



**TOWN OF REDINGTON BEACH
BOARD REGULAR MEETING AGENDA
WEDNESDAY, October 2, 2019
6:30 P.M.**

Town Hall

Assembly Hall

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. APPROVAL OF AGENDA

- 5. PUBLIC FORUM: Non-Agenda Items Only NOTE:** A three minute time limit applies to all comments from the public on non-agenda items only. If a person wishes to address the Board of Commissioners, please fill out a "Speakers Card" and give it to the Town Clerk prior to the start of the meeting.

6. REPORTS

Public Safety	Vice Mayor Kornijtschuk
Building/Code	Commissioner Will
Public Works/Parks	Commissioner Steiermann
Finance	Commissioner Dorgan
Mayor	
Town Clerk	
Attorney Daigneault	
Boards & Committees	

7. CONSENT AGENDA

- A. Final Budget Meeting Minutes, September 17, 2019**
- B. Board Regular Meeting Minutes, September 18, 2019**
- C. Bill list for Day Ending September 27, 2019**

8. OLD BUSINESS

- A. Waste Connections: Price Increase**
- B. Impervious Surface Ratio: Discussion to Remove from Comprehensive Plan**
- C. Final Reading Ordinance 2019-06: An Ordinance of the Town of Redington Beach, Florida, Amending Chapter 12 of the Town Code Concerning Nuisances to Remove Outdated, Unenforceable or Preempted Provisions and to Incorporate Current State and Federal Law Requirements; Creating New Regulations Concerning the Distribution of Written or Printed Materials; Making Related Findings; Providing for Codification, Severability, and an Effective Date.**



9. NEW BUSINESS

10. OTHER BUSINESS

11. ADJOURNMENT

Note: The Town of Redington Beach Board of Commissioners meet the First and Third Wednesday of each month beginning at 6:30 p.m.

The Town of Redington Beach Board of Commissioners may take action on any matter during this meeting, including items that are not set forth within this agenda.

Minutes of the Board of Commissioners meeting may be obtained from the Town Clerk's office. The meetings may be recorded. The Minutes are not transcribed verbatim. It is the policy of the Board of Commissioners to make "action minutes" of all meetings

Persons requiring a verbatim transcript of any Town meeting (for purposes of appeal or otherwise) should make arrangements to have a certified Court Reporter, at their own cost and expense, present at the meeting.

Persons who wish to appeal any decision made by the Board of Commissioners with respect to any matter considered at this meeting will need a record of the proceedings, and for such purpose 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 based. (F.S. 286.0105) **Notice Regarding Special Accommodations: (F.S. 286.26)**



TOWN OF REDINGTON BEACH, FLORIDA
BOARD REGULAR MEETING MINUTES
Tuesday, September 17, 2019
6:00 p.m.

Having been duly advertised as required by law, the **Final Budget Meeting** of the Board of Commissioners of the Town of Redington Beach, Florida, was held on **Tuesday, September 17, 2019, at 6:00 p.m.**, in Redington Beach town Hall at 105 164th Avenue, Redington Beach Florida.

Mayor Simons called the **Budget Meeting** to order and led the **Pledge of Allegiance**.

Roll Call

	Present	Absent
Commissioner Dorgan	X	
Commissioner Steiermann	X	
Commissioner Will	X	
Vice Mayor Kornijtschuk	X	
Mayor Simons	X	
Town Attorney Daigneault	X	
Town Clerk Clarke	X	

Also present was finance chairman, James Hoffman.

Agenda: Motion made by Vice Mayor Kornijtschuk and seconded by Commissioner Dorgan to approve the agenda. Agenda approved with all ayes.

Public Forum: None

NEW BUSINESS

A. **2019-2020 Final Budget Hearing:** Commissioner Dorgan stated the budget is in good shape.

B. **Resolution 2019-07: A Resolution of the Board of Commissioners of the Town of Redington Beach, Florida, adopting the final levy of Ad Valorem Taxes for Pinellas County for Fiscal Year 2019-2020; and providing for an effective date.**

Attorney Daigneault read the resolution by title only. No public comments or board discussion. **Motion was made by Commissioner Dorgan and seconded by Commissioner Will to adopt Resolution 2019-07 setting the final levy of Ad Valorem taxes with a mill rate of 1.8149. Roll call vote was taken and motion passed with all ayes.**

	Motion	Second	Aye	Nay	Absent
Commissioner Dorgan	X		X		
Commissioner Steiermann			X		
Commissioner Will		X	X		
Vice Mayor Kornijtschuk			X		
Mayor Simons			X		

- C. Resolution 2019-08: A Resolution of the Board of Commissioners of the Town of Redington Beach, Florida, adopting the Final Budgets for General Operating, Capital, and Stormwater Funds for Fiscal Year 2019-2020; and providing for an effective date.**

Attorney Daigneault read Resolution 2019-08 by title only. No public comments. **Motion made by Commissioner Dorgan and seconded by Vice Mayor Kornijtschuk to adopt Resolution 2019-08 with Schedule A (Published Budget Summary and Budget Worksheet). Roll call vote was taken and motion passed with all ayes.**

	Motion	Second	Aye	Nay	Absent
Commissioner Dorgan	X		X		
Commissioner Steiermann			X		
Commissioner Will			X		
Vice Mayor Kornijtschuk		X	X		
Mayor Simons			X		

OTHER BUSINESS

With no further business, motion made by Vice Mayor Kornijtschuk and seconded by Commissioner Steiermann to adjourn. Regular session was adjourned at 6:03 p.m.

Adopted: October , 2019

Missy Clarke, CMC Town Clerk



TOWN OF REDINGTON BEACH, FLORIDA
BOARD REGULAR MEETING MINUTES
Wednesday, September 18, 2019
6:30 p.m.

Having been duly advertised as required by law, the **Regular Meeting** of the Board of Commissioners of the Town of Redington Beach, Florida, was held on **Wednesday, September 18, 2019, 6:30 p.m.**, in Redington Beach Town Hall at 105 164th Avenue, Redington Beach Florida.

Mayor Simons called the **Regular Meeting** to order and led the pledge of allegiance.

Roll Call

	Present	Absent
Commissioner Dorgan	X	
Commissioner Steiermann	X	
Commissioner Will	X	
Vice Mayor Kornijtschuk	X	
Mayor Simons	X	
Town Attorney Daigneault	X	
Town Clerk Clarke	X	

Agenda: Mayor Simons requested that Waste Connections under new business be moved after public forum and before reports. A motion by Vice Mayor Kornijtschuk and seconded by Commissioner Steiermann to accept the agenda as amended. Motion passed with all ayes.

Public Forum: Steve Redman, 16496 Redington Drive spoke on the Impervious surface ratio in the comprehensive plan. He requested that the commission take the impervious surface out of the comprehensive plan and to put this in the ordinance where it will be quicker and easier to change. Commissioner Will and Dorgan agreed with this. Commissioner Steiermann was against. Vice Mayor Kornijtschuk thinks it is time for discussion on this. Mayor Simons requested that this be put on the agenda for the October 2nd meeting.

NEW BUSINESS

- a. **Waste Connections:** Ian Boyle, government affairs manager spoke on the price increase that will begin on October 1st. Pinellas County has increased their disposal fees from \$37.50 to \$39.75 per ton. The overall increase for the town residents will be 3.8%. Mayor Simons requested that the price increase be put on the agenda for the October 2nd meeting. He also requested the clerk to post the new rates on the town website. Mayor Simons also mentioned that there will be a price increase in the water and sewer rates. Mr. Boyle spoke briefly on the recycling industry. The recycling must be 99.5% clean in order to sell. The revenue has decreased for the recycling and it is cheaper for them to burn than to process. Waste Connections does still do recycling, and what can't be recycled, goes to the landfill.

Public Safety

- Nothing to Report

Building

- Nothing to Report.

Public Works

- Two new recycled bicycle racks were installed at beach park and the bus stop. Grant money from Pinellas County paid for these bike racks.

Finance

- Final budget hearing is completed, and the budget process is done.

Mayor

- Nothing to Report

Town Clerk

- Received a resignation letter from public works employee Mike Carr. His last day will be on September 20th.

Town Attorney

- Nothing to Report

Boards and Committees

- Nothing to Report

CONSENT AGENDA

- A. Board Budget Hearing Meeting Minutes, September 3, 2019**
- B. Board Regular Meeting Minutes, September 4, 2019**
- C. Bill list ending for Day ending September 13, 2019**

A motion by Commissioner Dorgan and seconded by Commissioner Will to approve the consent agenda as presented. No public comment. Motion passed with all ayes.

OLD BUSINESS

- A. Friendship Park Renovations:** Commissioner Will reported that the sable palm tree has been removed and the new one will be replaced on the 26th. Plans are being reviewed by the building department now to move forward with the project.
- B. Board of Adjustment Member Wendy Fields:** Mayor Simons reported that Ms. Fields had offered her resignation at the last board meeting and to date, the resignation letter has not been received. A motion by Commissioner Will to remove Wendy Fields as a Board of Adjustment member, seconded by Vice Mayor Kornijtschuk. Ken Sulewski, 16213 Redington Drive, a member of the Board of Adjustment stated that Ms. Fields has served with integrity and she is exercising her rights as a citizen to sue. Motion passed with all ayes. Town Clerk will notify Ms. Fields.

NEW BUSINESS

- A. Waste Connections**

- B. Resolution 2019-09: A Resolution of the Board of Commissioners of the Town of Redington Beach, Florida, entering into an Agreement with Clifton Larson Allen, for Auditing Services; and Providing for an Effective Date.** Attorney Daigneault read the resolution by title only. A motion by Commissioner Dorgan and seconded by Commissioner Steiermann to adopt Resolution 2019-09. Commissioner Dorgan asked if there is a conflict between the Resolution and the contract, as the resolution says, "not to exceed" and the contract says, "a good faith estimate." Town attorney said if it does exceed, a new resolution could be done, and Mayor Simons stated that a budget amendment could be done is an adjustment is needed. Motion passed with all ayes by roll call vote.

	Motion	Second	Aye	Nay	Absent
Commissioner Dorgan	X		X		
Commissioner Steiermann		X	X		
Commissioner Will			X		
Vice Mayor Kornijtschuk			X		
Mayor Simons			X		

Other Business

With no further business, a motion was made by Vice Mayor Kornijtschuk and seconded by Commissioner Will to adjourn. Regular meeting was adjourned at 6:57 p.m.

Adopted: , 2019

Missy Clarke, CMC, Town Clerk

Date: 09/27/2019

Time: 12:06 pm

Page: 2

Town of Redington Beach

Fund/Dept/Acct	Vendor Name	Invoice #	Invoice Desc.	Check #	Due Date	Posting Date	Amount
al Dept. Department of Public Works:							2,080.00
Dept: 590 Capital Outlay							
300-590-590.001	Capital Outlay						
	ARCHITECTONICS STUDIO I	16742	Friendship Park Drawings	0	08/20/2019	08/20/2019	820.00
	EL CHEAPO TREE SERVICE	09172019	Tree Removal/stump grind	0	09/17/2019	09/17/2019	550.00
	PALM TREE DIRECT	1558	Sable Palm-Friendship Park	0	09/27/2019	09/27/2019	368.00
							1,738.00
Total Dept. Capital Outlay:							1,738.00
al Fund Capital Accounts:							3,818.00
Fund: 400 Storm Water							
Dept: 535 Storm Water							
400-535-535.441	Utility Mailing Co:						
	PINELLAS COUNTY UTILITIE	90015537	July-August Billing	0	09/16/2019	09/16/2019	594.00
							594.00
Total Dept. Storm Water:							594.00
Total Fund Storm Water:							594.00
Grand Total:							6,767.11

9/23/2019

8875 Payroll	277.05
8876 Payroll	277.05
8877 Payroll	381.75
8878 Payroll	277.05
8879 Payroll	277.05
8880 Payroll	1,759.15
8881 Payroll	1,326.61
8882 Payroll	853.88
8883 Payroll	1,251.86
RETIREMENT	2,366.11
PAYROLL TAXES	2,921.58

EFT
EFT

11,969.14

MAYOR SIMONS

COMMISSIONER WILL

VICE MAYOR KORNIJTSCHUK

COMMISSIONER DORGAN

ATTEST:

COMMISSIONER STEIERMANN

Missy Clarke, CMC, Town Clerk

Regular Meeting of October 2, 2019

Town of Redington Beach Pricing **Proposed 2020 Pricing Effective 10/1/19**

Solid Waste, Yard Waste and Recycling

A. Can Service

	Current Rate	Disposal 40%	6% Increase on Disposal	New Total	Total Plus 1.4% CPI Increase
Residential Rate	\$16.19	\$ 6.48	\$ 6.86	\$ 16.58	\$ 16.81
Condo	\$8.64	\$ 3.46	\$ 3.66	\$ 8.85	\$ 8.97

B. Commercial

Size	1x/week	2x/week	3x/week
2-yd	\$ 54.32	\$ 97.90	\$ 141.51
3-yd	\$ 68.50	\$ 123.73	\$ 179.00
4-yd	\$ 82.12	\$ 149.01	\$ 215.89
6-yd	\$ 109.49	\$ 199.68	\$ 289.87
8-yd	\$ 137.26	\$ 244.35	\$ 363.71

- C. Compactor Service** (Charge per pull 147.29 plus disposal cost)
Front-End Load Compactor - 3.5 x regular dumpster rate

- D. Roll-Off**
 \$147.29 per haul
 \$109.11 Delivery
 \$5 Daily Rental

- E. Roll-Off Containers for Hurricane**
 \$161.25 plus disposal
Note: Hurricane roll-offs are one source bill to town



▪ [Sign In](#)

Solid Waste to raise some fees Pinellas County Solid Waste (727)-474-7500

August 23, 2019

Pinellas County Solid Waste received approval to increase the disposal rate for municipal solid waste, commercial and yard waste by an average of 6 percent, beginning on Oct. 1, 2019. The increase was approved by the Board of County Commissioners at its March 12, 2019 meeting.

The approved disposal rate for municipal, commercial and yard waste will increase from \$37.50 to \$39.75 per ton.

"This is the first rate increase for customers in 30 years and the rate is still the lowest disposal fee in the region," said Solid Waste Director Paul Sacco. "The average family generating one ton of trash per year will see approximately a \$2.25 increase per year."

Revenue from the rate increase will fund operations and maintenance expenses previously offset by payments from a 30-year contract with, now, Duke Energy for the construction and operation of the Waste-to-Energy power plant. The payments are set to expire in 2024, at the end of the contract.

In addition to the approved disposal rate increase, other fees are proposed for increase. The proposed increases will be considered by the Board of County Commissioners during the 2nd public hearing for the FY20 budget on Tuesday, Sept. 24, 2019, beginning at 6 p.m.

The proposed rate/fee increases are:

- Tires, from \$50.50 to \$75 per ton, with no flat rate.
- Car flat-rate, from \$2 to \$3 per load.
- Out-of-county municipal solid waste, commercial waste and yard waste, from \$75 to \$79.50 per ton
- Special Handling Services Fee (formerly known as the Special Waste Fee), from \$100 to \$110

The pickup truck and van rate of \$10 per load will stay the same, along with the \$3 per load rate for up to five Christmas trees.

Solid Waste anticipates requesting two more increases—each at 6 percent—over the next two years to begin offsetting the loss of revenue from the contract and to avoid the possibility of dramatically higher percentage increases in the future.

The rate increases were reviewed and approved by the Technical Management Committee, a group made up of solid waste professionals from the county and its 24 municipalities.

Beginning operations in 1983, the Waste-to-Energy facility can process up to 3,150 tons of solid waste per day while generating 75 megawatt hours of renewable electrical energy. In 2018, the facility reduced 1.7 billion pounds of waste by 90 percent of its volume, recovered 488,000 megawatt hours of electricity and recovered 37 million pounds of metal from the incineration process.

For more information about Pinellas County Solid Waste and the Waste-to-Energy facility, visit www.pinellascounty.org/solidwaste.

[Add to Favorites](#)



Recycling Program Changes – May 31, 2019

Overview

NWRA members are seeing the impacts of China's policies limiting imported recyclables. Numerous programs across the country are making programmatic changes. Here is a sampling of some of the changes.

Discussion

- **Programmatic and contractual changes.** Communities are focused on improving recycling quality and changing what is acceptable. The industry continues to adjust to the changes in recycling. Many communities are reviewing their recycling contracts and some are beginning to renegotiate them.
 1. Milwaukee, WI will increase its payment by \$17.89/ton to its contractor, Resource Recovery Systems. The previous rate was \$36/ton. The new contract also changed the split on revenues which were previously 80/20 with the city receiving 80. The new split will be that the contractor retains the first \$20/ton and the city receiving any remaining revenues. This renegotiated contract was originally signed in 2015 for a 10-year term.
 2. Cache County, UT will no longer accept #3-7s in the single stream program.
 3. Denton, TX found out that some of their recyclables were landfilled during March and April from their contractor, Pratt. This includes glass and #3-7s. Pratt recommended segregating glass. The contract with Pratt ends in 2027 with two 10-year extensions built in.
 4. Riverside, CA will increase collections costs increase by \$3.17/hh/month for a total of \$26.85/hh/month beginning in July.
 5. Safford and Thatcher, AZ have suspended their recycling programs. Residents might be able to reinstate recycling by agreeing to pay an additional fee.
 6. Midland, TX will begin paying \$4000 to Butts Recycling in June to take recycling from the Citizens Collection Station. Recycling will be limited to #1&2s, OCC and mixed paper. Other drop-off locations are being removed. Prices will be subject to change based on market conditions.
 7. Pawtucket, RI has paid \$61k in the last nine months due to rejected loads. This includes \$250 fine, and approximately \$282/load for disposal. As a result, the city will begin enforcement action on residents to reduce contamination.
 8. Bow, NH is trashing recyclables while it evaluates costs.
 9. Cole County, MO towns St. Martins, Wardsville, Taos and Russellville have all had Republic Services discontinue recycling.
 10. Jackson, MO will no longer accept #3-7s.

11. Auburn, ME is considering suspending their recycling program due to costs. The state is recommending for EPR to be passed instead to assist municipalities in recovering costs.
12. Oak Park, IL will be subject to cart inspections for contamination. A two week warning period will be followed by potential for Waste Management to reject picking up the carts.
13. Sarasota, FL changed to automated carts from a bin system and increased recycling by 58%.
14. Sunrise, FL said that the cost for recycling went from \$53/ton to \$96/ton prompting them to send their recyclables to a WTE facility instead. Broward County is exploring the creation of a regional solution to manage recycling.
15. New Orleans, LA lost its outlet for residential recycling when Republic Services announced that its Metairie facility would no longer accept the material. Clients would be accommodated instead at the Baton Rouge facility. Local contamination rates are in line with national levels at 30%. No local program accepts glass.

Coastal Environmental Services said that this decision has increased their costs from \$127/ton to \$167/ton and they will be seeking an increase of \$0.42/hh/month to bring their new rates to \$4.38/hh/month. Ramelli Waste stated that they are paying \$50/ton to Commercial Waste Recycling compared to the \$120/ton it would cost at Baton Rouge. Eight years ago, Ramelli was paid \$5-10/ton for their materials.

Despite having single stream, participation levels have been low – ranging from only 5% to nearly 50%.

16. New Orleans, LA also made programmatic changes. It will no longer accept #3-7s. Instead, material will be limited to cans, plastic bottles, mixed paper and OCC.
17. Lexington, KY and a dozen surrounding cities will no longer accept paper in the residential recycling program after a change at the city's LEX-MRF. OCC is still acceptable. The city is evaluating whether to suspend glass and expects to decide next month. It costs \$2.6M for recycling on revenues of \$2.1M. In 2017, the costs were \$2.7M on \$2.6M in revenues.
18. Tucson, AZ will move to every other week recycling to cut costs. They are still reviewing what to do about glass.
19. Santa Rosa County, FL is reviewing a new contract with Emerald Coast Utilities Authority after the authority requested to terminate the existing contract from June 2016. ECUA stated that they are "changing every single recycling contract we have with providers of the materials, simply because we can't continue to process the materials at a loss." The previous contract was \$20/ton for transportation and processing. The new contract will be \$20/ton for processing and will not include transportation. ECUA also said that the country had the highest contamination rate with some loads at 38%.
20. Lumpkin County, GA signed an agreement to send Hall County, GA its recyclables except glass. Lumpkin will receive half the market rate for OCC but not receive anything for paper, plastic or metal.
21. Wellington, KS will limit recyclables to OCC, office paper, and #1&2s.

22. Perryville, MO will end its curbside recycling program. They charge \$1/hh/month but the true amount would need to be \$5-6/hh/month to break even. Residents can use a drop-off location. Scott City, MO eliminated its entire recycling program in June.
23. Bow, NH is sending its recyclables to an incinerator as part of negotiations with Pinard to test how this will impact costs. Currently, Pinard takes recyclables for free but charges \$69.05/ton for trash. The town is encouraging residents to still separate their recyclables.
24. Westfield, NJ will only accept #1 and 2 plastics beginning January 2019. In addition, plastic bags and shredded paper are not acceptable and fiber must be dry. After issuing bids for recycling contracts twice, and both time receiving only a single bid from Giordano, the city negotiated a price that was much higher than in 2018.
25. Morris County, NJ will accept only #1, 2 and 5 plastics beginning January 2019.
26. Washington County, NY will begin charging for recycling in May 2019 at the transfer station. The costs will be \$2.25 for a 13-gallon bag and \$4.50 for a 30-gallon bag.
27. Craven County, NC reversed course after initially voting to eliminate its curbside program with Waste Industries. The program will cost \$56-60/hh/year for monthly pickups. Previously pickups with weekly. Residents will get larger carts.
28. Philadelphia, PA will once again have all their recyclables managed under a newly proposed contract with Waste Management. Processing will be \$90-100/ton with incentives for decreasing contamination. Contamination was 19.2% in 2017.
29. Midland, TX spends \$573k/year on recycling and normally receives rebates for commodities. The mayor has found that the rebate from Butts Recycling has dwindled down to almost nothing. Butts will begin charging \$45/ton for commodities in June 2019 with a minimum monthly charge of \$6500. Prices will be subject to change according to the market. Options under consideration include adding \$3-5/hh/month to continue the program. Fiber will be in separate bins and plastic caps are not acceptable.
30. York County, Williamsburg, and James City County will see their trash and recycling bills increase leading York County to increase residential rates by (to?) \$7/hh/month beginning in May 2019. Tidewater Fibre Corp. will be taking over from County Waste. James City County is also proposing \$7/hh/month increase. Williamsburg's price changed from \$55k/year to \$205k/year. Newport News, VA collects recyclables which are processed by Bay Disposal and Recycling. They have not budgeted an increase over the current \$5.84-7.30/hh/week rate. Hampton provides optional recycling to its residents for a combined rate of \$6.1/hh/week (\$317.2/hh/year) which is less than waste only at \$616.2/hh/year. Hampton uses TFC for processing recyclables. The city manager recommended increasing weekly rates by \$1.15.
31. Amherst County, VA has been notified that their recycler, Sonoco Recycling, will no longer accept glass at the drop-off sites.
32. Arlington County, VA has stopped accepting glass in curbside. They are encouraging residents to use the drop-off program and to buy fewer products in glass containers. The glass at the drop-offs will be turned into sand or gravel by Fairfax County.
33. Dothan, AL is considering a 90-day contract with Repower South for \$40/ton, which is significantly less than the current single-stream price of \$125/ton.

34. Nogales, AZ sends most of its recyclables to the landfill. They are only recycling metal, which is less than 5% of what is collected. OCC used to be \$80/ton, now it's just \$10/ton. Recommunity charges \$190/ton for recycling, whereas the landfill is \$41/ton. Metal can be sorted and sold for \$80/ton.
35. Hayward, CA signed a 10-year agreement with WM that will increase costs 2.611%. Tri-CED community recycling which subcontracts with WM picks up the material. It recently shipped 10 containers to Pakistan. It has also shipped to Vietnam, Indonesia and India. The new contract provides for the option of dumping up to 200 tons of recyclables in the landfill.
36. Monterey, CA is considering an increase of \$3.78/hh/month.
37. Manteca, CA conducted an audit that showed 25% contamination on three tons of material on February 14, 2019. OCC, paperboard, glass and #3-7's are now banned from the cart.
38. Greeley, CO recycling drop-off facility closed.
39. Connecticut cities have experienced significantly increased costs from recycling, swinging from revenues to expenses. Reported swings:
 - a. Bridgeport - \$394,380 in expenses compared to \$130,000 in revenue
 - b. Stamford - \$700,000 in expenses compared to \$95,000 in revenue
 - c. Waterbury - \$330,000 in expenses compared to \$15,000 in revenue
 - d. Union - \$3,000 in expenses from \$500 in revenue
 - e. Other cities also reported swings from revenues to expenses including Milford, Wilton and Plymouth
40. Fairfield, CT will pay \$75/ton beginning in July for recycling, more than the cost of WTE.
41. Ormond Beach, FL's contract with Waste Pro will expire at the end of September and the company has requested \$77.50/ton for processing recyclables which would result in a \$1.54/hh/month increase. The city decided instead to eliminate glass (which is not recycled), will increase the bill by only \$1.24/hh/month.
 - a. New Smyrna Beach, FL is continuing recycling contingent on a six-month evaluation.
42. Ascension Parish, LA will face higher fees from Waste Pro in its unincorporated areas and Republic Services is discontinuing service.
43. Kennebunkport, ME's cost for disposal will be \$159/ton in FY20 which is less than for recycling which will be between \$211 and \$276/ton. Last year the town paid only \$138/ton.
44. Plymouth Township, MI is considering a \$2/hh/month increase requested by their contractor Green for Life Environmental. Without the increase, GFL will begin landfilling the recyclables or take them to the WTE.
45. Marysville, MI's new recycling contract with Emterra Environmental eliminates ONP, glass, paperboard, and mixed paper. The new contract is limited to #1-7, cans, and OCC.
46. Westland, MI will send its recyclables to the landfill for \$28/ton instead of paying the \$80/ton now charged by Recommunity in New Boston. The previous rate was \$18/ton.
47. Wildwood, MO will switch to dual stream beginning April 1, 2019. Glass will no longer be accepted curbside but drop-off locations will be established. Residents will pay

\$0.50/hh/month more. The city's contract with Meridian waste expires in August which will require another decision on the next step.

