

**BOARD OF COMMISSIONERS
TOWN OF REDINGTON SHORES
SPECIAL MEETING
MONDAY, MARCH 20, 2023 - 12:30 P.M.
AGENDA**

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPEARANCES AND PRESENTATIONS

1. Administer Oath of Office
2. Appointment of Vice Mayor

OLD BUSINESS

None

NEW BUSINESS

1. First Reading and Advertised Public Hearing - Ordinance 23-02 – Amending Chapter 70 of the town code concerning code enforcement procedures; Amending § 140-16 of the town code regarding the process for enforcing parking violation tickets
2. First Reading and Advertised Public Hearing - Ordinance 23-04 – Repealing and replacing Chapter 71 (Curfew)

MISCELLANEOUS

Workshop Meeting- Wednesday, March 29, 2023- 2:00 p.m.

Regular Meeting- Wednesday, April 12, 2023- 6:00 p.m.

ADJOURNMENT

“Persons are advised that, if they decide to appeal any decisions made at this meeting, they will need a record of the proceedings, and, for such purpose, they may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.”

“The Town maintains a tape recorder for all public hearings. In the event that you wish to appeal a decision, the tape may or may not adequately ensure a verbatim record of the proceedings. Therefore, you may wish to provide a court reporter at your expense.”

ORDINANCE NO. 23-02

AN ORDINANCE OF THE TOWN OF REDINGTON SHORES, FLORIDA, AMENDING CHAPTER 70 OF THE TOWN CODE CONCERNING CODE ENFORCEMENT PROCEDURES; AMENDING § 140-16 OF THE TOWN CODE REGARDING THE PROCESS FOR ENFORCING PARKING VIOLATION TICKETS; PROVIDING FOR CODIFICATION, SEVERABILITY, AND FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Redington Shores (the Town) currently sets forth its local regulations regarding code enforcement procedures in Chapter 70 of the Town Code; and

WHEREAS, the process of local government code enforcement is regulated primarily by Florida Statutes Chapter 162; and

WHEREAS, the Town periodically reviews its codes to ensure they are up to date with current law and best practices; and

WHEREAS, with respect to the Town's code enforcement procedures, the Town's contracted police department has requested the Code be updated to expressly provide that parking citations issued under § 140-16 of the Town Code for violation of the Town's parking rules would be processed under the Town's code enforcement magistrate process; and

WHEREAS, in addition to that revision, the Town Attorney has also recommended the additional revisions to Chapter 70 reflected in this Ordinance; and

WHEREAS, the Board of Commissioners finds that it is in the best interest of the Town, its residents, and property owners, to approve the regulatory measures set forth in this Ordinance.

NOW, THEREFORE BE IT ORDAINED by the Board of Commissioners of the Town of Redington Shores, Florida, that:

Section 1. Chapter 70 of the Redington Shores Town Code is hereby amended to read as follows:

Chapter 70 - CODE ENFORCEMENT

ARTICLE I. - GENERAL PROVISIONS AND MAGISTRATE PROCESS

Sec. 70-1. - Intent.

The intent of this chapter is to ~~authorize the use of~~ ~~create~~ a local government code enforcement special ~~magistrate master~~ and ~~to adopt code enforcement~~ ~~procedures~~ ~~and enforcement options~~ ~~relating thereto~~ in order to promote, protect and improve the health, safety and welfare of the citizens of the ~~tTown of Redington Shores,~~ by providing for ~~an~~ equitable, expeditious, effective and inexpensive methods of enforcing the ~~town codes,~~ ~~including,~~ ~~but not limited to,~~ ~~business tax~~ ~~receipts,~~ ~~fire,~~ ~~building,~~ ~~zoning~~ ~~and~~ ~~sign~~ ~~codes~~ ~~in~~ ~~force~~ ~~in~~ ~~the~~ ~~Town~~ ~~of~~ ~~Redington~~ ~~Shores,~~ ~~Florida.~~

Sec. 70-2. – Applicability; optional enforcement.

Pursuant to Florida Statutes Chapter 162, the town is authorized to create or abolish by ordinance local government code enforcement systems. This chapter creates a code enforcement system that gives a code enforcement special magistrate designated by the commission the authority to hold hearings and assess fines against violators of the town's code. A special magistrate shall have the same status as a code enforcement board as provided under F.S. ch. 162, and in this chapter. The provisions of this chapter shall in no way be construed to limit the power of the town to proceed in any other civil or criminal proceeding or in any other forum to enforce its code. Nor shall the provisions of this chapter negate the independent statutory authority of the town's fire marshal and building official to enforce the fire code and building code.

Sec. 70-32. - Definitions.

The following definitions are applicable to this chapter and have the following meanings:

Code enforcement special magistrate—The person(s) appointed by the commission to serve as special magistrate and to administer the provisions of this Town of Redington Shores Special Magistrate or Magistrates designated by resolution of the town commission for the purpose of handling code enforcement hearings.

Code enforcement officer/inspectors—Any employee or authorized agent of the Town of Redington Shores whose duty it is by virtue of job description, contract, or other lawful designation to assure code compliance through investigation and enforcement assigned responsibilities include inspecting for or enforcing, or both, violations of the Code of the Town of Redington Shores, including, but not limited to, business tax receipts, fire, building, zoning and sign codes of the Town of Redington Shores. In addition to any other person so designated, a deputy sheriff and any municipal law enforcement officer providing law enforcement services to the town are authorized to enforce the town's codes according to the provisions of this article.

Repeat violation—A violation of a provision of the Town of Redington Shores Code by a person, business, or other entity who or which has previously been found by the special magistrate or through any other quasi-judicial or judicial process, to have violated (or who has admitted violating) the same provision within five years prior to the violation, notwithstanding the location of the prior violation(s).

Sec. 70-43. – Appointment of Code enforcement special magistrates; role of town attorney.

A. The commission may, from time to time, appoint one or more persons to serve as code enforcement special magistrate. Such persons must be members in good standing of The Florida Bar and possess such other skills and experience as the commission may require. Magistrates shall be an attorney at law, licensed to practice in the State of Florida, and shall be appointed by resolution of the town commission of the Town of Redington Shores, with such compensation as is deemed appropriate by the town commission. Such special magistrates shall serve at the pleasure of the town commission, and may be removed at any

time by the town commission. Appointed magistrates will be subject to any oath or additional requirements as may be set forth in state law.

- B. Unless otherwise specified by contract, special magistrates shall have no set term of appointment. Upon initial appointment to preside over a case, a special magistrate shall review the identity of the alleged violator(s) so as to ensure the magistrate does not have any family, business or other such involvement with the violator(s) such that a conflict of interest would be present. Should such a conflict be identified, the special magistrate shall recuse her or himself and an alternative magistrate will be appointed to preside over the case. The recusal standards established in the state supreme court's judicial conduct code will control such questions.
- C. The town clerk shall assign any violation notice referred by the code enforcement officer for hearing to the special magistrate. In the event more than one person is appointed special magistrate, the clerk shall endeavor to rotate assignments on a random basis.
- D. The code enforcement officer is authorized to present cases before the special magistrate. If requested by the code enforcement officer, the town attorney shall represent the town by presenting cases before the special magistrate.

Sec. 70-4. -- Enforcement procedures~~Oath of office.~~

- A. It shall be the duty of the code enforcement officer to initiate enforcement proceedings of the various codes. Neither the commission nor the special magistrate shall have the power to initiate such enforcement proceedings.
- B. Except as provided in subsections (C) and (D), if a violation of the code is found, the code enforcement officer shall notify the violator and allow a reasonable time for the violator to correct the violation. Should the violation not be corrected within the time allowed (including any extensions the code enforcement officer determines to be reasonable under the circumstances), the code enforcement officer shall notify the town clerk that a special magistrate hearing is requested. The town clerk shall, thereafter, notify the special magistrate of the referral and coordinate with the magistrate on the scheduling of the hearing. The town clerk shall also ensure a written notice of such hearing is hand delivered or mailed as provided in Florida Statutes § 162.12 to the violator. Notice may additionally be served by publication or posting as provided in Florida Statutes § 162.12. If, within the time provided by the code enforcement officer for correction, the violation is corrected but then recurs, or if the violation is not corrected, the violation is still considered a violation and shall still be presented to the special magistrate even if, prior to the hearing, the violation is corrected, and the notice of hearing shall so state.
- C. If a repeat violation is found, the code enforcement officer shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The code enforcement officer, upon notifying the violator of a repeat violation, may immediately notify the clerk to schedule a special magistrate hearing. If the repeat violation has been corrected by the time of the hearing, the special magistrate shall schedule a hearing to

determine costs and impose the payment of reasonable enforcement fees upon the repeat violator.

D. If the code enforcement officer has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety, and welfare or if the violation is irreparable or irreversible in nature, the code enforcement officer shall make a reasonable effort to notify the violator and may immediately notify the clerk and request a special magistrate hearing.

E. If the owner of property that is subject to an enforcement proceeding before the special magistrate or court transfers ownership of such property between the time the initial pleading was served and the time of the hearing, such owner shall:

(1) Disclose, in writing, the existence and the nature of the proceeding to the transferee.

(2) Deliver to the transferee a copy of the pleadings, notices, and other materials relating to the code enforcement proceeding.

(3) Provide written disclosure to the transferee that the transferee will be responsible for compliance with the applicable code and with orders issued in the code enforcement proceeding.

(4) File a notice with the code enforcement official of the transfer of the property, with the identity and address of the new owner and copies of the above-required disclosures made to the new owner, within five days after the date of the transfer.

If the property is transferred before the hearing, the proceeding shall not be dismissed, but the new owner shall, upon proper motion made, be afforded a reasonable continuance to allow the new owner to correct the violation, secure legal counsel, or for other good cause shown. If the new owner corrects the violation before the re-scheduled hearing, the code enforcement officer may, if he or she determines that the new owner has acted in good faith to promptly come into compliance, file a dismissal of the violation and request cancellation of the hearing.

~~Upon appointment, the special magistrates shall, before entering upon discharge of his or her duties, take an oath of office.~~

Sec. 70-5. - Conduct at hearings; legal counsel.

A. Upon request of the code enforcement officer, or at such other times as may be necessary, the special magistrate may call a hearing to hear any outstanding notices of violations or any related motions. The town clerk shall ensure that adequate hearing space within town hall, or at such other location within the town as would be appropriate, is secured for the hearing. The town clerk shall serve as the clerk for the hearing officer and shall keep and maintain a copy of all official records of the case including exhibits admitted into evidence. However, it shall be the responsibility of any party to such hearing to secure a certified court reporter should a record of the proceedings be desired.

- B. If the local governing body prevails in prosecuting a case before the special magistrate, it shall be entitled to recover all costs incurred in prosecuting the case before the code enforcement board or magistrate and such costs may be included in the lien authorized by law.
- C. The special magistrate shall proceed to hear the cases on the agenda for that day. However, the special magistrate may, in its/his/her discretion, continue any case until the next agenda upon a showing of good cause at the time of or prior to the scheduled hearing. All testimony shall be under oath. The special magistrate shall take testimony from the code enforcement officer, the alleged violator and any other witnesses called by the parties and allowed to testify by the special magistrate. The parties shall have the opportunity to give testimony, present witnesses and to cross-examine adverse witnesses in person or through their attorney. The formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. The special magistrate may impose the rule of witness exclusion during the hearing if so requested by a party. While Florida Statutes § 286.011 is not applicable to a magistrate hearing, the magistrate shall generally allow citizens to attend and observe the hearing, and shall not exclude a person from the hearing room absent the person's engaging in threatening or disruptive behavior or for other good cause. Before removing a person from the hearing, the magistrate shall, safety permitting, hear from the parties and the person to be removed before ruling. Any such ruling shall be made on the record, and the magistrate shall state the reasons for the removal.
- D. At the conclusion of the hearing, the special magistrate shall issue a final order containing findings of fact and conclusions of law, and shall therein affording the proper relief consistent with the findings and conclusions, and within the limits provided for in Florida Statutes Chapter 162. A certified copy of any such order which imposes a daily fine or awards allowable costs to the town may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns. If an order is recorded in the public records pursuant to this subsection and the order is complied with by the date specified in the order, the code enforcement board or special magistrate shall issue an order acknowledging compliance that shall be recorded in the public records.

~~Conduct of hearings. The code enforcement special magistrate shall adopt rules for governing the conduct of its affairs not inconsistent with the provisions of this section and specifically:~~

- ~~(1) The special magistrate may call hearings at any time.~~
- ~~(2) The special magistrate may, at any properly noticed hearing, set a future hearing date.~~
- ~~(3) Minutes shall be kept of all hearings. All hearings and proceedings shall be open to the public. All testimony shall be under oath and mechanically recorded.~~

- ~~(4) The town shall provide a hearing room and such clerical and administrative personnel as may be reasonably required by the special magistrate for the proper performance of his or her duties.~~
- ~~(5) Each case before the special magistrate shall be presented by the one or more code inspectors who are charged with the responsibility for inspection and/or enforcement of the specific code section or sections alleged to have been violated. If the local governing body prevails in prosecuting a case before the special magistrate, it shall be entitled to recover all costs incurred in prosecuting the case before the special magistrate and such costs may be included in the lien authorized under section 70-8 of this Code and F.S. Ch. 162.~~
- ~~(6) The special magistrate shall proceed to hear the cases on the agenda for that day; provided, however, that the special magistrate may, in his or her discretion, continue any case until the next agenda upon a showing of good cause at the time of or prior to the scheduled hearing. The special magistrate shall take the testimony from the code inspector, the alleged violator, and any other witnesses. Both sides shall have a right to give testimony, present witnesses and to cross-examine adverse witnesses, in person or through their attorney. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.~~
- ~~(7) After conclusion of the hearing, the special magistrate shall issue findings of fact based upon the evidence or record, and conclusions of law, and shall issue an order affording the proper relief consistent with the powers granted herein. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed and, under the conditions specified in section 70-8, the cost of repairs may be included along with the fine if the order is not complied with by said date. A certified copy of such order may be recorded in the public records of Pinellas County and shall constitute notice to any subsequent purchasers, successors in interest or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in interest or assigns. Such order shall have priority over any other mortgages, liens or encumbrances. If an order is recorded in the public records pursuant to this subsection and the order is complied with by the date specified in the order, the special magistrate shall issue an order acknowledging compliance that shall be recorded in the public records. A hearing is not required for the issuance of an order acknowledging compliance.~~

~~(8)(1) All hearings and deliberations before the special magistrate shall be open to the public.~~

~~A. *Legal counsel.* The town attorney shall provide legal counsel to the code inspectors.~~

Sec. 70-6. - Powers of special magistrate.

The special magistrate shall have the power to:

- A. Adopt rules for the conduct of his or her hearings which are not inconsistent with this chapter.
- B. Subpoena alleged violators and witnesses to his or her hearings. Subpoenas may be served by a town the police officer or, if the violator or witness is not located in the officer's jurisdiction, then department having jurisdiction in the Town of Redington Shores, or by any other individuals authorized to serve process in the jurisdiction where the violator or witness is located.
- C. Issue sSubpoenas for evidence when so requested by a party to a hearing.
- D. Take testimony under oath.
- E. Issue orders having the force of law commanding whatever steps are necessary to bring a violation into compliance.
- F. Impose daily fines in the manner and amounts set forth in this code, but not to exceed the maximum amounts established by state law.
- E.G. To hear appeals of parking violation tickets in the manner provided for in § 140-16 of the code.

Notwithstanding the foregoing authority, the magistrate shall not have any authority to grant a declaration regarding the underlying title to, or property rights of an alleged violator, including declaring whether a property owner has a vested or grandfathered right. Such determinations may only be made by a court of competent jurisdiction or as may be provided for in the land development code.

Sec. 70-7. - Enforcement procedures.

- ~~A. It shall be the duty of the code inspectors to initiate enforcement proceedings of the town's Code; the special magistrate shall not have the power to initiate such enforcement proceedings.~~
- ~~B. If a violation of the Code is found, except in the case of a repeat violation, the code inspector shall notify the violator and give him a reasonable time to correct the violation. In the event the violation is not corrected within the period of time given by the code inspector, the code inspector shall provide written notice, as herein provided, to the violator of the date, time and place of a hearing to be held on the violation. If the violation is corrected and then recurs, or if the violation is not corrected by the time specified for correction by the code inspector, the case may be presented to the special magistrate even if the violation has been corrected prior to the hearing and the notice shall so state. The~~

~~notice shall also state that if the alleged violator fails to appear, that the hearing will take place in his absence.~~

~~C. If an alleged repeat violation is found, the code inspector shall notify the violator of same, but is not required to give the violator a reasonable time to correct the violation. The code inspector, upon notifying the violator of a repeat violation, shall at the same time provide written notice, as herein provided, to the violator of the date, time and place of the hearing on the violation. The case may be presented to the special magistrate even if the repeat violation has been corrected prior to the hearing, and the notice shall so state. If the alleged violator has been properly noticed and fails to appear before the special magistrate, the special magistrate may proceed with the hearing. If the alleged repeat violator is found guilty of the violation, or appears and admits the repeat violation, the special magistrate may impose an appropriate fine as provided for herein and an order with appropriate findings of fact and conclusions of law shall be entered. The provisions of section 70-8.F. hereof shall apply to said order. A request for termination of said fine shall be heard by the special magistrate. All notices required in this subsection shall state that if the alleged violator fails to appear, the hearing will still take place in his or her absence.~~

~~D. If the code inspector has reason to believe that a violation presents a serious threat to the public health, safety or welfare, or if the violation is irreparable or irreversible in nature, the code inspector shall make a reasonable effort to notify the alleged violator of the violation and of the hearing and may immediately notify the special magistrate and request a hearing. The special magistrate shall conduct a hearing to determine if a violation exists and may enter appropriate orders.~~

~~E. If the owner of property that is subject to an enforcement proceeding before a special magistrate, or court transfers ownership of such property between the time the initial pleading was served and the time of the hearing, such owner shall:~~

~~(1) Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee.~~

~~(2) Deliver to the prospective transferee a copy of the pleadings, notices and other materials relating to the code enforcement proceeding received by the transferor.~~

~~(3) Disclose, in writing, to the prospective transferee that the new owner will be responsible for compliance with the applicable code and with orders issued in the code enforcement proceeding.~~

~~(4) File a notice with the code enforcement official of the transfer of the property, with the identity and address of the new owner and copies of the disclosures made to the new owner, within five days after the date of the transfer.~~

~~A failure to make the disclosures described in paragraphs A, B and C before the transfer creates a rebuttable presumption of fraud. If the property is transferred before the hearing,~~

~~the proceeding shall not be dismissed, but the new owner shall be provided a reasonable period of time to correct the violation before the hearing is held.~~

Sec. 70-78. - Administrative fines; costs of repair; liens.

- A. The special magistrate ~~may~~, upon notification by the code inspector that an order of the special magistrate requiring compliance by a date certain has not been complied with by ~~that date a set time~~, or upon a finding by the special magistrate that a repeat violation has ~~occurred been committed~~, may order the violator to pay a fine as specified herein for each day the violation continues past the date set by the special magistrate for compliance, or in the case of a repeat violation, for each day the repeat violation continues past the date set by the special magistrate for compliance or, in the case of a repeat violation, for each day the repeat violation continues, beginning with the date the repeat violation is found by the code enforcement officer to have occurred or is discovered to exist of notice to the violator of the repeat violation. In addition, if the violation is a violation described in ~~§section 70-47.D. of this Code~~, the special magistrate shall notify the town commission, which may make all reasonable repairs which are required to bring the property into compliance and charge the violator with the reasonable costs of the repairs along with the fine imposed pursuant to this section. Making such repairs does not create a continuing obligation on the part of the town to make further repairs or to maintain the property and does not create any liability against the town for any damages to the property if such repairs were completed in good faith. If a finding of violation or a repeat violation has been made, a hearing shall not be necessary for issuance of the order imposing the fine. If, after due notice and hearing, the special magistrate finds a violation to be irreparable or irreversible in nature, it may order the violator to pay a fine as specified in subsection paragraph B.
- B. A fine imposed pursuant to this ~~chapter section~~ shall not exceed \$250.00 per day for a first violation and shall not exceed \$500.00 per day for a repeat violation, and, in addition, may include all costs of repairs pursuant to subsection A. However, if a special magistrate finds the violation to irreparable or irreversible in nature, ~~the magistrate it~~ may impose a fine not to exceed \$5,000.00 per violation.
- C. In determining the amount of fine, if any, the special magistrate shall consider the following factors:
- (1) The gravity of the violation;
 - (2) Any actions taken by the violator to correct the violation; and
 - (3) Any previous violations committed by the violator.
- D. In any case in which the violator is found by the special magistrate to be in violation of the ordinances of the ~~Town of Redington Shores~~, the special magistrate may impose additional fines to cover all shall assess costs against the violator, which costs shall include fees and expenses incurred by the town in enforcing its codes against the violator conducting the hearing, including the fee of the special magistrate, and all costs of repairs pursuant to

~~subsection A. In determining the amount of such fines, the special magistrate shall consider the criteria set forth in subsection C. The special magistrate is authorized to enter any appropriate order pertaining to costs, and such order shall constitute a lien against the land on which the violation exists, and upon any other real or personal property owned by the violator, in the same manner as any other lien established herein.~~

- E. The special magistrate may reduce or eliminate a fine imposed by it pursuant to this section. The request to reduce or eliminate a fine shall be made within 60 days of correcting the violation for which the fine was assessed. If the violator fails to appear before the special magistrate because ~~the violator~~ he did not receive actual notice of the hearing on ~~the underlying his~~ violation, and so long as said lack of actual notice was not the result of the violator's own act or omission, the special magistrate may consider a request to reduce or eliminate a fine notwithstanding that the request is untimely made.
- F. Unless any request to reduce or eliminate a fine meets the conditions of subsection E-~~above~~, any reduction or elimination in any fine previously imposed can only be considered by the town commission ~~of the Town of Redington Shores~~.
- G. A certified copy of an order imposing a fine, ~~or a fine plus repair costs,~~ may shall be recorded in the public records of ~~the cPinellas County, Florida,~~ and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. ~~Such lien shall have priority over any other mortgages, liens or encumbrances.~~ Upon petition to the circuit court, such order shall be enforceable in the same manner as a court judgment by the sheriffs of the state, including execution of a levy against the personal property of the violator, but such order shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this section shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this section, whichever first occurs. A lien arising from a fine imposed pursuant to this section runs in favor of the town, and the commission may execute a satisfaction or release of lien entered pursuant to this section. Upon filing and recording of such a lien, it shall remain a lien against each such property until paid.
- H. After three months from the filing of any such lien which remains unpaid, the town commission may authorize the town attorney to foreclose on the lien ~~or to sue to recover a money judgment for the amount of the lien plus accrued interest~~. No lien created pursuant to the provisions of this section may be foreclosed on real property which is homestead under Section 4, Article X of the Florida Constitution. The money judgment provisions of this section shall not apply to real property or personal property which is covered by Section 4(a), Article X of the Florida Constitution. The town attorney or her/his designee is authorized to obtain a public records search for the purpose of determining whether to institute a lien foreclosure proceeding without the necessity of any action by the commission whenever the unpaid amount of a lien assessed by the special magistrate exceeds \$100.00. No public records search for the purpose of determining whether to institute a lien foreclosure proceeding shall be obtained where the unpaid amount of the lien is less than \$100.00.

G.I. Pursuant to Florida Statutes § 695.01(3), a lien by the town that attaches to real property for a code enforcement fine or penalty is valid and effectual in law or equity against creditors or subsequent purchasers for a valuable consideration only if:

(1) the lien is recorded in the official records of the county in which the property is located, and

(2) the recorded notice of lien contains:

a. the name of the owner of record,

b. a description or address of the property, and

c. the tax or parcel identification number applicable to the property as of the date of recording.

H.

Sec. 70-8. – Duration of lien.

No lien provided under this article and applicable state law shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded, unless within that time an action is commenced pursuant to subsection 70-7.G in a court of competent jurisdiction. In an action to foreclose on a lien or for a money judgment, the town is entitled to recover all costs, including a reasonable attorney's fee, that it incurs in the action. The town shall be entitled to collect all costs incurred in recording and satisfying a valid lien. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

Sec. 70-9. – Ex Parte communications prohibited.

A. No person who is or may become a party or a witness to a hearing before the special magistrate shall communicate with the special magistrate concerning that violation except at the hearings provided for in this article. This restriction shall extend to any person appearing or interceding on behalf of a party, whether or not such person may have a direct, personal or financial interest in the property which is the subject of the alleged violation.

B. The special magistrate shall not communicate with any party, witness, representative of a party, or interceding person concerning any alleged violation except at the hearings provided for in this chapter.

C. Failure on the part of the special magistrate to comply with the provisions of this subsection shall constitute grounds for removal of the special magistrate.

Sec. 70-~~109~~. - Appeals.

An aggrieved party, including the town commission, may appeal a final administrative order of the special magistrate to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the special magistrate. An appeal shall be filed within 30 days of the execution of the order to be appealed.

Sec. 70-~~110~~. - Notices.

- A. All notices required pursuant to this chapter shall be provided to the alleged violator by certified mail to the address listed in the tax collector's office for tax notices or to the address listed in the county property appraiser's database.; The town may also provide an additional notice to any other address it may find for the property owner and, if the owner informs the town in writing that notices should be sent to an alternative address, subsequent notices shall also be sent to that address. For property owned by a corporation, notices may be provided by certified mail to the registered agent of the corporation. Notice may also be by hand delivery by a law enforcement officer or code inspector; or by leaving the notice at the alleged violator's usual place of residence with any person residing there who is above 15 years of age and informing such person of the contents of the notice. In the case of a commercial premises, notice may be by leaving the notice with the manager or other person in charge of the commercial establishment.
- B. In addition to providing notices as set forth in subsection A. above, at the option of the special magistrate, notice may also be served by publication as follows:
- (1) Such notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county where the special magistrate is located. The newspaper shall meet such requirements as are prescribed under F.S. Ch. 50 for legal and official advertisements.
 - (2) Proof of publication shall be made as provided in F.S. § 50.041 and § 50.051.
- C. Notice of publication may run concurrently with or may follow an attempt or attempts to provide notice by hand delivery or by mail. Evidence that an attempt has been made to hand deliver or mail notice in compliance with this section, together with proof of publication as required herein, shall be sufficient to show that notice requirements of this chapter have been met without regard to whether or not the alleged violator actually received such notice.

ARTICLE II. – SUPPLEMENTAL ENFORCEMENT PROCEDURES IN COUNTY COURT

Sec. 70-20. – Citation system procedure; issuance; filing; notice.

- A. The provisions of this section are additional and supplemental means of enforcing the town's codes or ordinances and may be used for the enforcement of any code or ordinance.

or for the enforcement of all codes and ordinances. Nothing contained in this section shall prohibit the town from enforcing its codes or ordinances by any other means.

B. A violation of this Code is a civil infraction. A code enforcement officer is authorized to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted code or ordinance and that the county court will hear the charge. The citation will be filed and heard in the county court.

C. Prior to issuing a citation, a code enforcement officer shall provide notice to the person that the person has committed a violation of a code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than 30 days. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the time period, a code enforcement officer may issue a citation to the person who has committed the violation. A code enforcement officer does not have to provide the person with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation if a repeat violation is found or if the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible.

Sec. 70-21. – Form and content of citation.

Pursuant to F.S. § 162.21(3)(c), a citation issued by a code enforcement officer pursuant to this article shall be in a form prescribed by the town and shall contain:

- A. The date and time of issuance.
- B. The name and address of the person to whom the citation is issued.
- C. The date and time the civil infraction was committed.
- D. The facts constituting reasonable cause.
- E. The number or section of the code or ordinance violated.
- F. The name and authority of the code enforcement officer.
- G. The procedure for the person to follow in order to pay the civil penalty or to contest the citation.
- H. The applicable civil penalty if the person elects to contest the citation.
- I. The applicable civil penalty if the person elects not to contest the citation.

J. A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, the person shall be deemed to have waived his or her right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

Sec. 70-22. – Deposit of citation with county court; refusal to sign and accept.

A. After issuing a citation to an alleged violator, a code enforcement officer shall deposit the original citation and one copy of the citation with the county court.

B. Pursuant to F.S. § 162.21(6), any person who willfully refuses to sign and accept a citation issued by a code enforcement officer shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. § 775.082 or F.S. § 775.083.

Sec. 70-23. – Application of article's provisions.

The provisions of this part shall not apply to the enforcement pursuant to F.S. §§ 553.79 and 553.80 (the state building code adopted pursuant to F.S. § 553.73) as applied to construction, provided that a building permit is either not required or has been issued by the town. For the purposes of this subsection, the term "building codes" means only those codes adopted pursuant to F.S. § 553.73.

Sec. 70-24. – Penalty for violation.

A. Findings of violations will subject the violator to a maximum fine of \$500.00. The fine for a violator who elects not to contest a violation citation shall be \$250.00.

B. Any person charged with a violation of a town ordinance in county court may appear and contest the citation, and if found to be in violation, may appeal such finding as provided in the Florida Rules of Civil Procedure.

Sec. 70-25. – Notice to appear.

A. Notwithstanding Florida Statutes § 34.07, a code enforcement officer, designated pursuant to this chapter, may issue a notice to appear at any hearing conducted by a county court if the officer, based upon personal investigation, has reasonable cause to believe that the person has violated a code or ordinance. A notice to appear means a written order issued by a code enforcement officer in lieu of physical arrest requiring a person accused of violating the law to appear in a designated court or governmental office at a specified date and time. If a person issued a notice to appear under this section refuses to sign such notice, the code enforcement officer has no authority to arrest such person.

B. Prior to issuing a notice to appear, a code enforcement officer shall provide written notice to the person that the person has committed a violation of a code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such

time period shall be no fewer than five days and no more than 30 days. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the prescribed time period, a code enforcement officer may issue a notice to appear to the person who has committed the violation. A code enforcement officer is not required to provide the person with a reasonable time period to correct the violation prior to issuing a notice to appear and may immediately issue a notice to appear if a repeat violation is found, or if the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare or that the violator is engaged in violations of an itinerant or transient nature, as defined by local code or ordinance within the jurisdiction, or if the violation is irreparable or irreversible.

ARTICLE III. – ENFORCEMENT BY CIVIL ACTION

Sec. 70-30. – Civil actions to enforce town codes.

In addition to other provisions of law or this Code authorizing the enforcement of the town's codes, the town may enforce any violation of its code by filing a civil action in the same manner as instituting a civil action. The action shall be brought in county or circuit court, whichever is appropriate depending upon the relief sought.

Sec. 70-11. – Affect on other proceedings.

~~–The provisions of this chapter shall in no way be construed to limit the power of the Town of Redington Shores, Florida, to proceed in any other civil or criminal proceeding or in any other forum to obtain enforcement of its Code provisions.~~

Sec. 70-12. – Conflict of interest provisions.

~~A. No person who is or may become a party or a witness to a hearing before the special magistrate shall communicate with the special magistrate concerning that violation except at the hearings provided for in this chapter. This restriction shall extend to any person appearing or interceding on behalf of a party, whether or not such person may have a direct, personal or financial interest in the property which is the subject of the alleged violation.~~

~~B.A. The special magistrate shall not communicate with any party, witness, representative of a party, or interceding person concerning any alleged violation except at the hearings provided for in this chapter.~~

~~C.A. Failure on the part of the special magistrate to comply with the provisions of this subsection shall constitute grounds for removal of the special magistrate.~~

Sec. 70-13. – Public records searches.

~~A. The town attorney or his designee is authorized to obtain a public records search for the purpose of determining whether to institute a lien foreclosure proceeding without the~~

~~necessity of any action by the board of commissioners whenever the unpaid amount of a lien assessed by the special magistrate exceeds \$100.00.~~

~~B. No public records search for the purpose of determining whether to institute a lien foreclosure proceeding shall be obtained where the unpaid amount of the lien is less than \$100.00.~~

Section 2. Section 140-16 of the Redington Shores Town Code is hereby amended to read as follows:

Sec. 140-16. – Enforcement; penalties for offenses.

A. The police department shall enforce the restricted parking access provisions of this article by inspection of the designated areas and issue of parking violation tickets.

~~Violation of this article shall be punishable by a fine of \$15.00 per incident.~~

~~B. Persons wishing to appeal a parking violation ticket received pursuant to this chapter may file an appeal with the town's code enforcement special magistrate. The appeal shall be in writing, shall set forth each reason why the violator believes the parking violation ticket was issued in error, and shall be signed by the violator or, if the violator is a business entity, by the violator's authorized representative.~~

~~B.C. The code enforcement special magistrate shall hear appeals where an alleged violator contests a parking violation ticket issued in accordance with article III of chapter 140 of the code (stopping, standing and parking). The town shall bear the initial burden of proof that the violator occurred. Thereafter, the burden of proof shifts to the appealing violator to demonstrate the ticket was issued in violation of the law. If the special magistrate determines that there was a violation associated with the violator or a motor vehicle licensed to the violator, then the magistrate shall sustain the ticket. If the special magistrate determines that there was no violation committed, or that the violator established that the law was not followed, the magistrate shall dismiss the ticket. If the special magistrate sustains the ticket then, in addition to the fine amount listed on the ticket, the special magistrate may impose administrative costs incurred by the town associated with the appeal hearing, including the magistrate's fee.~~

Section 3. For purposes of codification of any existing section of the Redington Shores Code herein amended, words underlined represent additions to original text, words ~~stricken~~ are deletions from the original text, and words neither underlined nor stricken remain unchanged.

Section 4. If any section, subsection, sentence, clause, provision or word of this Ordinance is held unconstitutional or otherwise legally invalid, same shall be severable and the remainder of this Ordinance shall not be affected by such invalidity, such that any remainder of the Ordinance shall withstand any severed provision, as the Board of Commissioners would have adopted the Ordinance and its regulatory scheme even absent the invalid part.

Section 5. The Codifier shall codify the substantive amendments to the Redington Shores Code contained in Sections 1 and 2 of this Ordinance as provided for therein, and shall not codify the exordial clauses nor any other sections not designated for codification.

Section 6. Pursuant to Florida Statutes § 166.041(4), this Ordinance shall take effect immediately upon adoption.

ADOPTED ON FIRST READING on the __ day of _____, 2022, by the Board of Commissioners of the Town of Redington Shores, Florida.

ADOPTED ON SECOND AND FINAL READING on the __ day of _____, 2022, by the Board of Commissioners of the Town of Redington Shores, Florida.

