

1 **ORDINANCE NO. 2026 -**

2 **AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF**
3 **PINECREST, FLORIDA AMENDING THE PINECREST CODE OF**
4 **ORDINANCES, CHAPTER 26, STREETS, SIDEWALKS, AND OTHER**
5 **PUBLIC PLACES, INCLUDING ARTICLE IV, VACATION OF PUBLIC**
6 **EASEMENTS OR RIGHTS-OF-WAY, AND ARTICLE V, ARTICLES IN THE**
7 **PUBLIC RIGHT-OF-WAY AND OTHER PUBLIC PLACES; PROVIDING FOR**
8 **AMENDMENT AND ADOPTION; PROVIDING FOR INCLUSION IN THE**
9 **VILLAGE OF PINECREST CODE OF ORDINANCES; PROVIDING FOR**
10 **CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN**
11 **EFFECTIVE DATE.**

12 WHEREAS, as provided in section 2(b), Article VIII of the Constitution of the State
13 of Florida, and Section 166.021(1), Florida Statutes, the Village of Pinecrest, Florida (the
14 "Village"), a municipal corporation, enjoys all governmental, corporate, and proprietary
15 powers necessary to conduct municipal government, perform municipal functions, and
16 render municipal services, and may exercise any power for municipal purposes, except
17 as expressly prohibited by law; and

18 WHEREAS, Article VIII, Section 2 of the Florida Constitution, and Chapter 166,
19 Florida Statutes, provide municipalities the authority to exercise any power for municipal
20 purposes, except where prohibited by law, and to adopt ordinances in furtherance of
21 such authority; and

22 WHEREAS, the Village Council of the Village of Pinecrest ("Village Council") finds
23 it periodically necessary to amend its Code of Ordinances and Land Development
24 Regulations ("Code") in order to update regulations and procedures to implement
25 municipal goals and objectives; and

26 WHEREAS, the Village Council of the Village of Pinecrest, Florida amended the
27 Village's Comprehensive Development Master Plan on October 18, 2016, and will
28 consider comprehensive updates to the Comprehensive Development Master Plan on April
29 14, 2026; and

30 WHEREAS, the Village Council of the Village of Pinecrest, Florida adopted the
31 *Pinecrest Parkway (US 1) Vision Plan* on October 9, 2012, and updated the Plan in
32 2022, for the future development, redevelopment, beautification, and enhancement of
33 Pinecrest Parkway; and

~~Strikethrough words~~ are deletions to the existing words in the Code of Ordinances and Land Development Regulations.
Underlined words are additions to the existing words in the Code of Ordinances and Land Development Regulations.

34 WHEREAS, the Village Council has identified amendments to the Village’s Code
35 of Ordinances and Land Development Regulations necessary for implementation of the
36 goals, objectives, and policies of the Village’s Comprehensive Development Master Plan,
37 and Pinecrest Parkway (US 1) Vision Plan; and

38 WHEREAS, the Village Charter empowers the Village Council to adopt, amend or
39 repeal its ordinances and resolutions as may be required for the benefit of the residents of
40 the Village of Pinecrest; and

41 WHEREAS, the Local Planning Agency, held a duly advertised public hearing on
42 April 14, 2026; and

43 WHEREAS, after reviewing the Local Planning Agency’s recommendations, the
44 recommendations of Village staff, and comments from the public, the Village Council finds
45 that the proposed amendments to its Code of Ordinances and Land Development
46 Regulations are in compliance and consistent with Florida law, its adopted
47 Comprehensive Development Master Plan, and the Pinecrest Parkway (US 1) Vision Plan;
48 and

49 WHEREAS, the Village Council further finds it to be in the best interest of the public
50 health, safety and welfare of the citizens to adopt this ordinance amending the Village’s
51 Code of Ordinances and Land Development Regulations;

52 NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE
53 VILLAGE OF PINECREST, FLORIDA:

54

55 **SECTION 1. Recitals.**

56 The foregoing “WHEREAS” clauses are hereby ratified and confirmed as being
57 true, correct and reflective of the legislative intent underlying this Ordinance and are
58 hereby made a specific part of this Ordinance.