48. Canterbury, NH residents voted to keep recycling even knowing that there would be a negative financial impact.
 49. Town of Brookhaven, NY is near a settlement of a lawsuit with Green Stream Recycling from the company's decision to back out of its 25-year contract. The company will pay the city \$1.42M over four years.
 50. Lincolnton, NC voted to resume recycling in June with Republic Services. The new service will be opt-in and eliminate glass from curbside. Drop-off centers for glass will be provided.
 51. Port Neches, TX will end its drop-off program at the end of March 2019 due to contamination.
 52. Staunton, Waynesboro, and Augusta County, VA's processor Sonoco Recycling in Fishersville will no longer accept plastic or glass beginning in April 2019. As a result, Staunton will continue to collect glass curbside but will use it for beneficial reuse at the landfill but will not accept plastic. Waynesboro has drop-off for glass but will suspend it for plastic. And Augusta County will no longer accept plastic but will take glass for use as cover.
- **Joint Advisory on Recycling Contracts.** NWRA and SWANA developed a joint advisory for recycling contracts along with two addenda. These may be helpful when approaching municipalities about contracts.

Referenced

1. <https://urbanmilwaukee.com/2019/05/15/city-hall-recycling-costs-rise-by-457000-per-year/>
2. <https://www.cachevalleydaily.com/news/archive/2019/05/03/plastics-3-7-no-longer-accepted-in-curbside-recycling-program/#.XPF9d6Z7lhH>
3. https://www.dentonrc.com/news/some-recyclables-sent-to-denton-landfill/article_6e47aa96-80a7-5d98-92fa-7c05bf4325ec.html
4. <https://www.ocregister.com/2019/05/17/your-recyclables-are-going-to-the-dump-heres-why/>
5. https://www.eacourier.com/news/town-of-thatcher-suspends-recycling/article_241f42f6-75a0-11e9-9ea3-6ff2fd0a6b05.html
6. <https://www.mrt.com/news/article/City-City-recycling-program-to-be-scaled-back-13845277.php>
7. <http://www.pawtucketri.com/news/city-reminds-residents-recycling>
8. <https://www.concordmonitor.com/Bow-recycling-nh-cost-24892826>
9. <https://www.kbia.org/post/how-chinas-import-ban-affecting-mid-missouri-recycling#stream/0>



FLORIDA MUNICIPAL SERVICES

18001 Gulf Blvd.
Redington Shores, FL 33708
(727) 202-6825

Meeting Date July 16, 2019
Agenda Item 6a.

July 12, 2019

MEMORANDUM

TO: Town of Redington Beach Planning Board

FROM: Darin Cushing, CBO, CFM, Building Official
R. Bruce McLaughlin, AICP, MCIP, Town Planner

SUBJECT: Impervious Surface Ratio Issue: Preliminary Discussion

EXECUTIVE SUMMARY

The Impervious Surface Ratio (ISR) for the Town is set in the Comprehensive Plan at 0.40. Since the Town Board reaffirmed that ratio in November, 2018, there has been consideration of increasing the ISR. One of this Board's duties is to ensure that any Plan Amendment changing the ISR is consistent with all other existing Plan policies. This report presents for discussion purposes, without analysis or a recommendation, the Plan policies with which any amendment to the ISR must be consistent or which policies would have to be amended to maintain consistency with an amended ISR.

BACKGROUND

Applicant	Town of Redington Beach
Affected Area	Entire Town

July 12, 2019

THE ISSUE

To establish the appropriate Impervious Surface Ratio for the Town's residential areas to permit reasonable use of the residential properties while minimizing the negative impacts of stormwater generation.

HISTORY

Since the adoption of a new Comprehensive Plan pursuant to the 1985 Growth Management Act, the permitted ISR in the Town's residential areas was 0.40. In 2016, the then Building Official recommended increasing the permitted ISR to 0.65 to be more in line with the permitted ISRs in other Beach communities.

The Town attempted to implement the Building Official's recommendation through the adoption of Ordinances 2016-04 purporting to amend the ISR in the Comprehensive Plan's residential designations and 2016-08 amending Code Section 6.103. Ordinance 2016-04 never lawfully took effect because the Town was not then permitted to amend its Comprehensive Plan having failed to prepare an Evaluation and Appraisal Report, because the notice and hearing for Ordinance 2016-04 were inadequate and because Ordinance 2016-04 was never submitted to the State for approval.¹ In summary, permitted ISRs are:

1989- August, 2016	0.40
August 2016 - July, 2017 ²	0.65
July, 2017 to present	0.40

In the summer of 2018, the Planning Board, acting without a staff recommendation, recommended to the Town Board that the Comprehensive Plan Amendment attempted by Ordinance 2016-04 be readopted. By the time this proposal reached the Town Board in November, 2018:

- Staff had had the benefit of an additional three months of casual observation of the conditions in the Town, particularly through the "rainy season;"

¹ Whether or not there were enactment issues with Ordinance 2016-08 has not been examined since the governing Comprehensive Plan policy was never lawfully amended.

² Ordinance voidable if not void *ab initio*. Issues with enacting ordinance identified in July, 2017, and enforcement reverted to 0.40.

July 12, 2019

- The storm surge from Hurricane Michael caused substantial street flooding, even without a rainfall event;
- A squall line that passed rapidly over the Town in the early afternoon of October 26, 2018, dropped 0.23" of rain ³ on the Town and left significant areas of standing water;
- Staff, along with a highly qualified stormwater engineer, toured the entire Town on October 26, 2018, renewing our observations of the stormwater issues in the Town;
- The Town has embarked on the pursuit of flood mitigation funding from the Southwest Florida Water Management District, the Tampa Bay Estuary Program and, perhaps, the Federal Emergency Management Agency, and the success of these funding applications could be adversely affected by the increase in the permitted impervious surface ratio;
- The 2016 increase in the impervious surface ratio, beyond the status of the ISR, was clearly procedurally invalid.

Based on the foregoing, Staff's ambivalence on the topic of the appropriate impervious surface ratio was resolved and Staff then firmly recommended against increasing the impervious surface ratio above the lawfully established 0.40 ratio. The Town Board concurred and rescinded the effort to increase the permitted ISR to 0.65 with the result that the lawful ISR in the Town's residential areas remains 0.40.

NOTICE

This is a duly noticed public meeting but not an advertised public hearing. The only notice required is the notice of the Planning Board meeting which has been duly given,

AUTHORITY

If the ISR is changed, that change will take the form of a Comprehensive Plan Amendment (and perhaps an amendment to the Town's Building Code).

The Planning Board, as the Town's Local Planning Agency, is charged with:

July 12, 2019

Be[ing] the agency responsible for the preparation of the comprehensive plan or plan amendment and shall make recommendations to the governing body regarding the adoption or amendment of such plan.

Section 163.3174 (4)(a), F.S.

Town Code § 15.34 reiterates these powers and duties.

COMPREHENSIVE PLAN CONSISTENCY

As noted above, one of this Board's duties is to ensure that any Comprehensive Plan Amendment is consistent with the balance of the Plan. Beyond changing the called-out ISRs in Future Land Use Element Policy 1.8.1, the following policies must be considered as part of the discussion and determination of the appropriate ISR for the Town. (All **bold** emphasis added.)

Future Land Use Element

Policy 1.1.2

Residential areas shall be located and designed to protect life and property from natural and manmade hazards such as flooding, excessive traffic, subsidence, noxious odors, and noise.

Policy 3.1.4

The land development regulations shall contain specific and detailed provisions required to implement this comprehensive plan, which, at a minimum:

...

4. Ensure that all development is consistent with Federal Flood Insurance regulations;

...

7. Provide for drainage and stormwater management, based on the minimum criteria established by the Southwest Florida Water Management District, the Town of Redington Beach or other appropriate governmental agencies;

...

10. Provide provisions for the control of erosion and runoff from construction sites.

11. Promote green building techniques and materials.

July 12, 2019

Infrastructure Element

Goal 2: To endeavor to provide an efficient drainage system which protects human life, minimizes property damage, and **improves** stormwater quality and **on-site retention**.

Objective 2.1

The Town shall seek to improve the stormwater drainage system located within its municipal boundaries.

Policy 2.1.1

Ensure that **surface cover vegetation loss during construction is minimized or replaced** to reduce erosion and flooding.

Policy 2.1.2

Ensure that the developer or owner of any new development or redevelopment site is responsible for the on-site management of stormwater runoff **so that post-development runoff rates, volumes, and pollutant loads do not exceed predevelopment conditions**.

Policy 2.1.3

Future drainage outfalls associated with either new development or redevelopment, shall be designed to prevent the direct discharge of runoff into Boca Ciega Bay or the Gulf of Mexico.

Policy 2.1.4

Implement the town's Watershed Management Plan in conjunction with the Southwest Florida Water Management District to address existing drainage and flooding conditions.

Objective 2.2

All development within the Town of Redington Beach shall meet the adopted level-of-service standard for stormwater drainage.

Policy 2.2.1

All development activity shall adhere to the level-of-service standard for drainage requirements of the 25 year, 24 hour rainfall storm design standard.

Policy 2.2.2

New development, redevelopment, and rehabilitation shall meet and maintain the standards established by the Florida Department of Environmental Regulation for the Outstanding Florida Waters and Aquatic Preserve designations of Boca Ciega Bay that require an additional fifty percent storage and treatment on site.

Policy 2.2.3

The following management techniques shall be used to reduce stormwater runoff:

1. Expansion and regular maintenance of retention swales adjacent to town roadways;
2. Use of front, rear and side lot line swales for new construction or redevelopment;
3. Use of erosion and runoff control devices during construction; and [sic]

Policy 2.2.4

The land development regulations shall continue to enforce provisions which, at a minimum, protect natural drainage features found within the Town as follows:

1. All applications for development approval within those areas identified as coastal high hazard area shall undergo site plan review;
2. **The flood-carrying and flood storage capacity of the 100-year floodplain shall be maintained;**
3. Development along Boca Ciega Bay shall maintain adequate setbacks to maintain any existing areas of natural coastal/marine habitat;
4. The prevention of erosion, retardation of runoff and protection of natural functions and values of the floodplain shall be considered while promoting public usage; and
5. The Town shall require development or redevelopment proposals to be consistent with the performance standards regulating development within the designated floodplain.

Objective 2.3

The Town shall take positive steps to implement its Watershed Management Plan.

July 12, 2019

Policy 2.3.1

The Town shall assess existing conditions and recommend modifications or cures to **relieve existing drainage problems.**

Policy 2.3.2

Consistent with budget allocations, the Town shall continue to retrofit the existing drainage system in conjunction with the Southwest Florida Water Management District.

Conservation and Coastal Management Element

Objective 1.1

The Town shall protect the quality and quantity of surface and groundwater.

Policy 1.1.3

The Town shall enforce the required standards and regulations set forth in the Pinellas Aquatic Preserve Management Plan to protect and enhance the water quality of Boca Ciega Bay. [Document may not exist]

Policy 1.2.2

The Town shall protect the natural functions of the 100-year floodplain so that the flood carrying and flood storage capacity are maintained.

Policy 1.2.4

The Town shall enforce land development regulations which recognize the limitations of development on a barrier island (e.g., 100-year floodplain, vulnerability to tropical storms, topography and soil conditions).

Objective 1.9

The Town of Redington Beach shall coordinate with the State of Florida and other local jurisdictions in an effort to maintain the Outstanding Florida Waters designation on Boca Ciega Bay.

July 12, 2019

Policy 1.9.1

No new point sources shall be permitted to discharge from the Town of Redington Beach into Boca Ciega Bay or the Gulf of Mexico, or into ditches or canals that flow into the bay and gulf.

Policy 1.9.2

In order to reduce non-point source pollutant loadings, the *Watershed Management Plan* shall follow the regulations set out in the Florida Administrative Code. [Document may not exist]

Policy 1.4.1

Require that all new development preserve, or relocate on site, a minimum of 25 percent of the native vegetation on site. This should not be interpreted to allow development in wetland areas.

Intergovernmental Coordination Element

Policy 2.2.12

Coordinate with those communities and counties lying within the boundaries of the Tampa Bay S.W.I.M. Plan 1988 in implementation of the Surface Water Improvement Management Program for Tampa Bay.

Policy 2.3.1

The Town shall be involved in proceedings to develop joint planning and management programs with the neighboring municipalities for hurricane evacuation, provision of public access, provision of infrastructure, **controlling stormwater**, protection of wetland vegetation and coordinating efforts to protect species with special status.

Policy 2.3.2

Through the Pinellas Planning Council or other appropriate governmental mechanism, the Town shall coordinate with neighboring municipalities and the County to protect estuaries which are within the jurisdiction of more than one local government; including methods for coordinating with other local governments to ensure adequate sites for water-dependent uses,

July 12, 2019

preventing estuarine pollution, **controlling surface water runoff**, protecting living marine resources, reducing exposure to natural hazards, and ensuring public access.

Capital Improvements Element (as amended)

CIE Policy 1.5.5

- b. Prior to approval of a building permit or its functional equivalent, the Town shall examine that part of the Town's drainage system that will be directly impacted by the new development to determine whether adequate stormwater drainage capacity will be available to serve the new development no later than the anticipated date of issuance of certificate of occupancy or its functional equivalent.

DC/RBMcL/m



FLORIDA MUNICIPAL SERVICES

18001 Gulf Blvd.
Redington Shores, FL 33708
(727) 202-6825

Meeting Date 10/2/19
Agenda Item ____

September 27, 2019

MEMORANDUM

TO: Honorable Mayor and Members, Town of Redington Beach Board of Commissioners

FROM: Darin Cushing, CBO, CFM, Building Official
R. Bruce McLaughlin, AICP, MCIP, Town Planner

SUBJECT: Location of Impervious Surface Ratio Requirements

EXECUTIVE SUMMARY

As a part of the ISR discussion, members of the Town Board and at least one member of the public have inquired as to whether the maximum Impervious Surface Ratios (ISRs) should be established as Comprehensive Plan policies or whether they should be established solely in the land development regulations. Based on an analysis of state law, the Countywide planning process, existing conditions and practices elsewhere on the Gulf Beaches, staff recommends that the **MAXIMUM PERMITTED ISRs BE RETAINED IN THE TOWN'S COMPREHENSIVE PLAN.**

BACKGROUND

Applicant	Town of Redington Beach
Affected Area	Entire Town

September 27, 2019

THE ISSUE

Control of permitted impervious surface ratios is an essential part of the land use planning process. It is especially essential in communities such as Redington Beach which are already suffering from flooding issues from a variety of sources. The issue is whether the permitted ISRs should be established in the Town's Comprehensive Plan or in the Land Development Regulations. The permitted ISRs were established in the Town's 1989 Growth Management Act Comprehensive Plan and have remained unchanged in the Plan ever since.

Two prefatory notes are in order. First, since the permitted ISRs are currently established in the Town's Comprehensive Plan, an amendment to the Plan is required even to simply omit the ISRs from the Plan and to establish them by cross-reference to the land development regulations. While the process of any future amendments will be quicker, the current amendment will still require the estimated six months to fully process.

Second, even if the ISRs are quantified only in the land development regulations, any future amendment to the ISRs will still require a review by the Local Planning Agency. ISRs are land development regulations which must be consistent with the Comprehensive Plan and the LPA will still be required to review any future amendments to ensure that they are consistent with the other Comprehensive Plan policies set forth in the Staff Report on ISRs presented to the Planning Board in July, 2019. (Copy attached.)

ANALYSIS

The Role of the Comprehensive Plan

Conventional land use planning wisdom in the United States and Canada likens a comprehensive plan to a constitution and the implementing land development regulations to the statutes which implement the constitution. Even Florida case law ¹ reflects this same wisdom. The question thus becomes are the ISRs sufficiently important to include in the Plan?

Other Pinellas County Beach Communities

There are eight other municipalities located entirely on the Pinellas County barrier island and the vast majority of the City of Madeira Beach is also located on the barrier island. Of these nine

¹ *E.g., Citrus County v. Halls River Development*, 8 So.3d 413 (Fla. 5th DCA 2009).

September 27, 2019

municipalities, only North Redington Beach does not quantify at least some of the permitted ISRs in its comprehensive plan. (Belleair Shores quantifies its Recreation/Open Space Designation ISR in its Comprehensive Plan and cross-references the residential ISR to its land development regulations.)

Therefore, the strongly prevailing approach on the Pinellas County barrier islands is to quantify the permitted ISR in the various municipal comprehensive plans.

The Countywide Comprehensive Plan

The Town of Redington Beach is also governed by the Pinellas County Countywide Comprehensive Plan which limits the intensity (density, ISR, Floor Area Ratio) which is permitted in each Future Land Use Designation. The Town recently amended its Comprehensive Plan to adopt the required matrix of Town Future Land Use Designations and the corresponding Countywide Designations. This matrix facilitates implementation of maximum ISRs that are consistent with both the Town and Countywide Comprehensive Plans.

While that consistency could theoretically be achieved by reliance on cross-referenced land development regulations, it is Staff's opinion that it is preferable to maintain the maximum permitted ISRs in a document of equal dignity to the Countywide Comprehensive Plan – the Town's Comprehensive Plan.

State Law

Any imminent Comprehensive Plan Amendment changing the permitted ISR and any similar future amendments are subject to State review and to review by several state and local agencies. These reviews are intended to ensure compliance with governing State or regional requirements and to allow affected parties to comment on the proposed amendments. By law applicable to the proposed amendments:

(f) All mandatory and optional elements of the comprehensive plan and plan amendments shall be based upon relevant and appropriate data and an analysis by the local government that may include, but not be limited to, surveys, studies, community goals and vision, and other data available at the time of adoption of the comprehensive plan or plan amendment. To be based on data means to react to it in an appropriate way and to the extent

September 27, 2019

necessary indicated by the data available on that particular subject at the time of adoption of the plan or plan amendment at issue.

Section 163.3177 (1)(f), F.S.

To date, Staff is aware of only limited concern in opposition to the possibility of a higher ISR. However, Staff routinely become involved in disputes related to flooding issues wherein one property owner complains about stormwater runoff from an adjacent property. If opposition to the current proposal to increase the ISR becomes more pronounced or if the implementation of subsequent amendments is alleged to lead to flooding problems, then the Town will be in a much better position to defend a comprehensive plan amendment supported by the mandated data and analysis supporting a comprehensive plan amendment than it would be to defend a land development regulation amendment unsupported by data and analysis.

RECOMMENDATION

The Planning Board is considering this matter on October 1, 2109, and the Planning Board recommendation will be presented to the Town Board in the course of the presentation of this Staff Report.

Staff recommends that the MAXIMUM ISRs CONTINUE TO BE ESTABLISHED IN THE TOWN'S COMPREHENSIVE PLAN WHICH IS OF EQUAL DIGNITY WITH THE COUNTYWIDE COMPREHENSIVE PLAN AND IS CONSISTENT WITH THE PRACTICE OF MOST OTHER BARRIER ISLAND MUNICIPALITIES, AND WHERE ANY FUTURE AMENDMENT WOULD HAVE TO BE SUPPORTED BY DATA AND ANALYSIS.

ORDINANCE NO. 2019 -06

AN ORDINANCE OF THE TOWN OF REDINGTON BEACH, FLORIDA, AMENDING CHAPTER 12 OF THE TOWN CODE CONCERNING NUISANCES TO REMOVE OUTDATED, UNENFORCEABLE OR PREEMPTED PROVISIONS AND TO INCORPORATE CURRENT STATE AND FEDERAL LAW REQUIREMENTS; CREATING NEW REGULATIONS CONCERNING THE DISTRIBUTION OF WRITTEN OR PRINTED MATERIALS; MAKING RELATED FINDINGS; PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Town of Redington Beach (the Town) has codified its ordinances over time into a Town Code (the Code) which sets forth the cumulative law of the Town; and

WHEREAS, the Town Board of Commissioners (the Commission) regularly adopts ordinances amending the Code; and

WHEREAS, however, many portions of the Code date back to 1980, with other portions of the Code not having been updated for ten or more years; and

WHEREAS, part of the Commission's duties include the necessity to ensure that the Town's ordinances, as codified in the Code, are up to date, reflect current Florida and federal statutory and case law, that they reflect current actual Town operations, and that they do not contain outdated, redundant or erroneous provisions; and

WHEREAS, in light of the foregoing, the Commission has charged the Town Attorney with the task of conducting a complete review of the Town's Code (excluding the Land Development Code) and to bring forward any recommended revisions to the Code which would alleviate any of the aforementioned potential concerns with the Code's current text; and

WHEREAS, the Town has over time received regular and numerous complaints from residents and owners of residential units associated with the unsolicited distribution of written/printed materials at such locations; and

WHEREAS, in light of the growing frequency of these complaints the Commission has asked the Town Attorney to prioritize revision of Chapter 12 of the Town Code, addressing nuisances, which could address these complaints; and

WHEREAS, Florida Statutes § 823.01 provides that all nuisances that tend to annoy the community, injure the health of the citizens in general, or corrupt the public morals are misdemeanors of the second degree; and

WHEREAS, the Florida Supreme Court, in *Thompson v. State*, 392 So.2d 1317 (Fla. 1981), confirmed that a public nuisance violates public rights, subverts public order, decency or morals, or causes inconvenience or damage to the public generally, and that legislative bodies have broad discretion to designate a particular activity to be a public nuisance, and that government, in

the exercise of its police power, has authority to prevent or abate nuisances in order to protect the lives, health, morals, comfort and general welfare of its citizens; and

WHEREAS, the Florida Supreme Court, in *Orlando Sports Stadium v. State*, 262 So.2d 881 (Fla. 1972), recognized the difficulty of writing specificity into nuisance statutes since it is not possible to define comprehensively “nuisances” as each case must turn upon its facts and be judicially determined; and

WHEREAS, with respect to the regulation of distribution of written/printed materials, the Commission acknowledges that such regulation must comply with First Amendment standards established by the courts, including the necessity that such regulation be content-neutral, serve a significant government interest, be narrowly tailored to serve that government interest, and leave open ample alternative channels of communication; and

WHEREAS, in *Bowen v. Winterle*, 159 Fla. 330, So.2d 536 (1947), the Florida Supreme Court has held that the right of a municipality to remove shade trees in public streets when necessary for the improvement of said streets, and without liability to an abutting owner, is not open to question, and that municipalities are vested with a broad discretion in matters relating to the public streets and the removal of trees therefrom, then necessary or desirable for the improvement of the street, or to abate a nuisance; and

WHEREAS, the case of *Florida Dept. of Agriculture and Consumer Services v. Lopez-Brignoni*, 114 So.3d 1138 (Fla. 3rd DCA 2012) confirms that governmental removal of a healthy, non-commercial tree from residential property will require full compensation; and

WHEREAS, the case of *DA Mortg., Inc. v. City of Miami Beach*, 486 F.3d 1254 (11th Cir. 2007), ruled that sound ordinances addressing “unnecessary and excessive” noises and prohibiting persons from creating noises in such a manner “as to disturb the peace, quiet and comfort of the neighboring inhabitants” are not unconstitutionally vague or overbroad; and

WHEREAS, the Florida Supreme Court, in *State v. Catalano*, 104 So.3d 1069 (Fla. 2012), ruled that the “plainly audible” standard when regulating car stereo noise is not unconstitutionally vague; and

WHEREAS, the *Catalano* court also ruled that a ban on amplified sound that can be heard beyond twenty-five feet of a motor vehicle, unless that sound comes from a business or political vehicle, was an unconstitutional regulation of the content of speech; and

WHEREAS, the Town Attorney has recommended that the Commission make the revisions to Chapter 12 of the Town Code as are set forth in this Ordinance both to accomplish the overall goals of the Code revision project and to address the issue of unsolicited residential distribution of printed/written materials; and

WHEREAS, the Commission has considered the Town Attorney’s recommendations and finds them to be consistent with the goals of the Commission; and

WHEREAS, the Commission therefore finds that it is in the best interests of the Town, and its citizens, property owners and businesses to adopt this Ordinance.

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

Section 1. Article I of Chapter 12 of the Redington Beach Town Code is hereby amended to read as follows:

Chapter 12 – NUISANCES

ARTICLE I. - IN GENERAL

Sec. 12-1. Public nuisance definition.

For purposes of this chapter, the wordphrase "public nuisance" shall mean engaging in conduct, failing to act, is defined as the doing of an unlawful act, or the omitting to perform a duty, or the creating, suffering or permitting of any condition or thing to be or exist, which conduct, act, failure to act, omission, or creation, suffering or permitting of the condition or thing either:

- (1) Injures or endangers the health or safety of the public others;
- (2) Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage facility;
- (3) Cause inconvenience or damage to the public generally, including Unreasonably interference with the public's comfortable enjoyment of life and property, or tends to depreciate on of the value of the public's the property of others; or
- (4) Violates public rights, subverts public order, decency or morals Is declared by ordinance to be a nuisance.

Sec. 12-2. Public nuisances declaredEnumeration.

The following conduct or conditions are declared to be public nuisances; It shall be unlawful for any person to do, perform, have, allow, suffer or permit any of the acts, occurrences or conditions enumerated in this section within the limits of the town. All of such acts, occurrences and conditions are deemed to be nuisances, and may be abated pursuant to article II of this chapter. The enumeration is merely indicative of the nature and type of acts, occurrences or conditions sought to be prohibited under this section, and shall not be deemed to be exclusive.

- (1) To allow, suffer or permit palmetto scrub, w Weeds, vines, bushes, grass, thistles or other plant material rank or noxious vegetable growth to grow or otherwise accumulate upon any occupied or vacant residential or commercial landpremises within the town, including adjacent or upon any rights-of-way in a manner, which create foul odors, includes nuisance exotic plants prohibited by law, create a fire hazard, impedes use of sidewalks, prevents

access to water, gas or electric meters, harbor or allow for the propagation of rodents or mosquitos, creates a substantial visual obstruction for persons operating vehicles or bicycles on roads or bicycle lanes or, which allows grass or other ground cover to grow higher than six inches tall adjacent to such property, regardless of whether such premises are occupied or unoccupied.

- (2) BTo allow, suffer or permit any buildings or structures which are left in a by act of God, fire, decay or other cause may become structurally dangerous, unsafe, dilapidated or unsanitary to remain in such dangerous, unsafe, dilapidated or unsanitary condition and for which reconstruction, renovation, restoration or demolition has not been performed without forthwith doing and performing all things necessary to cause such building or structure to be reconstructed, restored, torn down or removed, in conformity with applicable laws orand regulations of the town which may be applicable in respect thereto.
- (3) Standing or To allow, suffer or permit any stagnant water, including sewage and stormwater, which has to accumulated or stand upon the surface of the ground or upon or within any receptacle or structure existing deposited or erected either above or below the ground, which creates noxious odors visually obscures pedestrian or vehicular traffic, or allows without exercising necessary precautions to prevent the propagation of mosquitoes therein.
- (4) Privately-owned To neglect or fail to keep in a state of good repair any sidewalks, footways, or footother pavedment areas commonly used or expected to be used by members of the public including invitees, emergency responders, mail and parcel delivery personnel, utility workers, or other persons with a lawful right to traverse same, where same are not in a state of good repair such that a safety hazard exists.situated upon any public lands lying immediately adjacent to the abutting private property by the party owning, occupying or having the custody of such abutting premises.
- (5) To allow or permit or fail to remove anything which might be considered unsanitary, by keeping, maintaining, allowing to exist or permitting anything whereby the life or health of any person may be threatened or impaired or by which or through which, directly or indirectly, disease may be caused or the environment of any person rendered unclean or unwholesome.
- (6) Motor vTo allow the owner or occupant or family member of any residential or commercial area of theehicles (including motorcycles) town to parked, kept or stored or keep upon his premises, in the open or in the street, right-of-way, or on private land or area adjacent thereto, any vehiele which is not in mechanical operating condition for immediate locomotion under its own power, or any derelict or junk vehicle, or to create or permit the use of any part of his premises to be used for the storage or parking or the presence thereon of any motor vehicle which are not currently licensed and registered as required by state law.
- (6) or not mechanically capable of immediate operation under its own automotive power, or to permit the storage upon the property of rubbish, old cars or old unlicensed bBoats, or parts of boats or old trailers, or parts thereof or parts of trailers, parked, kept or stored in the street, right-of-way, or on private land which are not in seaworthy or otherwise in safe

operating order, or which are not currently licensed and registered as required by state law or any other materials thereof.

- (7) Building materials, construction debris, carpets, furniture, household appliances, lawn furniture, garbage or rubbish which has accumulated on any private land, including any adjoining right-of-way or street, other than those materials lawfully placed at designated locations to be retrieved and removed by waste or recycle services for proper disposal. To permit or to have on one's property or the adjoining public right of way or easement any trees, bushes and shrubbery which will impair the view of oncoming traffic at a street intersection and which constitute a hazard to traffic.
- (8) To allow, suffer or permit any accumulation of branches, cuttings, leaves, palm fronds, and grass or weeds with an overall height in excess of 12 inches, litter or combustible or flammable waste, rubbish or debris of any kind in any courtyard, vacant lot or open space. If such materials are not removed by the town's regular authorized trash pickup service, removal shall be the responsibility of the property owner.
- (9) To allow, suffer or permit any wornout, scrapped, partially dismantled, nonoperative, unusable or discarded materials or objects such as automobiles or parts thereof, building materials, carpets, furniture, household appliances, lawn furniture, lumber, machinery, metal, wastepaper or vehicles, boats or parts thereof in any court, yard, vacant lot or open space. If such materials are not removed by the town's regular authorized trash pickup service, removal shall be the responsibility of the property owner.

Sec. 12-3. - Littering.

It shall be an unlawful public nuisance for any person to deposit any trash, rubbish or unsightly matter whatsoever on any of the streets, sidewalks or public easements of the town or on the public squares and parks or other public property of the town, or in the Gulf of Mexico or waters of Boca Ciega Bay within the town limits, or upon the residential or commercial premises or property of any other person or entity.

Sec. 12-4. - Burning or burving of garbage.

It shall be an unlawful public nuisance for any person to cause or permit garbage (including landscape or construction debris) to be burned upon any residential or commercial property premises within the town, or to bury such garbage on any residential or commercial property within the town except on such property as the town may, from time to time, designate for such purposes in compliance with rules established by the town and state and federal environmental regulations.-

Sec. 12-5. —Burying garbage.

It shall be unlawful for any person to bury garbage or other material which has become or is reasonably likely to become a nuisance or menace or threat to health within the town, except in

~~such areas or confines of the town as may, from time to time, be set aside and designated for the burial or disposal of garbage, and in compliance with rules prescribed by the board of commissioners.~~

Sec. 12-65. - Transport of garbage over streets.

~~Unless a person or entity shall have been specifically authorized and licensed by resolution of the board of commissioners to do so, it shall be an unlawful public nuisance for any person or entity to transport garbage over the public streets or alleys of the town, except where such transportation is for the purpose of delivering having the garbage to a location designated by a pick up site, or except when the person or entity is passing through the town and is transporting garbage under the authorization of another governmental entity, or except when a person or entity is hauling personally owned/generated waste to an authorized landfill and dispose of the garbage. This section shall be liberally construed to protect the public health, safety and general welfare.~~

Section 2. Article II of Chapter 12 of the Redington Beach Town Code is hereby amended to read as follows:

ARTICLE II. - ABATEMENT OF PUBLIC NUISANCES PROCEDURE

Sec. 12-31. – In General Abatement.

~~In addition Any of the acts, occurrences or conditions prohibited in this chapter that have happened or exist shall be abated to being addressed through the code enforcement procedures set forth in article III of pursuant to chapter 2, article II [III] of this Code, the town's law enforcement agency is authorized to seek prosecution as a second degree misdemeanor of any public nuisance as authorized by Florida Statutes § 823.01. The board of commissioners may also authorize the town attorney to file a civil action for an order enjoining and requiring abatement of a public nuisance.~~

Sec. 12-32. – Excessive growth of weeds, grasses, turf, or other vegetation.

All owners, agents, custodians, lessees, and occupants of any lot, parcel of land, or premises with the town shall cut and keep cut all weeds, grasses, turf, underbrush, or other vegetation to a height not to exceed ten inches; shall edge and trim all grass abutting street curbing; and shall remove any cuttings, trimmings, trash, debris, refuse, filth or other offensive accumulation or noxious matter located upon such property.

Sec. 12-33. Notice, appeal, and assessments.