Attest:

MaryBeth Henderson, Mayor Commissioner

Tracy Campbell, Town Clerk

ORDINANCE 23-04

AN ORDINANCE OF THE TOWN OF REDINGTON SHORES, FLORIDA, REPEALING AND REPLACING CHAPTER 71 (CURFEW); MAKING RELATED FINDINGS; AND PROVIDING FOR CODIFICATION, SEVERABILITY, AND FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 71 of the Redington Shores Town Code, addressing a juvenile curfew, dates to Ordinance 77-2, adopted on March 1st 1977; and

WHEREAS, Chapter 71 has not been amended since its adoption; and

WHEREAS, in the decades since the adoption of Chapter 71, substantial state and federal caselaw has been promulgated which has clarified the constitutional issues and limitations surrounding curfews in general and juvenile curfews in particular; and

WHEREAS, the Redington Shores Town Commission (the Commission) finds that a need exists to protect youth from harm and victimization, to protect the safety and well-being of the youth, and to reduce crime and violence committed by unsupervised youth; and

WHEREAS, youth are peculiarly vulnerable to being victims of crime such as homicide, robbery, assault and battery, and sexual offenses. Youth are generally smaller than adults, less likely to be in possession of a weapon, and less able to defend themselves; and

WHEREAS, youth are perceived to be easier targets by those persons inclined to commit violent crimes, a vulnerability is generally increased during late night hours because persons who are inclined to commit crimes of violence can do so with a lower risk of apprehension, because there is often little or no parental or adult supervision under such circumstances; and

WHEREAS, youth are also less likely to perceive the imminent risk of becoming the victim of a violent crime, and are under an additional threat of sex crimes because of perception that youth are less likely to be believed if they report having been the victim of a sex crime; and

WHEREAS, most parents make every reasonable effort to protect their children from the dangers of crime and make informed choices as to what to allow their children to do; and

WHEREAS, notwithstanding those efforts, parents cannot always maintain control of their children, and children at times fail to obey parentally-imposed curfews and can fail to be truthful to their parents about what they are doing during evening hours out of the home;

WHEREAS, parental oversight of youth can also be impaired by the fact that some single parents must work during evening or night hours, leaving their children in an unsupervised or under-supervised setting during these hours; and

WHEREAS, residents of the Town, including parents of minor children, as well as business owners and managers in the Town have asked the Town to develop a lawful balanced

means of assisting them in both reducing the risks to children who are out and unsupervised during nighttime hours, and in reducing the negative effects of unsupervised children being out at night, including vandalism, theft, public urination, underaged consumption of alcohol or unlawful narcotics, and disturbance of the peace; and

WHEREAS, the Town of Redington Shores, being a beautiful beachfront community with properties offering short term rental opportunities, has for years seen increases in the number of non-resident youth in the Town during holidays, school/college/university breaks, and during vacation season, resulting in numerous unsupervised youth congregating on the Town's beach, sidewalks, and business locations open during evening hours, during which times vandalism, theft, public urination, underaged consumption of alcohol or unlawful narcotics, public intoxication, fighting, disturbance of sea turtle nesting areas, and general disturbances of the peace are too often occurring; and

WHEREAS, congregation of youth in front of or within businesses during evening hours impedes the ability to customers to freely access and patronize such businesses; and

WHEREAS, congregation of youth on sidewalks within the Town during evening hours impedes the free flow of persons using those sidewalks for their intended purpose; and

WHEREAS, the Town is situated within Pinellas County, the most densely populated county in Florida, and within easy driving distance for youth traveling from Pasco, Manatee and Hillsborough Counties; and

WHEREAS, these geographic regions include several major colleges and universities, as well as school districts with some of the highest levels of student populations, all of which release their students for extended seasonal breaks during the same weeks each year; and

WHEREAS, the Town's Chief of Police (the Chief) has reported that in prior years, his department has made many attempts to work with the short-term rental properties in the Town with the goal of having those property owners/managers play a more active role in overseeing the activities of minors staying at their properties; and

WHEREAS, the Chief has reported that in spite of such efforts, the owners/managers were unwilling to crack down on short-term renting to an apparent adult on line, only to have the rental occupied solely by minors, and were either unwilling or unable to exercise any meaningful control over the activities of unsupervised minors in businesses and on beaches and sidewalks; and

WHEREAS, the Chief reports that last year the Police Department responded to 34 calls for alcohol and drug overdoses; and

WHEREAS, the Chief has reported that given the historical consistency of such activities, and the growing prevalence of vacation rental properties in the Town, the foregoing activities is projected to occur again in 2023 and in subsequent years; and

WHEREAS, the Town of Redington Shores is a small municipality with limited resources available to combat the unruly behavior of unaccompanied juveniles which impairs the health, safety and welfare of the general public, including the minors involved; and

WHEREAS, Article VIII, § 2(b) of the State Constitution provides that municipalities shall have the governmental powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Florida Statutes § 877.25 authorizes counties and municipalities to enact curfew ordinances regulating the presence of youths in public places and establishments which provide restrictions more stringent or less stringent than the curfew established by the Legislature in Florida Statutes § 877.22 (the model curfew statute); and

WHEREAS, in *State v. J.P.*, 907 So.2d 1101, 1115-16 (Fla. 2004), the Florida Supreme Court (finding the juvenile curfew ordinances of the cities of Pinellas Park and Tampa were unconstitutional), ruled that strict scrutiny applies to such ordinances, that juveniles had fundamental rights to privacy and freedom of movement, and that the ordinances burdened those rights because the ordinances did not contain sufficient exceptions to ensure minors would be allowed to exercise their rights to engage in core First Amendment activities, to engage in interstate travel, and to go to and from valid places of employment; and

WHEREAS, it is the intent of the Town Commission to adopt this Ordinance for the protection of the general public, including minors, by establishing a limited curfew in the Town during certain hours of the day or night under certain circumstances, in a manner which will protect the fundamental constitutional rights of youth and parents by setting out a body of regulations and standards which are narrowly tailored so as to advance public interests deemed by the Town Commission as compelling, which shall conform with requirements set out by the Florida Supreme Court in *State v. JP*, and guidelines of other State and Federal Courts, as well as meeting all requirements of the Constitutions of the United States and the State of Florida; and

WHEREAS, the Town Commission has conducted a public hearing on this Ordinance at which it heard from the Police Department, property owners and residents, and all other interested parties whether those parties were in support of or opposed to the regulations set forth in the Ordinance; and

WHEREAS, the Town Commission finds that it is in the best interests of the Town, and the health, safety and welfare of its residents, visitors and businesses, to adopt this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Redington Shores, Florida, that:

Section 1. Sections 71-1 and 71-2 of Chapter 71 (Curfew) of the Redington Shores Town Code are hereby repealed in their entirety:

~~**Sec. 71-1. Hours of curfew; exceptions.**~~

~~A. It shall be unlawful for any minor under the age of 18 years to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds, wharves, docks, beaches or other public grounds, public places, public buildings, places of amusement and entertainment, vacant lots or other unsupervised places between the hours of 10:00 p.m. and 5:00 a.m. of the following day in the town; provided, however, that the provisions of this section shall not apply to a minor accompanied by his or her parent, guardian or other adult person having the care and custody of the minor or where the minor is upon an emergency errand or legitimate business directed by his or her parent, guardian or other adult person having the care and custody of the minor. Each violation of the provisions of this section shall constitute a separate offense.~~

~~B. It shall be unlawful for minors under the age of 18 to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds, wharves, docks, beaches or other public grounds, public places, public buildings, places of amusement and entertainment, vacant lots or other unsupervised places between the hours of 10:00 p.m. and 5:00 a.m. of the following day in the town; provided, however, that the provisions of this section shall not apply to a minor accompanied by his or her parent, guardian or other adult person having the care and custody of the minor or where the minor is upon an emergency errand or legitimate business directed by his or her parent, guardian or other adult person having the care and custody of the minor. Each violation of the provisions of this section shall constitute a separate offense.~~

~~Sec. 71-2. Penalties for offenses.~~

~~All persons violating the provisions of this chapter and any parent, guardian or other adult person having the care and custody of a minor who shall violate this chapter shall, upon conviction, be punished as set forth in chapter 1, general provisions, article II, of this Code.~~

Section 2. A new Chapter 71 (Curfew) of the Redington Shores Town Code is hereby created as follows:

Sec. 71-1. Definitions.

For the purposes of this chapter, the following words shall be defined as follows:

Direct route means the shortest reasonable path to travel to reach a final destination without any detour or stop along the way.

Emergency means an unforeseen combination of circumstances which results in a situation that requires immediate attention to care for or prevent serious bodily injury, loss of life, or significant property loss. The term "emergency" includes, but is not limited to, a fire, a natural disaster, or an automobile accident.

Establishment means a privately-owned place of business to which the public is invited, including, but not limited to, a place of entertainment.

Guardian means:

- (1) a person who, under court order, is the guardian of the person of a youth,
- (2) a court appointed person or agency acting in the role of a parent, or
- (3) a person who is not a parent and who has legal custody of the youth by court order.

Holding location means a place designated by the police chief to which a youth taken into custody for a violation of this article may be delivered to await pickup by a parent or by juvenile authorities.

Law enforcement officer means any sworn law enforcement officer under the direction of the police chief or sheriff.

Legal guardian means a person to whom lawful custody has been given by a court order.

Legal holidays shall be understood to include those holidays designated in Florida Statutes § 683.01.

Operator means any individual, firm, association, partnership, or corporation operating, managing, or conducting any business or establishment. The term includes the members or partners of any association or partnership and the officers of a corporation.

Parent means a person who has care and control of a youth as a natural, adoptive or stepparent, and includes a person who is:

- (1) a court-appointed guardian of another person; or
- (2) a person at least 18 years of age and with written authority from a parent or court-appointed guardian to have the care and custody of another person.

Private place means any property or place, whether privately or publicly owned, to which the general public does not have access and a right to enter or remain for business, recreation, entertainment or otherwise.

Public place means any property owned or controlled by the town, the county, the state or other governmental entity, to which the general public has access and a right to enter or remain for business, recreation, entertainment, or other lawful purpose.

Remain means to:

- (1) Linger or stay unnecessarily in a particular place; or

(2) Fail to leave premises when requested to do so by a duly authorized law enforcement officer or the owner, operator, or other person in control of the premises.

Semi-public place means any privately-owned or privately-operated real property (including any structure thereon) to which the general public has access and a right to enter or remain for business, recreation, entertainment, or other lawful purpose, and includes any common area of any condominium or housing complex, any vacant lot or vacant or abandoned building, and includes but is not limited to any store, shop, restaurant, tavern, theatre, parking lot, alley, road, or shopping center.

Supervising adult means a person who is at least 18 years of age and is authorized to have care and control of the youth and who, by virtue of the youth's parents or guardians' authority, is responsible to watch and direct the activities of the youth while the youth is in the care and control of said person.

Swale means the low tract of land in front of or between houses or other properties often used for drainage of stormwater.

Youth means any unemancipated or unmarried person under the age of 18.

Restricted hours or Youth curfew hours mean:

Sunday – 11:00 p.m. until Monday 5:00 a.m.

Monday – 11:00 p.m. until Tuesday 5:00 a.m.

Tuesday – 11:00 p.m. until Wednesday 5:00 a.m.

Wednesday – 11:00 p.m. until Thursday 5:00 a.m.

Thursday – 11:00 p.m. until Friday 5:00 a.m.

Friday – 11:00 p.m. until 6:00 a.m.

Saturday – 11:00 p.m. until 6:00 a.m.

Legal holidays – 11:00 p.m. until 6:00 a.m.

Sec. 71-2. Establishment of youth curfew; fine.

- (a) A youth shall not be or remain, stay, linger, congregate, move about, wander, or stroll in any public place, semi-public place, or establishment in the town, either on foot or in or upon any vehicle, during youth curfew hours.
- (b) A youth who has been suspended or expelled from school may not be or remain, stay, linger, congregate, move about, wander, or stroll in any public place, semi-public place, or establishment in the town or within 1,000 feet of a school, either on foot or in or upon any vehicle, during the hours of 7:00 a.m. to 5:00 p.m. during any day on which the county's public schools are open and students are required to attend.
- (c) A youth who violates this section shall receive a written warning for her or his first violation. A youth who violates this section after having received a prior written warning is guilty of a civil infraction and shall pay a fine of \$100 for each violation.

- (d) For purposes of this section, a second violation after warning can occur on the same day and during the same restricted hours period, and it is no defense to the issuance of a second violation that the initial warning was issued earlier during the same day and same restricted hours period.
- (e) Violation of this section and § 71-3 are distinct offenses committed by different individuals and the issuance of a citation to a parent or supervising adult for violation of § 71-3 does not preclude issuance of a citation to a youth under this section.

Sec. 71-3. Legal duty of parent; fine.

- (a) The parent(s) and any supervising adult(s) of a youth have a legal duty and responsibility to ensure that the youth does not violate § 71-2 of this code.
- (b) The parent(s) of a youth have a legal duty and responsibility to personally supervise (or arrange for a supervising adult to supervise) the youth so that the youth does not violate § 71-2 of this code.
- (c) The parent(s) and any supervising adult(s) of a youth who knowingly permit the youth to violate § 71-2 shall receive a written warning for a first violation. A parent or supervising adult who knowingly permits the youth to violate § 71-2 after having received a prior written warning is guilty of a civil infraction and shall pay a fine of \$100.00 for each violation. A parent who knowingly permits the youth to subsequently violate section 54-13 shall pay a fine of \$100.00.
- (d) As an alternative to paying the fine for the civil infraction, the parent(s) or supervising adult(s) who violate this section may choose to perform community service as approved by the town commission or town manager. Each hour of such service shall be applied at the rate of the state minimum wage toward payment of the civil fine.
- (e) For purposes of this section, a second violation after warning can occur on the same day and during the same restricted hours period, and it is no defense to the issuance of a second violation that the initial warning was issued earlier during the same day and same restricted hours period.
- (f) Violation of this section and § 71-2 are distinct offenses committed by different individuals and the issuance of a citation to a youth for violation of § 71-2 does not preclude issuance of a citation to a parent or supervising adult under this section.

Sec. 71-4. Legal duty of an operator; fine.

- (a) It shall be unlawful for any operator of a business to knowingly permit a youth to remain, linger, stay, congregate, move about, wander or stroll upon premises of the business during youth curfew hours.

- (b) Operators are encouraged, but not required, to post in a prominent location in their business premises the following notice in no smaller than 30-point font: "PURSUANT TO TOWN CODE § 71-2, IT IS UNLAWFUL FOR ANY UNEMANCIPATED PERSON LESS THAN 18 YEARS OF AGE TO REMAIN ON THESE PREMISES DURING THE YOUTH CURFEW HOURS BEGINNING AT 11:00 P.M. AS SET FORTH IN TOWN CODE § 71-1, UNLESS SPECIFICALLY ALLOWED BY TOWN CODE § 71-5."
- (c) A business in violation of this section, after having received a prior written warning, is guilty of a civil infraction and shall pay a fine of \$50.00 for each violation. A business found in violation any time subsequent to the second violation shall pay a fine of \$100.00 per violation.
- (d) It shall constitute a defense if the operator notified a law enforcement officer that the youth was present on the premises of the business during restricted hours and the youth refused to leave the premises after being requested by the operator to leave.
- (e) It shall also constitute a defense if the operator had posted notice in the form set forth in subsection (b) above, and had also notified the youth that the youth was not permitted on the premises during the restricted hours.

Sec. 71-5. Exceptions to curfew application.

The youth curfew provided for in § 71-2 does not apply to a youth who is:

- (a) Accompanied by a parent or guardian; or
- (b) Accompanied by a supervising adult, provided that the law enforcement officer is able to verify the authorization of the supervising adult through in-person or telephonic contact with the parent or legal guardian; or
- (c) Married or had been married or emancipated in accordance with state law; or
- (d) Homeless, or uses a public place as their usual place of abode; or
- (e) Engaged in interstate travel or bona fide intrastate travel with a parent or with the consent of the youth's parent, which must be verified by the law enforcement officer in-person or telephonically; or
- (f) On an errand at the direction of and with authorization of the youth's parent or supervising adult, using a direct route without detour, provided that the law enforcement officer is able to verify the authorized errand through in-person or telephonic contact with the parent or supervising adult; or
- (g) Attending or traveling to or from, using a direct route, an activity that involves the exercise of rights protected under the First Amendment of the United States Constitution (or those

similar rights protected by Article 1, Section 3, 4, and 5 of the Florida Constitution), such as the free exercise of religion, freedom of speech, and the right of assembly; or

- (h) When the town commission presents, or authorizes a third party to present, a special event which occurs during youth curfew hours. Any such special events, if they are to occur during youth curfew hours, shall include such safety and security measures as will reasonably protect any youth participating in the event and prevent any youth present during the event from engaging in unlawful activities; or
- (i) Engaged in lawful employment or traveling to or from, by direct route, lawful employment, or who is in a public place or establishment in connection with or as required by a business, trade, profession, or occupation in which the youth is lawfully engaged, provided that the law enforcement officer may verify this employment through in person or telephonic contact with the employer, parent, or supervising adult; or
- (j) Reacting or responding to an emergency that requires a youth's immediate attention as defined in § 71-1 and, provided that the law enforcement officer may verify such necessity through in-person or telephonic contact with the parent or supervising adult, or through the officer's own observations and judgment; or
- (k) Attending or traveling to or from, by direct route, an official school, religious, or recreational activity that is supervised by adults and is sponsored by a governmental entity, civic or religious organization, or other similar entity, that accepts responsibility for the youth as an invitee, provided the law enforcement officer may verify these factors through in-person or telephonic contact with the parent, supervising adult, or representative of the entity or organization that the activity is so sponsored and the entity or organization does accept responsibility for the youth; or
- (l) On the property of, or on the swale or sidewalk abutting the place where the youth resides, or is on the abutting property of, or swale or sidewalk of the residential property of an adult next-door neighbor, provided the neighbor confirms to the law enforcement officer that she or he consents and did not complain to law enforcement or code enforcement officers about the youth's presence.

Sec. 71-6. Enforcement procedures.

- (a) A law enforcement officer is authorized to stop persons whom the officer reasonably suspects are in violation of the curfew provisions of this chapter and may detain such persons as long as it is reasonably necessary to determine whether they are in violation of this chapter.
- (b) Before taking any enforcement action under this chapter, the law enforcement officer shall ask the youth and any person(s) with the youth who claims to be a parent or supervising adult, the youth's age and reason for being in the public place. The officer shall not issue a citation or notice of violation unless the officer reasonably believes that a violation of this

chapter has occurred and that based on any response and other facts and circumstances observed by or brought to the attention of the officer, no defense is present.

(c) If a youth is in violation of § 71-2, the law enforcement officer may:

- (1) Ascertain the name and address of the youth; and
- (2) Issue a written warning to the youth that he or she is in violation of the curfew; and
- (3) Order the youth to leave the restricted area for the remainder of the restricted hours; or
- (4) Contact the youth's parent or guardian and allow the youth's parent or guardian to take physical custody of the youth.

(d) The law enforcement officer may take the youth into protective custody if:

- (1) The law enforcement officer has reasonable grounds to believe that the youth has been abandoned or neglected, or is in immediate danger from her or his surroundings and that removal is necessary for her or his own protection, or
- (2) There is no parent or supervising adult having lawful custody and control over the youth at the youth's home or usual place of abode, or
- (3) The law enforcement officer is unable to make contact with the parent or documented supervising adult of the youth within a reasonable time in order to allow the parent or documented supervising adult to pick up the youth, or
- (4) The parent or supervising adult refuses to pick up or take custody of the youth.

(e) Following three or more violations of § 71-2 by a youth, the police chief or a designated representative may contact the appropriate state or county child welfare agency and recommend an investigation of the youth's home as provided for by law.

(f) When a youth is taken into custody under subsection (d) above, and the law enforcement office is unable to contact a parent of the youth within 2 hours after the youth is taken into custody, the youth may be transported to a holding location or other facility as provided for by part IV of Florida Statutes Chapter 39, or to his or her residence.

Section 3. For purposes of codification of any existing section of the Redington Shores Code herein amended, words **underlined** represent additions to original text, words **stricken** are deletions from the original text, and words neither underlined nor stricken remain unchanged.

Section 4. If any section, subsection, sentence, clause, provision or word of this Ordinance is held unconstitutional or otherwise legally invalid, same shall be severable and the remainder of this Ordinance shall not be affected by such invalidity, such that any remainder of the Ordinance shall withstand any severed provision, as the Board of Commissioners would have adopted the Ordinance and its regulatory scheme even absent the invalid part.

Section 5. The Codifier shall codify the substantive amendments to the Redington Shores Code contained in Sections 1 and 2 of this Ordinance as provided for therein, and shall not codify the exordial clauses nor any other sections not designated for codification.

Section 6. Pursuant to Florida Statutes § 166.041(4), this Ordinance shall take effect immediately upon adoption.

ADOPTED ON FIRST READING on the ___ day of _____, 2023, by the Board of Commissioners of the Town of Redington Shores, Florida.

ADOPTED ON SECOND AND FINAL READING on the ___ day of _____, 2023, by the Board of Commissioners of the Town of Redington Shores, Florida.

Attest:

MaryBeth Henderson, Mayor Commissioner

Tracy Campbell, Town Clerk