

ORDINANCE NO. 2022-_____

AN ORDINANCE OF THE VILLAGE OF PINECREST, FLORIDA, CREATING SECTION 26-69, "RULES AND REGULATIONS RELATING TO COMMUNICATION SERVICES," OF ARTICLE III, "RIGHTS-OF-WAY COMMUNICATION FACILITIES," OF CHAPTER 26 OF THE VILLAGE CODE OF ORDINANCES TO ESTABLISH TREE AND VEGETATIVE MAINTENANCE REQUIREMENTS; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 337.401(1)(a), Florida Statutes provides that municipalities "...are authorized to prescribe and enforce reasonable rules or regulations with reference to the placing and maintaining across, on, or within the right-of-way limits of any road...any electric transmission, voice, telegraph, data, or other communication service lines..."; and

WHEREAS, various electric transmission lines are being undergrounded in the Village to weatherize the Village's electric infrastructure; and

WHEREAS, communication service providers continue to utilize existing utility poles that are no longer being used to hold electric transmission lines; and

WHEREAS, in order to ensure that the communication service lines are adequately maintained in a safe condition unobstructed by trees and/or vegetation, the Village Council desires to promulgate a rule or regulation to ensure ordinary and proper tree and vegetation trimming; and

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

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

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 creates Section 26-69, "Rules and Regulations Relating to Communication Services," of Chapter 26 of the Code of Ordinances as follows:¹

Chapter 26. STREETS, SIDEWALKS AND OTHER PUBLIC PLACES.

Article III. – RIGHTS-OF-WAY COMMUNICATION FACILITIES

Section 26-69. Rules and Regulations Relating to Communication Services. To the extent permitted by federal and state law and pursuant to Section 337.401(a), Florida Statutes, communication service providers placing and/or maintaining communication facilities on Village right-of-ways shall comply with the following reasonable rules or regulations:

(a) Trees and Vegetation. Where an overhead utility distribution facility is only being used for communication facilities, such communication service provider(s) shall arrange and perform ordinary tree and vegetation maintenance and trimming to ensure communication facilities are maintained in a safe condition and unobstructed by trees or vegetation. Such tree and vegetation trimming shall be conducted in accordance with the Village's landscape regulations and shall be at the communication service provider's own expense. In addition to any enforcement remedies under Section 26-65 herein, the communication services provider, by act of registering, agrees to indemnify, hold harmless, and defend the Village from any liability resulting from damage or injury to persons or property caused by the communication services provider's failure to engage in required ordinary tree or vegetation maintenance and trimming.

¹ Coding: ~~Strike through~~ 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 strike through~~ or double underline.

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 ___th day of _____, 2022.

PASSED AND ADOPTED on second reading this ___th day _____, 2022.

Joseph M. Corradino, Mayor

Attest:

Priscilla Torres, CMC
Village Clerk

Approved as to Form and Legal Sufficiency:

Mitchell Bierman
Village Attorney