ORDINANCE NO. 2024-_____

AN ORDINANCE OF THE VILLAGE OF PINECREST, FLORIDA, AMENDING CHAPTER 25, "STORMWATER UTILITY," OF THE VILLAGE CODE OF ORDINANCES RELATING TO THE METHODOLOGY AND CALCULATION OF STORMWATER UTILITY FEES AND THE METHOD OF COLLECTION FOR SUCH FEES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on November 13, 2002, the Village Council of the Village of Pinecrest (the "Village") adopted Ordinance No. 2002-8 creating Chapter 25, "Stormwater Utility," of the Village Code of Ordinances (the "Ordinance") to establish a Stormwater Utility (the "Stormwater Utility"); and

WHEREAS, pursuant to the Ordinance, the Village has established, assessed, and collected stormwater utility fees upon all residential developed property and all nonresidential developed property in the Village, sufficient to plan, construct, operate, and maintain the Stormwater Utility; and

WHEREAS, the Village Council last evaluated the underlying cost allocation and structure of its Stormwater Utility fees in 2019 and determined that a study and evaluation of the Village's Stormwater Utility fee rates and structure was necessary; and

WHEREAS, Stearns, Conrad & Schmidt, Consulting Engineers, Inc. d/b/a SCS Engineering (the "Rate Consultants") has studied the Village's Stormwater Utility fee rates and structures and provided findings and recommendations in the "*Village of Pinecrest FY 2025 Stormwater Fee Study Report*" dated May 17, 2024 (the "Study"); and

WHEREAS, on June 11, 2024, the Village Council approved the findings and recommendations contained in the Study prepared by the Rate Consultants; and

WHEREAS, the Study provides for the creation of a two-tier rate structure: a base fee to be levied against all parcels, whether or not developed, and a parcel fee to be levied against developed parcels (collectively, the "Stormwater Fees"), as set forth herein; 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 this Ordinance amending the Village's Code.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF PINECREST, FLORIDA, AS FOLLOWS: [1]

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 Chapter 25, "Stormwater Utility," of the Code of Ordinances as follows:

CHAPTER 25 – STORMWATER UTILITY

* * *

Section 25-4. Fees. The utility is hereby authorized and directed to establish, assess, and collect stormwater utility fees upon all residential ~~developed~~ property and all nonresidential ~~developed~~ property in the village, sufficient to plan, construct, operate, and maintain stormwater management systems set forth in the local program required pursuant to F.S. § 403.0891. On June 11, 2024, the village council approved the findings and recommendations of the "*Village of Pinecrest FY 2025 Stormwater Fee Study Report*" (the "Study") dated May 17, 2024. The Study recommends the creation of a two-tier rate structure for the assessment and collection of stormwater utility fees. Tier 1 stormwater utility rates apply to all parcels, regardless of development status, and represents the availability of stormwater services to all parcels in the Village. Tier 2 stormwater utility rates are based upon the impervious area of each parcel of property in the Village. ~~Such fees shall be in an amount set forth in administrative orders of the village manager subject to approval by the village council.~~

Each of the stormwater utility rates for the Tiers are to be calculated based upon the net revenue requirement (the "NRR") that is required to be raised in order to meet the financial requirements of the utility each fiscal year (the "Total NRR"). The total impervious area ("TIA") for the village was calculated for residential and nonresidential property and the village maintained roadways.

[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.

(1) **Tier 1**. The Tier 1 stormwater utility fee represents a base fee to be paid by all residential and nonresidential parcels regardless of development (the "Base Fee"). The Base Fee is to be calculated based on the impervious area of Village-maintained roads and government property as a percentage of the TIA of the Village (the "Tier 1 Percentage"). The Tier 1 Percentage is applied to the Total NRR to determine the NRR for the Base Fee. The NRR for the Base Fee is then divided by the total number of residential and nonresidential parcels, regardless of development, to determine the rate for the Base Fee (the "Base Fee Rate").

(2) **Tier 2.** The Tier 2 stormwater utility fee represents the fee for each parcel of developed residential property and developed nonresidential property (the "Parcel Fee"). The Parcel Fee is calculated utilizing an Equivalent Billing Unit ("EBU") to apportion costs to each developed residential property and each developed nonresidential property in the Village. Under this methodology, 1.0 EBU equals 100 square feet of impervious area. To calculate the number of EBUs for each developed property, the total impervious square footage is determined for each developed property, rounded down to the nearest 100 square feet, and then divided by 100. After subtracting the NRR for the Base Fee from the Total NRR, the remaining NRR is then divided by the total number of EBUs in the Village to get the rate per EBU. Each Parcel Fee shall be determined by the number of EBUs for such developed property times the rate per EBU.

~~(1) *Residential assessments.* Each residential developed property shall be assessed a stormwater utility fee calculated by multiplying the rate for one equivalent residential unit (ERU) by the number of the dwelling units on the parcel.~~

~~(2) *Nonresidential assessments.* Each nonresidential developed property shall be assessed a stormwater utility fee calculated by multiplying the rate for one ERU by a factor derived by dividing the actual impervious area of the particular nonresidential developed property by the statistically estimated average horizontal impervious area of residential developed property per dwelling unit, to wit, the square footage base equivalent established for one ERU. Notwithstanding the foregoing, each nonresidential developed property classified by the Miami-Dade County Property Appraiser as land use type 71 shall be assessed a stormwater utility fee which is 50 percent of the fee for nonresidential developed property calculated as described in the preceding sentence.~~

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Section 25-6. Billings, late fees, notice and advance fees.

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(e) *Other collection methods.* Notwithstanding the foregoing, the village, pursuant to F.S. § 403.0893(3), may use the non-ad valorem levy, collection, and enforcement method as provided for in F.S. ch. 197, for fees assessed pursuant to this chapter. Commencing with the tax bill sent in November 2024, the village shall utilize the uniform method for the levy,

collection, and enforcement of non-ad valorem assessments as provided under Section 197.3632, Florida Statutes.

* * *

Section 25-7. Liens.

Except when using the uniform method for the levy, collection, and enforcement of non-ad valorem assessments pursuant to Section 197.3632, Florida Statutes, ~~A~~all fees, late charges and interest accruing, thereupon due and owing to the utility which remain unpaid 60 days after the past due date of the fees shall become a lien against and upon the developed property for which the fees are due and owing to the same extent and character as a lien for a special assessment. Until fully paid and discharged, said fees, late charges, and interest accrued thereupon shall be, remain, and constitute a special assessment lien equal in rank and dignity with the liens of ad valorem taxes and superior in rank and dignity to all other liens, encumbrances, titles, and claims in, to or against the developed property involved for the period of five years from the date said fees, late charges, and interest accrued thereupon, become a lien as set forth in this chapter. Said lien may be enforced and satisfied by the village, on behalf of the utility, pursuant to F.S. ch. 173, as amended from time to time, or by any other method permitted by law. The lien provided for herein shall not be deemed to be in lieu of any other legal remedies for recovery of said fee, late charges, and accrued interest available in the village and to the utility. The section is not applicable to fees collected pursuant to section 25-6(e) of this chapter.

* * *

Section 3. Implementation. The Village Council hereby authorizes the Village Manager to create and implement any procedures necessary to implement the purposes and intent of this Ordinance, subject to approval by the Village Attorney as to form and legality, and to take any action which is reasonably necessary to implement the purpose of this Ordinance.

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 _____ day of _____, 2024.

PASSED AND ADOPTED on second reading this _ day of _____, 2024.

_____
Joseph M. Corradino, Mayor

Attest:

_____
Priscilla Torres, MMC
Village Clerk

Approved as to Form and Legal Sufficiency:

_____
Mitchell Bierman
Village Attorney

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

Vote: