

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 DIVISION 15-5, CAMPING 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, Article 1, "In General," of Chapter 15 of the Code of Ordinances as follows:¹

Sec. 15-5. Camping prohibited

(a) It shall be unlawful in the Village of Pinecrest to engage in camping on public or private property, including rights-of-way, except as may be specifically authorized by the appropriate governmental authority and/or property owner.

(b) Definitions:

(1) *Temporary Shelter* means the unauthorized use of fabric, metal, cardboard, or other materials as a tent or other temporary structure for living accommodation purposes or human habitation.

(2) *Camping* means to reside or dwell temporarily on Village property by the erection, use or occupation of any tent, hut, lean-to, shack or Temporary Shelter for sleeping purposes, or the laying down of bedding, such as a mat, blanket, sleeping bag or similar material for the purpose of sleeping, and conducting activities of daily living such as eating, sleeping or storage of personal possessions in such place.

(3) *Officer* means a sworn law enforcement officer of the Village of Pinecrest Police Department.

(4) *Proper Identification* means a driver's license, a government or employment identification card with a photograph, or other form of photo-bearing identification which would satisfy a reasonable law enforcement officer as to the identity of the person.

(c) Being in a Temporary Shelter or being asleep atop or covered by materials in a public place may be evidence of Camping, but is not alone sufficient to constitute a violation of this section. One (1) or more of the following shall also exist to determine whether the camping was for living accommodation purposes:

(1) Numerous items of personal belongings are present;

(2) The person is engaged in cooking activities;

(3) The person has built or is maintaining a fire;

(4) The person has engaged in digging or earth breaking activities;

(5) The person is asleep and he or she has no other permanent place to live.

(d) Except as provided for in subsection (g), whenever an Officer has probable cause to believe that a violation of this section has occurred, he or she shall advise the person of the violation and afford the person an opportunity to be transported to a public shelter.

¹ 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.

Under such circumstances, the Officer shall advise the person that all of his or her personal property which is not taken to the public shelter, except that which is perishable or in an unsanitary condition, shall be inventoried and stored by the Village police department until reclaimed, or for a maximum of sixty (60) days.

- (e) If the person elects to be transported to a public shelter, the officer shall make available such transportation as may be available for such purpose and the person making such election shall not be charged with a violation of this section. If the person refuses to be transported to a public shelter, then such person may be charged with a violation of this section.
- (f) If the person refuses to be taken to a shelter, the violation shall constitute a public nuisance, and may subject the violator to arrest and shall, upon conviction, be punishable either by a fine up to \$500.00, imprisonment in the county jail up to 60 days, or both.
- (g) Subsection (d) shall not apply to any person who cannot be properly identified, or is intoxicated, or who within the past year was previously charged with a violation of this section three (3) times or who elected to be transported to a public shelter three (3) times.
- (g) Any personal property that was inventoried and stored by the Village police department for a person transported to a shelter under the provisions of this section which has not been reclaimed within sixty (60) days of the date of inventory, shall be deemed abandoned and disposed of according to F.S. ch. 705.

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 13th day of June, 2023.

PASSED AND ADOPTED on second reading this ___ day of _____, 2023.

Joseph M. Corradino, Mayor

ATTEST:

Priscilla Torres, 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: