



## MEMORANDUM

To: Village of Pinecrest Village Council

From: Mitchell Bierman, Village Attorney

Date: April 12, 2022

RE: Ordinance Amending Article II, “Noises; Unnecessary and Excessive Prohibited,” of Chapter 15 of the Code Relating to Permitted Hours of Operation for Power Tools and Landscaping Equipment Used by Non-Commercial and Commercial Entities.

This proposed Ordinance addresses the health, safety, and welfare concerns of Village residents by amending Article II, Chapter 15 of the Village Code to distinguish permissible hours of operation of power tools and landscaping equipment when used by commercial entities from permissible hours of operation for non-commercial entities. Specifically, the Ordinance allows *commercial entities* to use power tools and landscaping equipment on the days and times that follow:

Commercial Landscaping Entities Permissible Hours of Operation			
Sunday	Monday — Friday	Saturday	Legal Holidays
Prohibited	8:00 a.m. to 5:00 p.m.	9:00 a.m. to 2:00 p.m.	Prohibited

Permissible hours of operation for *non-commercial entities*, such as Village residents, remain unchanged:

- Monday through Saturday – 7:00 a.m. through 8:00 p.m.;
- Sundays and Legal Holidays – 12:00 p.m. through 4:00 p.m.

The Ordinance before the Village Council on Second Reading differs from the Ordinance presented at First Reading as follows:

- (1) The Ordinance no longer excludes commercial entities from the 65 dBA noise certification limit for leaf blower equipment.
- (2) The Ordinance now expressly provides that exemptions from commercial landscaping noise restrictions may be extended to residents of the Village by the Village Manager during a state of emergency.
- (3) The Ordinance supplements day and hour restrictions for commercial entities by expressly laying out permissible hours of use for power tools and landscaping equipment in a footnote.
- (4) The Ordinance addresses a scrivener’s error that incorrectly and inadvertently appeared to modify permissible hours of operation for non-commercial entities.

**ORDINANCE NO. 2022-\_\_\_\_\_**

**AN ORDINANCE OF THE VILLAGE OF PINECREST, FLORIDA, AMENDING ARTICLE II, "NOISES; UNNECESSARY AND EXCESSIVE PROHIBITED," OF CHAPTER 15 OF THE CODE OF ORDINANCES RELATING TO PERMITTED HOURS OF OPERATION FOR POWER TOOLS AND LANDSCAPING EQUIPMENT USED BY NON-COMMERCIAL ENTITIES AND COMMERCIAL ENTITIES; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, Chapter 15, Article II of the Village of Pinecrest ("Village") Code of Ordinances ("Code") protects the health, safety, and welfare of Village residents and visitors by prohibiting unnecessary and excessively loud noises within the Village; and

WHEREAS, commercial entities engaged in landscaping services that utilize power tools and landscaping equipment expose Village residents and visitors to excessively loud noises; and

WHEREAS, in order to reduce the exposure to unnecessary and excessively loud noises, the Village Council finds that it is necessary to restrict the use of power tools and landscaping equipment by commercial entities to specific hours and days; and

WHEREAS, the Village Council desires to amend Article II of Chapter 15 of the Village Code in order to restrict the permitted hours of operation for power tools and landscaping equipment used by commercial entities; 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 amends Article II, "Noises; Unnecessary and Excessive Prohibited," of Chapter 15 of the Code of Ordinances as follows:<sup>1</sup>

## **Chapter 15. Nuisances**

\* \* \*

### **ARTICLE II. – Noises; Unnecessary and Excessive Prohibited**

Section 15-21.1. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

\* \* \*

*Leaf blower* means any device used, designed, or operated to produce a current of air by electricity or other means to push, propel, or blow lawn, tree, or plant cuttings, refuse, or debris. Such devices shall not produce a current of air by fuel.

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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.

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Section 15-21.3. - Specific acts considered to be unreasonably loud and raucous noise. Any of the following acts are presumed to constitute unreasonably loud and raucous noise in violation of this Article. This enumeration does not constitute an exclusive list:

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(5) *Power tools and landscaping equipment.* The operation of noise-producing lawn mowers, lawn-edgers, weed trimmers, leaf blowers, chippers, chain saws, power tools or other noise-producing tools by non-commercial entities outside of permitted hours, ~~which are limited to the Permitted hours~~ are between 7:00 a.m. ~~8:00 a.m.~~ and 8:00 p.m.; on Monday through Saturday, and between 12:00 p.m. ~~noon~~ and 4:00 p.m. on Sundays and ~~state~~ legal holidays.

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(11) *Leaf blowers.* The use or operation of any leaf blower ~~by non-commercial entities~~ unless said machine has a stamp from the manufacturer or testing laboratory certifying a rating of no more than 65 dBA.

(12) *Use of power tools and landscaping equipment by commercial entities.*

(a) The operation of noise-producing lawn-mowers, lawn-edgers, weed trimmers, leaf blowers, chippers, power tools, or other noise producing tools by a commercial entity:<sup>1</sup>

- (i) On Monday through Thursday, between the hours of 5:00 p.m. 8:00 a.m. the following day;
- (ii) On Fridays between the hours of 5:00 p.m. and 9:00 a.m. the following day;
- (iii) On Saturdays between the hours of 2:00 p.m. through 8:00 a.m. on Monday; and
- (iv) On legal holidays.

(b) The use of power tools and landscaping equipment by Village staff or commercial entities engaged by the Village are exempt from the hours of operation restrictions under this subsection during emergencies and may be extended to Village residents by the Village Manager during a state of emergency.

<sup>1</sup> Permitted hours of operation for power tools and landscaping equipment used by commercial entities are as follows:

<u>Sunday</u>	<u>Monday – Friday</u>	<u>Saturday</u>	<u>Legal Holidays</u>
<u>Prohibited</u>	<u>8:00 a.m. to 5:00 p.m.</u>	<u>9:00 a.m. to 2:00 p.m.</u>	<u>Prohibited</u>

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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. Following the adoption of this section, the Village Manager shall engage in public education efforts to inform the public of the provisions of this Ordinance and shall have the discretion to delay the start of enforcement of this Ordinance until October 1, 2022.

PASSED on first reading this \_\_th day of \_\_\_\_\_, 2022.

PASSED AND ADOPTED on second reading this \_\_th day \_\_\_\_\_, 2022.

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Joseph M. Corradino, Mayor

Attest:

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Priscilla Torres, CMC  
Village Clerk

Approved as to Form and Legal Sufficiency:

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Mitchell Bierman  
Village Attorney