



MEMORANDUM

To: Village of Pinecrest Village Council

From: Mitchell Bierman, Village Attorney

Date: January 11, 2022

RE: Ordinance Amending Article IX of Chapter 16 and Chapter 18 to Revise Special Event Permitting Procedures

The Village of Pinecrest (the "Village") currently utilizes special event permitting procedures outlined in the Village Code of Ordinances ("Code") under Article IX of Chapter 16 for general special events and Chapter 18 for special events held within Village parks.

In order to make the Village's existing special event permitting procedures as clear as possible, this Ordinance amends the Village Code to:

1. Streamline special event procedures so that all special events, regardless of where the event is held, follows the procedural framework set forth under Article IX of Chapter 16 of the Code;
2. Clarify that the term "Special Events" includes ceremonies, rallies, marches, displays, processions, motorcades, picketing, and demonstrations, in addition to events currently expressly outlined under Section (e.g. parades, exhibitions, races, walks, etc.);
3. Synchronize the special event permit application requirements under Section 16-82 of the Code to better align with the special event permit review criteria under Section 16-83 of the Code;
4. Add an appeal process in the event a special permit is denied or approved with conditions; and
5. Provide additional clarification and expound on special event permit procedures during a fast-breaking assembly occurring due to a fast-breaking news event coming into the public knowledge within forty-eight (48) hours.

Lastly, this Ordinance strengthens penalties for violations of Chapter 16 of the Code a second degree misdemeanor.

If you have any questions or comments on this Ordinance, please feel free to reach out to my office.



ORDINANCE NO. 2022-_____

AN ORDINANCE OF THE VILLAGE OF PINECREST, FLORIDA, AMENDING ARTICLE IX, "SPECIAL EVENTS," OF CHAPTER 16 AND CHAPTER 18, "PARKS AND RECREATION DEPARTMENT RULES AND REGULATIONS," RELATING TO SPECIAL EVENT PERMITTING PROCEDURES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village of Pinecrest (the "Village") currently utilizes special event permitting procedures outlined in the Village Code of Ordinances ("Code") under Article IX of Chapter 16 for general special events and Chapter 18 for special events held within Village parks; and

WHEREAS, the Village Council desires to amend the Code to clarify that all special events must follow the procedures found under Article IX of Chapter 16 of the Village Code (the "Procedures"); and

WHEREAS, the Village Council further desires to amend the Procedures by: (1) clarifying the types of events covered by the Procedures, (2) synchronizing special event permit application requirements with special event permit review criteria, (3) providing an appeal process for special event permit decisions, and (4) strengthening penalties for violations of the Procedures; and

WHEREAS, the Village Council desires to clarify and expound on special event procedures to allow for orderly and safe fast-breaking assembly events that occur due to fast-breaking news coming into the public knowledge within forty-eight (48) hours; and

WHEREAS, the Village Council finds that this Ordinance is necessary for the preservation of the public health, safety and welfare of the Village's residents.

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. Chapter 16 of Village Code Amended. The Village Council of the Village of Pinecrest hereby amends Article IX, "Special Events," of Chapter 16 of the Village Code of Ordinances as follows:

Chapter 16 – OFFENSES AND MISCELLANEOUS PROVISIONS

* * *

Article IX – Special Events

Section 16-80. – Permit required.

It shall be unlawful for any person to advertise or promote to the general public a special event which requires a permit without first obtaining a permit as provided herein. It shall be unlawful for any person to stage, conduct, engage in, participate in, aid, form, start, or hold a special event as hereinafter defined without first making application to the village, paying the prescribed fee, and obtaining a permit for such special event. Special events shall not be permitted to be located or operated in the village except as provided herein.

Section 16-81. – Definitions.

As used in this article:

Fast-Breaking Assembly shall mean a special event which is occasioned by fast-breaking news or affairs coming into public knowledge less than forty-eight (48) hours prior to such special event, which may be held at only those locations designated by the village for fast-breaking assemblies.

Special event shall mean

- (1) Any concert, festival, race, walk, carnival, show, exhibition, parade, ceremony, rally, march, display, procession, motorcade, picketing, demonstration, and any or other similar outdoor event whether operated totally outdoors, on stage, under tents, or with the use of any temporary building or structure, to which members of the public are invited as participants or spectators and which is likely to interfere with normal vehicular or pedestrian traffic and therefore likely to require the use of village services, village public property, or both; or
- (2) Any gathering of more than 20 people on a property used as a single family residence or vacation rental, where the property owner or a permanent resident of the property is not present during the event.

Section 16-82. - Application.

All persons interested in conducting special events in the village shall first submit an application on a form available from the village. An application for a special event shall be filed along with the filing fee no less than 30 days in advance of the beginning date of the event and shall contain the following:

- (1) A detailed description of the location of the event, the nature of the planned activities of the event, a good faith and reasonable estimate of the number of individuals that are planned to attend, the hours of operation, and length (in number of days) of the event.
- (2) A parking and/or traffic control plan.
- (3) If the special event, or any part thereof, is to be held only on private property, an affidavit from the owner(s) of the property on which the event is to be conducted stating that the owner(s) has legal title to the property, consents to the event, and the owner or one of the permanent residents of the property will be responsible for cleanup of the property following the conclusion of the event. If the special event is to be held on public property, in whole or in part, an acknowledgement by the applicant that the applicant is responsible for cleanup of public property unless cleanup is otherwise assumed by the village.
- (4) If the event will include amusement rides, a copy of any contract between the applicant and any person providing a ride, mechanical entertainment or amusement device, together with a valid county or state business license. No carnival operation

shall be permitted to begin erecting its activities until the issuance of a special events permit.

- (5) For any special event on public property or which includes amusement rides on private property, a statement from the applicant that it has the ability to provide commercial general liability insurance, whether through a single policy, or a combination of policies, in the amount of \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate for bodily injury and property damage, with a deductible or self-insurance retention no greater than \$15,000.00, issued by companies authorized to do business in the State of Florida and rated A- or better per Best's Key Rating Guide, latest edition. The village shall be named as an additional insured on all required insurance policies, and an endorsement reflecting this requirement shall be issued as part of any required policies. Proof of such insurance shall be provided prior to issuance of the requested permit.
- (6) An indemnity and hold harmless certificate in favor of the village in a form approved by the village attorney.
- (7) Description of and proposed location for temporary structures, tents, or similar facilities, and whether the applicant intends on utilizing village facilities.
- (8) A food and beverages plan, including alcoholic beverages, outlining whether food and beverages will be sold or provided.

Section 16-83. - Review of application.

- (a) The village's administrative staff shall review all applications at time of submission. No application shall be accepted if it fails to provide any of the above required information.
- (b) Following acceptance of an application, the village's administrative staff may request additional disclosure to substantiate the veracity of the information disclosed in the application. If any information is determined to be inaccurate or incomplete, the application shall be returned to the applicant for correction.
- (c) Following acceptance and review of the application, the village administration may approve, approve with conditions, or deny an application, which decision shall be accompanied by a written explanation that outlines the basis for the decision. Any village administration's approval shall address conditions on the operation of the special event which may include, but are not limited to:
 - (1) Limitation on the days and hours of operation.
 - (2) Posting of surety, letter of credit, or cash bond to cover post-event cleanup, repairs, or unpaid utility charges.
 - (3) Provisions for sanitary facilities.

- (4) Provisions for electrical, fire and building inspections.
 - (5) Provisions for security.
 - (6) Provisions for the regulation of alcoholic beverages.
 - (7) Provisions for noise and pollution control.
 - (8) Provisions for comprehensive general liability insurance, naming the village as an additional insured, or other insurance as deemed necessary.
 - (9) Provisions for valet parking, traffic control and street closure.
 - (10) Whether, upon considering the location of the proposed special event, the potential impacts upon neighboring properties, and the day of the week on which the special event is proposed to occur, it is in the best interests of the village to allow the playing or broadcasting of live or recorded music.
- (d) Notwithstanding the foregoing, the village administration may deny a permit for a special event on any of the following grounds:
- (1) The application for permit (including any required attachments and submissions) is not fully completed and executed;
 - (2) The application for permit contains a material falsehood or misrepresentation;
 - (3) The applicant is legally incompetent to contract or to sue and be sued;
 - (4) The application or the person on whose behalf the application for permit was made has on prior occasions damaged village property and has not paid in full for such damage, or has other outstanding and unpaid debts to the village;
 - (5) For a special event on public property, if a fully executed prior application for permit for the same time and place has been received, and a permit has been granted to a prior applicant authorizing uses or activities which do not reasonably permit multiple occupancy of the particular public property or part hereof;
 - (6) The use or activity intended by the applicant would conflict with planned programs organized and conducted by the village;
 - (7) The proposed use or activity is prohibited by or inconsistent with the uses of the park or other public property;
 - (8) The use or activity intended by the applicant would present a threat to the health, safety or welfare of the applicant, other users of the park or other public property, village employees or the public;
 - (9) The use or activity intended by the applicant is prohibited by law, or ordinances or regulations;

- (10) The applicant or the person on whose behalf the application for permit was made has on prior occasions made material misrepresentations regarding the nature or scope of an event or activity previously permitted;
- (11) The applicant has violated the terms or conditions of prior permits issued to or on behalf of the applicant; or
- (12) The applicant has been issued a citation or notice to appear for a violation of Chapter 15, Article II, "Noises; Unnecessary and Excessive Prohibited" of the Code of Ordinances in connection with a prior permitted event;

* * *

Section 16-85. – Fast-Breaking Assemblies.

- (a) A fast-breaking assembly may only be conducted at the location(s) designated for fast-breaking assemblies by the Village, which location(s) is not anticipated to impede or interfere with the use of or travel on village right-of-way or to violate normal traffic regulations or controls and, therefore, is not likely to require additional village services or facilities.
- (b) Individuals or representatives of an organization planning a fast-breaking assembly shall submit to the Village Manager the following information within forty-eight (48) hours prior to the event:
 - 1. The name, mailing address, and telephone number of the person or representative of an organization planning the fast-breaking assembly;
 - 2. The planned time, duration, date, and location of the fast-breaking assembly;
 - 3. The nature of the activities planned;
 - 4. A good faith and reasonable estimate of the number of people who are planned to or expected to attend and participate in the fast-breaking assembly.
- (c) A fast-breaking assembly must comply with all applicable laws, stay within the maximum capacity of the designated location(s), and may not include fireworks, temporary structures, alcoholic beverages, road closures, or other activities that would require permits pursuant to applicable laws.
- (d) A fast-breaking assembly may only be held between 8 A.M. and 8 P.M.
- (e) Consistent with Section 255.045, Florida Statutes, the organizer of a Fast-Breaking Event shall ensure that necessary cleanup, repair, and restoration of village public property is conducted to bring the village public property to its condition prior to the fast-breaking assembly.

Section 16-86. – Appeals.

An applicant or permittee, as applicable, may file an appeal to the Village Council by filing a written notice of appeal with the Village Manager, with a copy delivered to the Village Clerk, within five (5) business days after receipt of the notice of adverse decision (or notice

of denial of reconsideration), by filing a written notice of appeal specifying the relevant facts and/or the basis for such appeal. The appeal shall be considered and determined within fourteen (14) business days after the Village Manager's receipt of the notice of appeal at the next regularly scheduled Village Council meeting or at a special Village Council meeting.

Section 16-85Z. - Penalty.

Any applicant, permittee, individual, or property owner that ~~Each violator~~ on the provisions of this article shall be subject the property owner or permanent resident to a fine of \$250.00, imprisonment in County jail for up to 60 days, or both. Each day that a violation occurs shall constitute a separate violation of this article. Each day that a special event is advertised to the public without a permit being first obtained shall constitute a separate violation.

* * *

Section 3. Chapter 18 of Village Code Amended. The Village Council of the Village of Pinecrest hereby amends Chapter 18, "Parks and Recreation Department Rules and Regulations," of the Village Code of Ordinances as follows:

Chapter 18 - PARKS AND RECREATION DEPARTMENT RULES AND REGULATIONS

* * *

Section 18-1. - Rules and regulations.

* * *

Rule 30. Public demonstration, gatherings, performances, speeches, etc.

- (a) No band, procession, military company, or any company or group with flags, banners, or transparencies, shall be allowed within any park without first obtaining a special event permit in accordance with Article IX of Chapter 16 of the Village Code ~~written permission of the department director, said permit to clearly define the nature of the activity, the limit of its scope and time of setting forth such other restrictions and requirements as the department director may deem necessary.~~
- (b) No entertainment or exhibition shall be given in any park or recreation area excepting the entertainments given under the direction and authority of the parks department.
- (c) No public meeting of any kind nor any public speaking by any person, persons, representatives of any political party, social club or society, officer aspirant, religious

sect, theatrical or circus group, act, rite or ceremony, or other public exhibition shall be held in any park, parkway, playground or other recreational area without ~~written permission of the department director~~ first obtaining a special event permit in accordance with Article IX of Chapter 16 of the Village Code.

- (d) No person will perform acrobatic acts or feats, or make any display or exhibit or carry on any performance of doing anything that will cause numbers of persons to congregate to the interference or obstruction of traffic or to other proper use of a park or recreational area.
- (e) No intoxicated persons will be permitted entry to parks or recreation areas and, if discovered therein, will be ejected forthwith.

Section 18-2. - Penalty.

Any person convicted of a violation of any of the provisions of this chapter, with the exception of sections 18-1, Rule 19(a) and Rule 30(a) and (c) shall be punished by a fine not to exceed one hundred dollars (\$100.00). Violation of section 18-1, Rule 19(a), shall be punished by a fine not to exceed five hundred dollars (\$500.00). Violations of Rule 30(a) and (c) of section 18-1 shall be punished in accordance with Section 16-87 of Chapter 16 of the Village Code.

* * *

Section 4. 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 5. 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 6. 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 7. 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
Acting Village Clerk

Approved as to Form and Legal Sufficiency:

Mitchell Bierman
Village Attorney