ORDINANCE NO. 2017-3 1 AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF 2 PINECREST, FLORIDA, AMENDING THE CODE OF ORDINANCES, 3 CHAPTER 30, LAND DEVELOPMENT REGULATIONS; DEFINING 4 VACATION **RENTALS**, PROVIDING RESTRICTIONS AND 5 PENALTIES, REQUIRING **REGISTRATION**, PROVIDING FOR 6 CODIFICATION, PROVIDING FOR CONFLICTS, PROVIDING FOR 7 SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE. 8

9 WHEREAS, the Village of Pinecrest has determined, upon examination of the issue, 10 that the transient use of residential dwellings in the Village has a negative effect on the 11 residential character of the community and that it is necessary and in the interest of the 12 public health, safety, and welfare to monitor and provide reasonable means the Village 13 to mitigate impacts created by such transitory uses of residential property within the 14 Village.

WHEREAS, the Chapter 2011-119, Laws of Florida, created a new classification of public lodging establishment known as vacation rentals that is defined in Section 509.242(c), Florida Statutes (2015), as "any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, threefamily, or four-family house or dwelling unit that is also a transient public lodging establishment but that is not a timeshare project."; and

21 WHEREAS, Subsection 509.032(7), Florida Statutes (2015), provides that local 22 laws, ordinances, or regulations may not prohibit vacation rentals or regulate the duration 23 and frequency of rental of vacation rentals; and

24 WHEREAS, Florida Statutes do not prevent the Village from adopting ordinances 25 specific to vacation rentals to address some of the noise, parking, trash and life-safety 26 issues created by the proliferation of vacation rentals in residential neighborhoods.

27 WHEREAS, unregulated vacation rentals can create disproportionate impacts 28 related to their size, excessive occupancy, and lack of proper facilities; and

WHEREAS, the presence of vacation rentals within residential dwelling units in established residential neighborhoods can create negative compatibility impacts, among which include, but are not limited to, excessive noise, excessive on-street parking, accumulation of trash, and diminished public safety; and

Note: All text is new. Strikethrough words are deletions since first reading and <u>underlined words</u> are additions since first reading.

WHEREAS, the other classifications of transient public lodging establishments are subject to stricter development standards, undergo annual inspections, and have more stringent operational and business requirements; and

WHEREAS, Section 509.032(7), Florida Statutes, authorizes local governments to conduct inspections of public lodging establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code, pursuant to Sections 553.80 and 633.206, Florida Statutes (2015); and

WHEREAS, the Village of Pinecrest finds a substantial interest in furthering the public health, safety and welfare by controlling density, by protecting the residential character of areas designated for residential use, implementing its comprehensive plan, and establishing and enforcing minimum life safety standards;

44 WHEREAS, the Village Charter empowers the Village Council to adopt, amend or 45 repeal its ordinances and resolutions as may be required for the benefit of the residents of 46 the Village of Pinecrest; and

WHEREAS, after reviewing the Local Planning Agency's recommendations, the recommendations of Village staff, and comments from the public, the Village Council finds that the proposed amendments to its Code of Ordinances and Land Development Regulations are in compliance and consistent with Florida law and its adopted Comprehensive Development Master Plan; and

52 WHEREAS, the Village Council further finds that this Ordinance is necessary for 53 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:

56 57

SECTION 1. Recitals Adopted. That the above stated recitals are hereby

- 58 adopted and confirmed.
- 59 **SECTION 2. Village Code Amended.** That Division 5.33, "Vacation Rentals,"

of Chapter 30, Land Development Regulations, of the Code of Ordinances is hereby

- 61 created as follows:
- 62

63 **Division 5.33. – Vacation Rentals.**

64 (a) Definitions

65 **Responsible Party** shall mean the owner or the person designated by the owner 66 of the property to be called upon to answer for the maintenance of the property and for the 67 conduct and acts of occupants of Vacation Rental properties.

Transient Occupants means any person, or guest or invitee of such person who occupies or is in actual or apparent control or possession of residential property registered or used as a Vacation Rental. It shall be a rebuttable presumption that any person who holds themselves out as being an occupant or guest of an occupant of a Vacation Rental, or a property used as a Vacation Rental, is a Transient Occupant.

Vacation Rental shall mean any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is rented to guests more than three (3) times in a calendar year for periods of less than thirty (30) days or one (1) calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests, but that is not a timeshare project.

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80 (b) **Registration Required.**

It is unlawful for any person to allow another person to occupy any residential property as a Vacation Rental within the Village of Pinecrest, or offer such rental services within the Village of Pinecrest, unless the person has registered the Vacation Rental property with the Village of Pinecrest and the Vacation Rental property has been issued a certificate of compliance in accordance with the provisions of this Division.

86

(c) Application for Registration

The application for registration of a Vacation Rental shall be made to the Village Manager or his or her designee on a form provided by the Village, which shall set forth at a minimum:

90 (1) The legal description of the property offered for rental, including the complete 91 address, subdivision, or community name.

92 (2) Proof of ownership of the property, including the name, address and phone 93 number of each person or entity with an ownership interest in the property.

(3) An approved inspection report of the Miami-Dade County Fire Rescue Department
 verifying compliance with the Department's criteria for a residential dwelling transient
 lodging use.

97 (4) The gross square footage of the property, including the number of rooms, 98 bedrooms, kitchens and on-site parking spaces attributable to the Vacation Rental use.

99 (5) A valid and current federal employer tax identification number (or social security 100 number) for the owner(s) of the property.

101 (6) Proof of registration with, or exemption from, the Florida Department of Revenue 102 for sales tax collection under Chapter 212, Florida Statutes, and Miami-Dade County for 103 Tourist Development Tax.

104 (7) Proof of licensure with, or exemption from, the Florida Department of Business 105 and Professional Regulation for a transient public lodging establishment.

(8) The name, address and 24-hour phone number of the person who will act as the
 Responsible Party, operating the Vacation Rental property. The Responsible Party phone
 number shall be answered twenty-four (24) hours, seven (7) days a week.

(9) The application shall bear the signatures of all owners, authorized agents,authorized property managers and the Responsible Party.

(10) The owner of the property and the Responsible Party must individually
 acknowledge the affirmative duty to ensure compliance with the requirements of this
 Division, including the Owner and Responsible Party Requirements of this Division.

(11) Acknowledgement that the application and any related approvals are specific to the property identified in the application and approval; other properties are not jointly shared commodities and shall not be considered available for use by transient occupants of the property which is the subject of the application.

(12) Submission of an incomplete registration application form shall result in rejectionof the application.

120 (d) **Responsible party required.**

Whenever any property is required to be registered under this Division, the owner 121 shall act as, or retain at all times, an appointed natural person capable of meeting the duties 122 provided in subsection 23-74. The designated Responsible party must reside within thirty 123 (30) miles to serve as the Responsible party for service of notices as are specified herein. 124 Notices given to the Responsible party shall be sufficient to satisfy any requirement for notice 125 to the owner. An initial Responsible Party shall be designated and shall participate in the 126 application for registration, and the Village manager or his designee shall thereafter be 127 notified of any change of Responsible Party within fifteen (15) days of such change. 128

(e) **Fees for Registration**.

The Village of Pinecrest may charge reasonable fees for registration to compensate for administrative expenses. The fees for registration shall be provided for, from time to time, by resolution adopted by the Village Council.

133

(f) Owner and Responsible Party Requirements.

In addition to general compliance with all federal, state, county and local laws, it is the affirmative duty and responsibility of the owner and the Responsible Party, individually and collectively, to adhere to the following:

(1) Inform all guests, in writing, prior to occupancy of the property, of all applicable
 Village of Pinecrest ordinances concerning noise, vehicle parking, garbage, and common
 area usage.

(2) Maintain the property under their control in compliance with the occupancy limits,
 as specified in this Division, the Certificate of Compliance, the Minimum Housing
 Standards of Miami-Dade County, specific requirements of the Florida Building
 Code noted herein and the Village Code of Ordinances, as determined by the Village
 Manager, building official or respective designee;

- 145 (3) Ensure that, at all times:
- a. all vehicles associated with the Vacation Rental are parked within a driveway in compliance with the Code of Ordinances of the Village of Pinecrest;

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- b. the entire property, including the front, back, and side yards, is maintained free of garbage and litter, provided however, that this subsection shall not prohibit the storage of garbage and litter in authorized receptacles for collection;
- 151 c. all Transient Occupants are aware that it shall be unlawful to allow or 152 make any noise or sound that exceeds the limits set forth in the Chapter 15, Article II, 153 "Noises; Unnecessary and Excessive Prohibited," of the Village Code;

154 d. all Transient Occupants are aware that unauthorized occupants of any 155 structure or conveyance of the property that have been warned by the owner or 156 lessee to leave and refuse to do so commit the offense of trespass of a structure or 157 conveyance and will be charged under the State of Florida and local law; and

- e. the provisions of this Division are complied with and promptly address any violations of this Division or any violations of law which may come to the attention of the Responsible party.
- 161 (4) Be available with authority to address and coordinate solutions to problems with 162 the rental of the property twenty-four (24) hours a day, seven (7) days a week and to 163 respond to emergency calls within one (1) two (2) hours of notification.
- 164 (5) Keep available a register of all guests, which shall be open to inspection by 165 authorized personnel of the Village at all times
- (6) Prohibit rental to any person on the Florida Sexual Offenders and Predators
 (FDLE) database or any other state sex offender database consistent with the requirements of
 Chapter 16, Article IV of the Village Code..
- 169 (g) Standards and requirements for Vacation Rentals.
- (1) Certificate of Compliance. The Village Manager or his designee may issue a
 Certificate of Compliance to the applicant upon proof that the Owner or Responsible Party
 has:
- a. Submitted a complete Vacation Rental registration application form including
 appropriate documentation of compliance with applicable Florida Department
 of Revenue and Florida Department of Business and Professional Regulation
 requirements;

177	b. Submitted the registration fee;		
178	c. Obtained a Local Business Tax Receipt (LBTR) from the Village pursuant to		
179	Chapter 28 of the Village Code of Ordinances;		
180	d. Obtained a LBTR from Miami-Dade County;		
181	e. Provide an affidavit, demonstrating initial and on-going compliance with		
182	Vacation Rental Standards contained herein, plus any other applicable local,		
183	state and federal laws, regulations and standards to include, but not be		
184	limited to Chapter 509, Florida Statutes, and Rules, Chapter 61C and 69A,		
185	Florida Administrative Code; and		
186	f. Provided a copy of the vacation rental/lease agreement form to be used		
187	when contracting with Transient Occupants and guests which includes the		
188	minimum vacation rental lessee information required by subsection (2) d.		
189	below.		
190	g. Requested and passed a Compliance Inspection pursuant to this Division.		
191	(2) Vacation Rental Standards. The following standards shall govern the use of any		
192	Vacation Rental as a permitted use:		
193	a. Minimum life/safety requirements:		
194	1. Swimming pool, spa and hot tub safety. A swimming pool, spa or hot		
195	tub shall comply with the current standards of Residential Swimming Pool		
196	Safety Act, Chapter 515, Florida Statutes.		
197	2. Smoke and carbon monoxide (CO) detection and notification system. If		
198	an interconnected and hard-wired smoke and carbon monoxide (CO)		
199	detection and notification system is not in place within the Vacation		
200	Rental unit, then an interconnected, hard-wired smoke alarm and carbon		
201	monoxide (CO) alarm system shall be required to be installed and		
202	maintained on a continuing basis consistent with the requirements of		
203	Section R314, Smoke Alarms, and Section R315, Carbon Monoxide		
204	Alarms, of the Florida Building Code – Residential.		

3. Fire extinguisher. A portable, multi-purpose dry chemical 2A:10B:C fire 205 206 extinguisher shall be installed, inspected and maintained in accordance with NFPA 10 on each floor/level of the unit. The extinguisher(s) shall be 207 installed on the wall in an open common area or in an enclosed space 208 with appropriate markings visibly showing the locations. 209 4. There shall be posted, next to the interior door of each bedroom or 210 sleeping room a legible copy of the building evacuation map that is a 211 minimum of 8 and $\frac{1}{2}$ inches by 11 inches in size. 212 b. Maximum occupancy. The maximum vacation rental occupancy shall not 213 exceed the smallest occupancy calculated pursuant to each of the following 214 standards: 215 1. Two (2) persons per bedroom; 216 2. Regardless of the number of bedrooms, the maximum occupancy shall be 217 limited to ten (10) Transient Occupants per Vacation Rental unit; and. 218 3. Three (3) Transient Occupants per one (1) off-street parking space legally 219 available to the property, the exact number of which is determined by the 220 requirement of Division 5.22 of the Village Land Development 221 Regulations of the Village Code of Ordinances. 222 c. Solid waste handling and containment. Village solid waste containers shall 223 be provided for the maximum transient occupancy permitted by this Division, 224 as required by the Village Code of Ordinances. Required screening and 225 storage requirements for solid waste containers shall apply and shall be 226 incorporated into the Certificate of Compliance. For purposes of this section, 227 a solid waste container shall not be placed for curbside pickup more than 228 24 hours before pickup and all receptacles must be removed from the 229 curbside within 24 hours after pickup. 230 d. Minimum vacation rental lessee information. The following information shall 231 be posted conspicuously within the establishment and shall be provided to 232 each vacation rental lessee as part of their lease: 233 1. The maximum occupancy permitted under the Certificate of Compliance. 234

2. A statement advising the Occupant that it is unlawful to allow or make 235 236 any noise or sound that exceeds the limits set forth in the Chapter 15, Article II, "Noises; Unnecessary and Excessive Prohibited," of the Village 237 Code and such violation is subject to Village code enforcement, including 238 but not limited to fines up to \$500 per violation; 239 2. A sketch of the location of the off-street parking spaces available to the 240 property; 241 3. The days and times of trash pickup and the solid waste handling and 242 containment requirements of this Division; 243 4. The location of the nearest hospital; and 244 5. The local non-emergency police phone number. 245 e. Advertising. Any advertising of the vacation rental unit shall conform to 246 information included in the Vacation Rental Certificate of Compliance and 247 the property's approval, and shall include at a minimum, identification of the 248 maximum occupancy permitted on the property. 249 f. Posting of Certificate of Compliance. The Certificate of Compliance shall be 250 posted on the back of or next to the main entrance door and shall include at 251 a minimum the name, address and phone number of the Responsible party 252 and the maximum occupancy of the Vacation Rental. 253 a. Other standards. The Occupant shall be advised that all standards 254 contained within the Code of Ordinances and Land Development Regulations 255 of the Village including, but not limited to: noise, setbacks, and stormwater, 256 are applicable to the vacation rental and may be enforced against the 257 Occupant. 258 (h) Sale or transfer of dwelling unit used for vacation rentals. Whenever a 259 dwelling used for vacation rentals is sold or otherwise changes ownership and the 260 new owner desires to use the dwelling for vacation rentals, the new owner must, 261 prior to allowing any vacation rental use: 262

- 263 (1) Schedule and obtain an inspection of the dwelling for a Certificate of264 Compliance; and
- 265 (2) Apply for a vacation rental certificate for the vacation rental use.

(i) Rules and procedures. The Village Manager or designee may create rules and
 procedures to assist in the implementation of this section, including but not limited to
 a timeline and procedure for all existing vacation rentals to apply for and obtain their
 first vacation rental certificate pursuant to this ordinance in a manner consistent with
 available staff resources.

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(i) Administration, penalties, and enforcement.

272 (1) Initial and Annual Compliance Inspections of Vacation Rentals.

An inspection of the dwelling unit for compliance with this section, and for 273 compliance with the requirements of the Minimum Housing Standards of 274 Miami-Dade County and the specific requirements of the Florida 275 Building Code **as noted herein** is required prior to issuance or renewal of a 276 Vacation Rental Certificate of Compliance. If violations are found, all violations 277 must be corrected and the dwelling unit must be re-inspected prior to issuance or 278 renewal of a Vacation Rental Certificate of Compliance as provided herein. All 279 violations must be corrected and re-inspected within thirty (30) calendar days. 280 Failure to correct such inspection deficiencies in the timeframes provided shall 281 result in the denial of an initial application or suspension of the vacation rental 282 certificate of compliance until such time as the violations are corrected and re-283 inspected. 284

- a. Inspections will be conducted by the Village Manager or his or her designee.
- b. The suspension of a Vacation Rental Certificate of Compliance shall be postedat the establishment.
- 288 (2) Registration not transferable.

No registration issued under this Division shall be transferred or assigned or used by any person other than the person to whom it is issued, or at any location other than the location for which it is issued.

- 292 (3) Expiration of registration.
- All registrations issued under the provisions of this Division shall be valid for no more than one year, and all registrations shall expire on September 30th of each year. Fees for renewal and applicable late renewal fees shall be established by resolution of the Village Council.
- 297 (4) Revocation.
- Any Certificate of Compliance issued pursuant to this Division may be denied, revoked, or suspended by the Village Manager upon the adjudication of a violation of this Division, any Village of Pinecrest Ordinance, or state law by the Responsible party, property owner or Transient Occupant attributable to the property for which the certificate of compliance is issued. Such denial, revocation or suspension is in addition to any other penalty or remedy available at law.
- 304 (5) Offenses/violations.
- 305a. A violation of any of the provisions of this Division is punishable by a fine of306up to two hundred and fifty dollars (\$250.00).
- b. Suspension of Vacation Rental Certificate of Compliance. In addition to any
 fines and any other remedies described herein or provided for by law, the
 Village may suspend a Vacation Rental Certificate of Compliance for multiple
 violations of the maximum occupancy in any continuous thirty-six (36) month
 period, in accordance with the following:
- 312 1. Suspension timeframes.
- i. Upon a third violation of the maximum occupancy the Vacation Rental
 Certificate shall be suspended for a period of thirty (30) calendar
 days.
- ii. Upon a fourth violation of the maximum occupancy the Vacation
 Rental Certificate shall be suspended for a period of twelve (12)
 calendar months.

- iii. For each additional violation of the maximum occupancy the Vacation
 Rental Certificate shall be suspended for an additional twelve (12)
 calendar months.
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 2. Suspension restrictions. A vacation rental may not provide transient occupancy during any period of suspension of a Vacation Rental certificate. The suspension shall begin immediately following notice, commencing either:
- i. At the end of the current vacation rental lease period; or
- 327 ii. Within thirty (30) calendar days, whichever date commences earlier,328 or as otherwise determined by the Village.
- 329 3. Operation during any period of suspension shall be deemed a violation 330 pursuant to this Division and shall be subject to a daily fine, up to the 331 maximum amount as otherwise provided in Florida Statutes for repeat 332 violations, for each day that the Vacation Rental operates during a period 333 of violation.
- 334 (k) **Vesting**.
- 1. Vacation Rentals existing as of [THE EFFECTIVE DATE OF THIS ORDINANCE] 335 shall be considered vested Vacation Rentals only as related to contracts 336 entered prior to [THE EFFECTIVE DATE OF THIS ORDINANCE]. Rental/lease 337 agreements that were entered into prior to [EFFECTIVE DATE OF 338 ORDINANCE], as evidenced by a written and validly executed rental 339 agreement or contract provided to the Village Manager no later than [THE 340 EFFECTIVE DATE OF THIS ORDINANCE PLUS 3 MONTHS] shall be 341 considered vested. 342
- 343 2. Vesting shall:
- a. Apply only to date specific rentals; and
- b. Not apply to renewals of existing rental agreements or contracts which areat the option of either of the parties.

- 347 3. All rental agreements entered into after [THE EFFECTIVE DATE OF THIS 348 ORDINANCE] shall comply with the provisions of this Division. No Vacation 349 Rental shall be occupied pursuant to a contract/lease entered into after [THE 350 EFFECTIVE DATE OF THIS ORDINANCE], until the Owner has obtained the 351 required Vacation Rental Certificate of Compliance.
- 4. A vested contract/lease transferred to a subsequent owner shall continue to be vested, but shall not be transferred to a different Vacation Rental property, provided the new owner complies with the inspection and licensing requirements of this Division.

356 SECTION 3. 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 4. 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.
- 365 SECTION 5. 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.
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Note: All text is new. Strikethrough words are deletions since first reading and underlined words are additions since first reading.

370 SECTION 6. Effective	Date
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371 This Ordinance shall become effective on immediately upon adoption.

372	PASSED on first reading this <u>10th</u> day of <u>January</u> , 2017.			
373				
374	PASSED AND ADOPTED on second reading	PASSED AND ADOPTED on second reading this <u>14th</u> day <u>February</u> , 2017.		
375				
376				
377				
378		Joseph M. Corradino, Mayor		
379	Attest:			
380				
381				
382				
383	Guido H. Inguanzo, Jr., CMC			
384	Village Clerk			
385				
386	Approved as to Form and Legal Sufficiency:			
387				
388				
389	Mitchell Bierman			
390	Village Attorney			
391 392	Motion on Second Reading by:			
393	Second on Second Reading by:			
394 395	Vote:			



Stephen R. Olmsted, AICP Planning Director planning@pinecrest-fl.gov

MEMORANDUM Department of Building and Planning

DATE: February 8, 2017

TO: Yocelyn Galiano, ICMA-CM, LEED-GA Village Manager

- FROM: Stephen R. Olmsted, AICP, LEED-GA Planning Director
- RE: Village of Pinecrest Code of Ordinances Chapter 30, Land Development Regulations – Vacation Rental Dwelling Regulations – Second Reading

On January 10, 2017 the Village Council approved the attached Vacation Rental Dwelling Regulations at first reading.

The Building and Planning Department recommends that the proposed regulations be approved at second reading with a minor amendment that would require vacation rental dwellings to be inspected for compliance with the Minimum Housing Standards of Miami-Dade County.

The Minimum Housing Standards of Miami-Dade County would require that a vacation rental dwelling be maintained in good structural condition with safe and adequate electrical outlets, plumbing fixtures, and other improvements necessary for maintenance of a property in a safe and sanitary condition. The Minimum Housing Standards can easily be inspected and verified for compliance during an annual inspection. Although all structures in the Village of Pinecrest are initially constructed to the requirements of the Florida Building Code, it would be difficult to certify that any particular structure has remained in compliance as originally suggested in the first draft ordinance, without a detailed inspection of every aspect of the structure (many of which may be hidden from view and enclosed behind walls and within attics).

The proposed amendments to the ordinance at second reading are shown in strike-through and underlined text and highlighted in yellow.

