

## ORDINANCE 2023-

### **AN ORDINANCE OF THE VILLAGE OF PINECREST, FLORIDA, AMENDING THE VILLAGE CODE OF ORDINANCES, CHAPTER 15, NUISANCES, ARTICLE 1, IN GENERAL, BY CREATING SECTION 15-4, OBSTRUCTING PASSAGE ON STREETS, SIDEWALKS, AND BICYCLE PATHS PROHIBITED; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

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

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

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

WHEREAS, the Village Council further finds it to be in the best interest of the public health, safety and welfare of the citizens to adopt this Ordinance amending the Village's Code.

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

Section 1. Recitals. 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 15, "Nuisances", Article 1, "In General," of Chapter 15 of the Code of Ordinances as follows:<sup>1</sup>

Sec. 15-04. - Obstructing passage on streets, sidewalks and bicycle paths prohibited; seizure and disposal of unattended property, and failure to obey a police officer.

- (1) It shall be unlawful for any person to obstruct or hinder the free flow of pedestrian or vehicular traffic on any street, sidewalk, right of way or bicycle path in the Village.
- (2) Objects left unattended on Village streets, sidewalks, bicycle paths or other Village property that obstruct or hinder the free flow of traffic or otherwise hinder or interfere with the intended use of public property are subject to impoundment by the Village of Pinecrest police department.
- (3) Any personal property that was inventoried under this section and stored by the Village police department, which has not been reclaimed within sixty (60) days of the date of inventory, shall be deemed lost or abandoned, and disposed of in accordance with F.S. ch. 705.
- (4) A police officer may issue a citation for a violation of this article if prior to issuing the citation:
  - a. The police officer has tendered a written warning to the person stating that a failure to comply with the city's prohibition against obstructing passage on streets, sidewalks and bicycle paths may result in the issuance of a citation to the person; and
  - b. The police officer has provided a reasonable time (two hours) for the person to pick up his or her belongings, cease obstructing the street/sidewalk/bicycle path and comply with the ordinance, yet the person has not complied.
- (5) The written warning required by subsection 4 may be accompanied by written information regarding the availability of medical treatment (including mental health treatment) or social services (including temporary shelter or drug or alcohol rehabilitation).
- (6) Any person who refuses to remove an obstruction after being ordered by a police officer to do so, whether the obstruction is created by the person themselves or by personal property, may be found guilty of failure to obey a police officer, a second-degree misdemeanor with criminal penalties that may include up to 60 days in jail and/or \$500 fine.

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<sup>1</sup> Coding: ~~Strikethrough~~ words are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with **yellow highlight** and ~~double strikethrough~~ or double underline.

Section 3. 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 4. Conflicts. 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. 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 6. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this 13<sup>th</sup> day of June, 2023.

PASSED AND ADOPTED on second reading this 18th day of July, 2023.

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Joseph M. Corradino, Mayor

ATTEST:

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Priscilla Torres, MMC  
Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

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Mitchell Bierman  
Village Attorney

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

Vote: