

ORDINANCE NO. 2019-

AN ORDINANCE OF THE VILLAGE OF PINECREST, FLORIDA, AMENDING CHAPTER 8 (BUILDING REGULATIONS) OF THE CODE OF ORDINANCES BY STRIKING SECTION 8.1(B)(5) RELATING TO IMPACT FEES; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Section 1. That Chapter 8, Section 8.1(b) of the Code of Ordinances is hereby
amended as follows:

* * *

~~(5) — Potable water impact fees.~~

a. ~~Short title.~~ This subsection shall be known and may be cited as the "Potable Water Impact Fees Ordinance."

b. ~~Legislative findings.~~ The village council finds, determines and declares that:

- ~~1. The Florida Legislature, through enactment of F.S. ch. 163, has sought to encourage the village to enact impact fees.~~
- ~~2. All residential and commercial development is deemed to create an impact and therefore an increased demand for potable water facilities including land and related improvements. As such, the cost of new facilities should be borne by new users to the extent that new use requires new facilities.~~
- ~~3. As such, the village council wishes to adopt fees which it has determined to be consistent with and in furtherance of the goals, objectives and policies of the adopted comprehensive development master plan.~~
- ~~4. Nothing in this subsection shall prohibit or restrict funding of the potable water facilities and capital improvements from additional revenue sources to enhance potable water facilities in the village.~~

c. ~~Definitions.~~ In construing the provisions hereof and each and every word, term, phrase or part hereof where the context will permit, the following definitions will apply:

~~Applicant~~ means the person who applies for a building permit or submits a plat or waiver of plat.

~~Building~~ means any structure having a roof entirely separated from any other structure by space or by wall in which there are not communicating doors or windows or any similar opening and erected for the purpose of providing support or shelter for persons, animals, things or property of any kind.

Note: ~~Strikethrough words~~ are deletions and underlined words are additions.

~~Building permit means an official document or certificate issued by the village's building and planning department authorizing the construction or change of use of any building. For purposes of this subsection, the term "building permit" shall also include tie-down permits for those structures or buildings that do not require a building permit in order to be occupied.~~

~~Comprehensive development master plan (CDMP) means the comprehensive plan of the village adopted and amended pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act.~~

~~Credit means the present value of past provisions made by new developments for the cost of existing or future capital improvements.~~

~~Development activity, development or activity means any activity for which a building permit is required pursuant to the building code or any applicable village ordinance.~~

~~Encumbered means monies committed by contract or purchase order in a manner that obligated the village to expend the funded amount upon delivery of goods, the rendering of services or the conveyance of real property provided by a vendor, supplier, contractor or owner.~~

~~Existing development means the lawful land use physically existing as of the effective date of this subsection and any development or additional development for which the landowner holds a valid building permit as of the effective date of this subsection.~~

~~Existing development shall also include that maximum level of development activity for which a previous impact fee was paid under the provisions of this subsection.~~

~~Feepayer means a person intending to commence a proposed development for which an impact fee computation is required under this subsection, or a person who has paid an impact fee, or provided a letter of credit pursuant to this subsection.~~

~~Impact fee means the proportionate fair share charge required to be paid in accordance with this subsection.~~

~~Improvement means any physical improvement related to property, construction costs or other facility, or acquisition of capital equipment with respect to the impact of development.~~

~~Person, for the purposes of this subsection, means individuals, partnerships, trusts, corporations, and all other legal entities authorized by the law of the state to own and develop real property.~~

~~Unit or unit of development means a residential structure which is a quantifiable increment of development activity, e.g., a single-family home, or a residential module, e.g., each condominium or apartment unit within a condominium complex or building.~~

~~Village manager shall mean the village manager of the Village of Pincrest, Florida.~~

~~d. Impact fees in general.~~

- ~~1. Any application for building permit for residential development activity within the corporate limits of the village in instances where the cost of proposed construction exceeds 50 percent of the assessed value of existing development shall be subject to the assessment of a potable water impact fee in the manner and amount set forth in this subsection. No such building permit shall be issued by the village until the applicant has paid the assessed impact fee as calculated pursuant to this subsection.~~
- ~~2. Notwithstanding payment of the impact fees pursuant to this subsection, other state, county and village development regulations may limit the issuance of building permits for development activity.~~

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- ~~3. In the event impact fees are paid prior to, or, concurrently with, the issuance of a building permit and subsequently, the building permit is amended, the applicant shall pay the impact fee in effect at the time the amended building permit is issued with credit being given for the previous fees paid.~~
- ~~4. If a building permit is canceled without development commencing, then the impact feepayer shall be entitled to a refund, without interest, of the impact fee paid except that the village shall retain an administrative charge of 7½ percent of the fee to offset a portion of the costs of collection and refund. The impact feepayer shall submit an application for such a refund to the village manager or his designee within 30 days of the expiration of the order or permit, or thereafter shall be deemed to waive any right to a refund.~~
- ~~5. Any funds not expended or encumbered by the end of the calendar quarter immediately following ten years from the date of collection of fee shall, upon application of the then current landowner, be returned to such landowner, without interest, provided that the landowner submits an application for a refund to the village manager or designee within 180 days of the expiration of the ten-year period. Any claim not so timely made shall be deemed waived.~~
- ~~6. Funds shall be deemed expended for the purposes of this subsection when a contract or agreement encumbering all or a portion of the payment of said funds shall be approved by final village action.~~
- ~~e. *Impact fee schedule.* Any person requesting a building permit for residential development activity in instances where the cost of proposed construction exceeds 50 percent of the assessed value of existing development shall pay the impact fee as follows:~~

Potable Water System Development Impact Fee

Zoning District	Cost per single family residence
EU-I	\$5,026
EU-M or EU-S	\$2,957

~~In addition to the potable water system development fee as set forth above, each feepayer shall pay to the village a nonrefundable general administrative charge in the amount of 7½ percent for the processing of all materials relating to improvements of potable water system facilities.~~

~~Note: For a more detailed explanation of the computation of this impact fee schedule, see Village of Pinecrest "Potable Water System Development Impact Fee Study" report, by Stantec, dated June 2017."~~

~~f. *Exemptions.*~~

- ~~1. Alteration or replacement of an existing building or dwelling unit where the cost of construction is less than 50 percent of the assessed d value of the existing development shall not be subject to the impact fees.~~
- ~~2. The construction of accessory buildings or structures which will not create additional dwelling units.~~

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3. ~~All development activity permitted by an existing development of regional impact order adopted pursuant to F.S. ch. 380, and approved prior to the effective date of this subsection shall be exempt.~~

4. ~~An exemption must be claimed by the feepayer prior to paying the impact fee. Any exemption must be claimed by the feepayer at the time of the application for building permit. Any exemption not so claimed shall be deemed to have been waived by the feepayer.~~

g. ~~Expenditures.~~

1. ~~Expenditures from the impact fee, including any accrued interest, shall include, but not be limited to:~~

a. ~~Planning, design, and construction plan preparation;~~

b. ~~Permitting and fees;~~

c. ~~Land and materials acquisition, including costs of acquisition or condemnation;~~

d. ~~Financing of potable water system improvements, including acquisition, construction, expansion or improvements;~~

e. ~~Design and construction of new potable water system facilities required;~~

f. ~~Landscaping and site preparation, including demucking, filling and compaction;~~

g. ~~Construction management and inspection;~~

h. ~~Surveying, soils and materials testing and removal of hazardous and solid waste materials;~~

i. ~~Acquisition of capital equipment for potable water system improvement and maintenance;~~

j. ~~Repayment of any monies transferred or borrowed from any budgetary fund of the village subsequent to the effective date of this subsection, which were used to fund any of the growth-necessitated improvements as herein provided. Any funds that are borrowed shall be spent only to mitigate the impacts of new development;~~

k. ~~Purchase of land for additional potable water system improvements;~~

2. ~~The 7½ percent general administrative cost portion of the impact fee shall be deposited into the general fund and shall be used to offset the costs of administering the impact fee.~~

h. ~~Establishment of fund.~~ Impact fees collected pursuant to this subsection shall be accounted for in a capital outlay impact fee fund to be established by the village.

i. ~~Appeals of administrative decision.~~ A decision of the village manager may be appealed by the feepayer to the village council. If a feepayer wishes to appeal, that feepayer shall first file a notice of appeal within 30 days after the earlier of:

1. ~~Issuance of a written decision by the village manager; or~~

2. ~~Acceptance of payment by the director of the village's building and planning department of the potable water system development impact fee.~~

The feepayer shall, when filing an appeal, submit a letter which provides a full explanation of the request, the reasons for the appeal, and all supporting documentation.

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Section 2. Inclusion in the Code of Ordinances. It is the intention of the Village Council and it is hereby ordained that the amendments to the Village of Pinecrest Code of Ordinances and Land Development Regulations shall become part of the Village of Pinecrest Code of Ordinances, and that the sections of this Ordinance may be renumbered and relettered as necessary, and that the word "Ordinance" may be changed to "Section, "Article" or other appropriate word.

Section 3. Conflicts. All ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict with the provisions of this Ordinance are hereby repealed.

Section 4. Severability. If any section, clause, sentence or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

Section 5. Effective Date. This Ordinance shall be effective immediately upon passage by the Village Council on second reading.

PASSED on first reading this 14thth day of May, 2019.

PASSED AND ADOPTED on second reading this th day of _____, 2019.

Joseph M. Corradino, Mayor

ATTEST:

Guido H. Inguanzo, Jr., CMC
Village Clerk

Note: ~~Strikethrough words~~ are deletions and underlined words are additions.

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Mitchell Bierman
Village Attorney

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

Vote:

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