59 **SECTION 2. Amendment and Adoption.**

Note:

~~Strikethrough words~~ are deletions to the existing words in the Code of Ordinances and Land Development Regulations.
Underlined words are additions to the existing words in the Code of Ordinances and Land Development Regulations.

60 The amendments to the Village of Pinecrest Code of Ordinances and Land
61 Development Regulations, attached hereto and incorporated herein as Exhibit "A", are
62 hereby adopted.

63 **SECTION 3. Inclusion in the Code of Ordinances.**

64 It is the intention of the Village Council and it is hereby ordained that the
65 amendments to the Code of Ordinances and Land Development Regulations made by this
66 Ordinance as set forth in Exhibit "A" shall become part of the Code of Ordinances, and
67 that the sections of this Ordinance may be renumbered and relettered as necessary, and
68 that the word "Ordinance" may be changed to "Section, "Article" or other appropriate
69 word.

70 **SECTION 4. Conflicts.**

71 All ordinances or parts of ordinances and all resolutions or parts of resolutions in
72 conflict with the provisions of this Ordinance are hereby repealed.

73 **SECTION 5. Severability.**

74 If any section, clause, sentence or phrase of this Ordinance is for any reason held
75 invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect
76 the validity of the remaining portions of this Ordinance.

Note:
~~Strikethrough words~~ are deletions to the existing words in the Code of Ordinances and Land Development Regulations.
Underlined words are additions to the existing words in the Code of Ordinances and Land Development Regulations.

Exhibit "A"

CHAPTER 26 – STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES

ARTICLE IV – VACATION OF PUBLIC EASEMENTS OR RIGHTS-OF-WAY

Sec. 26-81. Generally.

The village council shall cite specific findings in support of a final decision to vacate a public easement or right-of-way, including an absence of public purpose for the subject easement or right-of-way. Similarly the village council shall identify specific findings in support of any decision to retain the public easement or right-of-way. Any decision to vacate a public easement or right-of-way shall be by ~~resolution~~ **ordinance** of the village council.

- (1) *Proposals to vacate.* A proposal to vacate a public easement or right-of-way, excepting street closures, may be initiated by a vote of the Village Council or upon the filing of an application, as specified herein, by one or more owners of property within the village.
 - (2) *Application and review.* The village manager or his **or her** designee shall review all applications for vacation of public easements and rights-of-way, excepting street closure. Any proposal for vacation of public easements or rights-of-way shall be submitted as an application to the building and planning department. The village manager shall prescribe the form and content of the application for vacation of public easements and rights-of-way, excepting street closure, and shall coordinate a thorough review of such applications with the police department and other village staff as may be appropriate and such other relevant public or private entities providing utilities or other public services within the village as the village may deem appropriate.
- (e **3.**) *Findings of no public purpose.* In the considering **of** applications for vacating public easements or rights-of-way, the village manager and all relevant village staff shall review whether any public purpose is served by the subject easement or right-of-way. This evaluation shall consider all relevant public purpose options associated with drainage systems; water service; sanitary sewer services; roadways, pedestrian and/or bicycle ways, and alleys; public safety, including emergency service access and egress; communication systems; power and/or fuel networks; or other public or semi-public services essential to the public welfare and safety. Consideration shall include present and future needs for the easement or right-of-way for purposes of accommodating or improving delivery of public services and alternatives available and/or ensuring convenient access for service and/or maintenance or other public benefit now or in the future. In order to affirmatively recommend vacation of easements and/or rights-of-way, the village manager shall render a finding that no current or future public ~~purpose~~ **purpose** can be identified for the subject easement or right-of-way.
- (e **4.**) *Public hearing, notice and final determination by village council.* The village council shall render the final determination regarding a vacation of a public easement or right-of-way after convening a public hearing with notice given as required by Florida Statutes and written notice to the applicant and/or property owner and providers of public services setting forth the time, place and purpose of the hearing.

ARTICLE V. ARTICLES IN THE PUBLIC RIGHT-OF-WAY AND OTHER PLACES

Sec. 26-82. Definitions.

