for a second time within two years shall be assessed a fine as specified pursuant to the Village's Schedule of Civil Penalties as provided in Chapter 2, Administration, of the Village's Code of Ordinances, Article V, Code Enforcement, Division 2, Civil Citation Procedures, Section 2-174, Schedule of Civil Penalties, and shall be prohibited from performing services within the Village for one year from the date of the second violation.
- c. In addition to the assessment of an appropriate fine, if the tree is found to be effectively destroyed and, at the discretion of the Village, in need of replacement, then the violator will be responsible for replacing the tree as set forth in this chapter.

Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they

shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Conflict. All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

Section 5. Codification. It is the intention of the Village Council, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Code of the Village of Pinecrest; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this 7th day of July, 2015.

PASSED AND ADOPTED on second reading this __th day _____, 2015.

Cindy Lerner, Mayor

Attest:

Guido H. Inguanzo, Jr., CMC
Village Clerk

Approved as to Form and Legal Sufficiency:

Mitchell Bierman
Village Attorney

Motion on Second Reading by:
Second on Second Reading by:

Vote:



Stephen R. Olmsted, AICP
Planning Director
planning@pinecrest-fl.gov

MEMORANDUM

Department of Building and Planning

DATE: August 31, 2015

TO: Yocelyn Galiano Gomez, ICMA-CM, LEED-GA
Village Manager

FROM: Stephen R. Olmsted, AICP, LEED-GA
Planning Director

RE: Village of Pinecrest Code of Ordinances
Chapter 30, Land Development Regulations
Registration of Landscaping Professionals

An ordinance approving the amendments to the Village's Land Development Regulations was approved at first reading by the Local Planning Agency (LPA) and Village Council at advertised public hearings on July 7, 2015. The proposed ordinance would require landscape professionals and tree services doing business in Pinecrest to register with the Village and further require landscapers and property owners to obtain a tree pruning permit prior to the trimming of any trees within the commercial zoning districts adjacent to Pinecrest Parkway. The proposed ordinance further requires landscapers to maintain a copy of their registration on site and available for inspection at all times when performing work in the Village.

Pursuant to direction of the Village Council at first reading of the proposed ordinance on July 7, 2015, staff has included minor amendments to include licensing requirements and to reference tree services. Proposed amendments are highlighted in yellow.

The proposed ordinance is drafted to become effective upon adoption, although the Building and Planning Department recommends that implementation and enforcement of the licensing requirements not begin until November 1, 2015.

A resolution to amend the Village's Schedule of Civil Penalties to include penalties for trimming trees within the Village's commercial zoning districts without a required permit and to include penalties for commercial landscapers doing landscaping in the Village of Pinecrest without the required registration will be submitted to the Village Council for consideration on October 13, 2015.