For the purposes of this section:

- ~~(1)~~ **Storage bin shall mean any container used for the collection, storage or distribution of personal property.**
- ~~(2)~~ **(1)** *Vehicle* shall mean functioning automobiles, trucks, buses or trailers.
- ~~(3)~~ **(2)** *Public right-of-way* shall mean rights-of-way in the Village of Pinecrest.
- ~~(4)~~ **(3)** *Article* shall mean any personal property, **removable or permanent in nature including but not limited to storage bins, utility facilities and trees, except newsracks and vehicles temporarily parked in the public right of way.**
- ~~(5)~~ **(4)** *Utility facility* shall mean any pole line, pole, railway, ditch, sewer, waterline, gas main, pipeline, fence, gasoline tank or pump within the village, which is not a "communications facility" as defined in section 26-53.
- ~~(6)~~ **(5)** *Director*, as used in this article, shall mean the Village's Public Works Director, or designee.
- ~~(7)~~ **(6)** *Redundant*, as used in this article, shall mean a utility facility within 50 feet of a newer utility facility. With respect to utility poles installed to support utility lines, the transfer of any pole line or any equipment otherwise fixed to the utility pole to another utility pole shall create a presumption that the utility pole from which equipment is transferred is redundant.
- (7) Temporary parking shall mean parking limited to visitors, family gatherings, special events or gatherings that are temporary in nature.**
- (8) Permanent parking shall mean using an unapproved designated parking space, regardless of whether the same vehicle occupies the space during that time.**
- (9) Prohibited articles in right-of-way shall mean but are not limited to mulch, artificial turf, rocks, boulders, posts, signs, sprinklers, high voltage/solar lighting, reflectors, concrete pyramids, logs, bollards and other similar articles/material or any object that creates a visual obstruction.**
- (10) Low voltage lighting shall mean lighting that conforms to 2020 NEC 411.3 voltage limitations. The operating voltage of low voltage lighting systems and their associated components shall not exceed 30 volts ac or 60 volts dc. If wet contact is likely to occur, the operating voltage of low voltage lighting systems and their associated components shall not exceed 15 volts ac or 30 volts dc.**

Sec. 26-83. Permit required/articles in the right-of-way.

Unless otherwise authorized by law, no person, corporation, partnership, association or other legal entity shall **grade, sod, or place** any article or utility facility in or on the public right-of-way without first having obtained a permit from the public works department; provided, however, the

United States, federal agencies and their contractors, the State of Florida and State agencies, in the execution of federal or state projects are exempted from the provisions of this section.

Low voltage lighting requires a building permit before installation. The location of permitted lighting shall be setback at a minimum of seven (7) feet from the edge of pavement unless otherwise directed by the administrative official. Lighting shall face inwards and shall be arranged so as not to cause glare or hazardous interference with pedestrians or motorists.

Sec. 26-84. Issuance of permit.

The department of public works shall have the authority to issue permits for the placement of articles and utility facilities in the public right-of-way in accordance with standards established by the public works department. In establishing standards for the placement of articles and utility facilities in the public right-of-way, the department shall take into consideration:

- (1) Pedestrian and driving safety and convenience;
- (2) Public and property safety during hurricane conditions;
- (3) Access for the use and maintenance of poles, traffic signs or signals, hydrants, and access to locations used for public transportation purposes;
- (4) Uniformity in the treatment of similar articles and utility facilities.

In addition to foregoing considerations, the village may impose conditions upon the issuance of a permit, including, but not limited to, the removal of utility facilities, and specifically utility poles, deemed by the village to be abandoned or redundant as well as requiring the transfer of existing utility facilities, including but not limited to pole lines, cables, or fibers, to the new pole, for purposes of co-location with newer utility facilities. Failure to comply with such conditions shall be deemed a violation, enforceable under chapter 2, article V of the code, as amended, which may result in the imposition of per diem fines, per utility facility, until the violation is corrected.

It shall be the sole responsibility of the permittee to relocate any equipment from a redundant facility to a new facility and to remove and dispose of any redundant utility facility.

If the director finds that a permittee has failed to comply with a permit condition requiring the removal of a utility facility deemed by the village to be abandoned or redundant, or requiring the transfer of an existing utility facility to a newer utility facility to achieve joint trenching or co-location of utility facilities, the director may issue an order requiring compliance within a reasonable period of time. In addition, the Director may condition the issuance of a new permit upon compliance with a condition imposed for a prior permit or payment of previously imposed fines.

Should code enforcement proceedings ensue, the permittee shall have the initial burden of demonstrating, by clear and convincing evidence, any engineering or legal preclusions preventing compliance with the imposed conditions.

Sec. 26-85. Prohibited acts.

(1) Temporary parking:

- (a) Any vehicle that is registered or used by the owner, family, and/or other resident of the abutting property must be parked on an approved hard surface on private property. In no case shall a permanent parking space be created within the right-of-way.**
- (b) In no case, regardless of whom the vehicle is registered to, shall a permanent parking space be established or created in the right-of-way.**

(2) Bulky waste:

- (a) Miami-Dade County bulky waste shall be placed on the right-of-way and is prohibited within the safe sight triangle or in any location that will cause a visual obstruction.**

(3) Prohibited parking and storage of construction materials:

- (a) Property owners, contractors, and delivery vehicles shall not park or store any vehicle or commercial vehicle in any abutting right of way while such property is under construction.**
- (b) The storage of construction material or equipment is prohibited in any right of way.**
- (c) If any property owner, contractor or delivery services violates the provisions of this code section, the property owner will be responsible to restore the area to approved right of way conditions.**
- (d) Prohibited articles shall be removed from public right of way to avoid hazardous conditions.**

Sec. 26-85 86. Permit application.

Applicants for permits to place articles or utility facilities in the public right-of-way shall file with the public works director a written application in a form prepared by the public works department. If the application meets the standards set forth in the public works department manual, a permit shall be issued upon payment of the fee set forth in an administrative order. If a permit is denied, the applicant shall be notified within five working days of the department's receipt of the completed application. The applicant shall be advised of the specific cause of the denial.

Sec. 26-86 87. Application fee.

The public works department shall charge and collect permit fees at rates established by the village council. All such fees will be used solely to defray administrative expenses incurred pursuant to this section. Any applicant who, after paying a permit fee, chooses not to place the article or utility facility for which the permit was obtained in the public right-of-way may be entitled to a partial

refund to the extent any part of the fee was not needed to defray administrative expenses and the permit shall be cancelled. If a permit is denied, the applicant shall be notified within five working days of the department's receipt of the completed application. The applicant shall be advised of the specific cause of the denial.

Sec. 26-~~87~~ 88. Existing articles.

Owners of trees and precast concrete traffic buttons existing in the public right-of-way at the time this article V is adopted shall not be required to obtain permits under this section but shall be required to comply with all other standards set forth in the public works department manual. Owners of any other articles in the public right-of-way at the time this section is adopted shall have 90 days from the date this section becomes applicable to such article within which to obtain the permit or permits required by this section, or have the article removed.

Sec. 26-~~88~~ 89. Order of removal.

The director shall have the authority to order the removal of any article and utility facility from the public right-of-way which does not comply with this article or is otherwise determined by the director to be redundant, abandoned or a hazard to the public.

- (a) Unless otherwise permitted by the village in writing, it shall be unlawful to maintain an abandoned article or an abandoned or redundant utility facility within the village.
- (b) If an article or utility facility is deemed by the director to be abandoned or redundant, the owner of the article or utility facility shall, upon 30 days written notice by the director, initiate the work necessary to remove the article or utility facility at its own expense. Thereafter, all remedial work must be completed within a reasonable time unless otherwise provided by the director.
- (c) The village may proceed to cause the work necessary to remove the article or utility facility at issue if the owner of the article or utility facility fails to perform the work at their own expense within the time contemplated by this section. The expense incurred by the village shall be charged against the owner of the article or utility facility.

Sec. 26-~~89~~ 90. Enforcement.

In addition to all other legal remedies, the director shall have the authority to initiate enforcement proceedings, pursuant to chapter 2, article V of the code, as amended, against any person or legal entity who has not complied with the provisions of this chapter. Should such proceedings be initiated, a per diem fine of up to \$250.00 (or \$500.00 for repeat violations) may be levied against the violator until the violation is complied. The resulting per diem fines pursuant to this section shall be levied per article, pole or utility facility.