(a) *Service of notice; appeals.* Upon the determination of the town's code enforcement

officer(s), when the public health is impaired by the excessive growth of any thickets, weeds, shrubs, brush, or other growths or vegetation, or the accumulation of trash, or other material liable to be a source of danger to the public health, safety, or welfare on any lot, tract, or parcel of land within the town in violation of section 12-32, the town shall notify the owner of record of the property by registered mail at the owner's address as show in the latest county tax roll of such violation and that such violation must be corrected and the property brought into compliance within thirty (30) days of the notice. The owners, custodians, or persons in possession of the property may present appeal the determination of the code enforcement officer to the city commission, in writing, which shall promptly consider the appeal at the next regularly scheduled commission meeting for which such appeal can be placed on the commission's agenda.

(b) *Failure to comply; removal by town; cost assessment.* If the property owner shall fail to comply with the conditions of the notification to correct the violation or shall otherwise have filed a written notice of appeal with the town commission, the town shall have the thickets, grass, or weeds cut and brush or trash or offensive matter removed from the property and shall assess the cost of such removal against the property, including the cost of postage, administrative expense, and any other costs incident thereto, which assessment shall be a lien against such property. The town clerk shall file in the public records of the county a lien reflecting such amounts, and such lien shall bear interest at the rate then prescribed for interest owed on judgments in circuit court. The lien shall be superior to all liens of mortgagees, mechanics liens, and all other liens of whatever type or nature and shall be of equal dignity to the lien of ad valorem taxes, unless otherwise prohibited by law. Such lien may be foreclosed or otherwise collected by the town attorney in accordance with law.

Section 3. Article III of Chapter 12 of the Redington Beach Town Code is hereby amended to read as follows:

ARTICLE III. - TREES, AND VEGETATION

Sec. 12-57. - Definitions.

Canopy. Leafy portion of trees.

Park trees. Trees, shrubs, bushes and all other woody vegetation in public parks and all areas owned by the town or to which the public has free access as a park.

Street trees. Trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the town.

Trees. Any self-supporting, woody plant including royal palms and cabbage palms of a species which normally grow at maturity to an overall height of a minimum of 12 feet.

Vegetation. Plant growth other than trees including but not limited to sod, ground cover, vines, hedges and shrubs.

Sec. 12-58. — Tree removalPermitting.

(a) In furtherance of the protection of public safety and the avoidance of property damage, and so as to ensure the landscaping requirements in this code are complied with, no person or entity shall remove A removal permit for the removal of any trees measuring more than 12 feet above existing grade without first obtaining a tree removal permit from the town. The fee for such permit will be established by the board of commissioners from time to time. This section shall not apply to trees town removes from town parks or trees located on residential property if the property owner obtains documentation from an International Society of Arboriculture certified arborist or licensed architect that the tree presents a danger to persons or property.

~~will be required, except for removing Australian Pine, Brazilian Pepper and Punk Trees as these are prohibited from being planted (see section 12-60) or park trees within the town, without first applying for and procuring an business tax receipt. The receipt fee shall be \$30.00 annually in advance, provided, however, that no receipt shall be required of a public service company or its agents and homeowners. Before any receipt shall be issued, each applicant shall first file evidence of liability insurance in the minimum amount of \$50,000.00 for bodily injury and \$100,000.00 for property damage indemnifying the town. Applications for permits and receipts for removal of trees may be acquired in the town hall. The business tax payer is responsible for the removal and cleaning up of all trunks, limbs and debris there from.~~

(b) After an application is filed to remove a tree and all applicable requirements are complied with, a permit shall be issued if one or more of the following criteria is met:

1. The tree presents a safety hazard to public or private property due to proximity to an existing structure. The applicant may provide a written report bearing the signature of a licensed engineer to support the application; or
2. The tree is diseased, injured, or in declining condition with no reasonable assurance of regaining vigor, and the applicant provides a written report bearing the signature of a certified arborist; or
3. The tree is located in an area where a structure or improvement will be placed, or which serves as an access point to a site, according to an approved plan and the applicant provides a written report bearing the signature of a licensed architect,

licensed landscape architect, or licensed engineer providing a determination that

the proposed structure, improvement, or access point cannot be reasonably redesigned to preserve the Grand tree; or

4. The tree is within a site which has the minimum number of trees required by the town code and removal of the tree will allow the site to be used in a manner which is consistent and compatible with properties of the same use and similar size in the abutting blocks of the same zoning district; or
5. The removal of the tree is reasonably necessary to allow solar access for the efficient operation of solar-dependent technologies including solar collection and solar hot water systems. The applicant shall provide supporting documentation from a solar collection and solar hot water system installer, or other credible source, such as a government agency with expertise in solar dependent technologies or licensed architect, licensed landscape architect or licensed engineer, confirming there is no reasonable alternative location for the equipment or reasonable option to trim the trees.

- (c) Decisions of the building code administrator to grant or deny a tree removal permit shall be appealable to the board of commissioners, which shall render a final decision on any such appeal.

Sec. 12-59. — Prohibited tree planting.

- (a) No trees may be planted within six feet of a municipal sewer line.
- (b) It is unlawful to plant or cause to be planted, or to sell or offer for sale, within the town limits the following prohibited exotic and nuisance plant species. Any development or redevelopment which is required to obtain a landscaping permit or file a landscape plan shall remove all prohibited trees on the property and abutting right-of-way and shall include a plan to prevent re-growth prior to approval of a certificate of occupancy. Planting of hedges shall be governed by chapter 6, article X of this Code.

PROHIBITED TREES

<u>Common</u>	<u>Scientific</u>
<u>Acacia, earleaf</u>	<u>Acacia auriculiformis</u>
<u>Australian pines, all</u>	<u>Casuarina spp.</u>
<u>Brazilian pepper</u>	<u>Schnius terebinthifolius</u>
<u>Carrotwood</u>	<u>Cupaniopsis anacardioides</u>

<u>Chinaberry</u>	<u>Melia azederach</u>
<u>Chinese tallow</u>	<u>Triadica sebifera</u>
<u>Lead tree</u>	<u>Leucaena leucocephala</u>
<u>Punk</u>	<u>Melaleuca quinquenervia</u>
<u>Strangler fig</u>	<u>Ficus aurea</u>

- (c) Any new growth at the location of an already removed prohibited tree must be eradicated by the property owner at the owner's expense within thirty (30) days of the growth becoming known

Sec. 12-60. — Landscape wasteCutting or clearing — Authority.

~~Tree trunks, roots, and root balls produced as a result of tree maintenance or removal on private property will not be removed by the town's refuse collection company.; Therefore, tree and vegetation removal of such material shall be is the responsibility and obligation of the property owner. An owner cannot satisfy this obligation by placing such materials into an adjoining right-of-way but must instead arrange for the transportation of such material to a designated brush site or landfill capable of receipt of such materials. It is also prohibited to transport plantings and debris from private property to the town for removal by the town's refuse collection company.~~

~~The building code administrator and code enforcement shall have the authority to make inquiry into the necessity and need for clearing, cleaning or cutting grass, weeds or wild growth upon any property within the town. If, upon inquiry, it is determined that it is necessary for the protection of the health and public safety of the town and its residents that such clearing, cleaning or cutting of grass, weeds or wild growth be done, the nuisance shall be abated pursuant to chapter 2 of the Code. A 14 day notice will be given to the homeowner by certified mail or hand delivered to owner for signature. If the violation is not rectified, the town will correct the violation and the homeowner shall be liable for the cost.~~

Sec. 12-61. — Prohibited trees.

~~Due to the prolific nature, toxicity to native vegetation, imminent threat to natural communities and the propensity for causing aggravation to people from noxious plant species, it shall be the intent of this article to eradicate from all areas of the town, the following plant species:~~

~~Brazilian Pepper, Punk and Australian Pine trees. Any new growth of these species must be removed at the owners expense or penalties will apply within one year after growth begins.~~

Sec. 12-631. - Tree care on public right-of-ways and town property.

- (a) *Street trees.* Street tree species to be planted may be those selected from "Urban Trees of Florida" distributed by the Florida Department of Agriculture. No species other than those included in this publication shall be planted and in keeping with Article XII "Habitat Management of Landscaping" Ordinance of Pinellas County. Setbacks must be six feet from municipal sewer line.
- (b) *Public tree care.* The town shall have the right to plant, prune, maintain and remove trees and other vegetation within the ~~lines~~right-of-way boundaries of all streets, alleys, avenues, lanes, squares, cul-de-sacs, causeways and public grounds as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The town may, under the guidance of a certified arborist with the cost thereof to be charged to the town's budget, remove or cause to order to be removed under the guidance of a certified arborists with the cost thereof to be charged to the town's budget, any tree or other vegetation which is in an unsafe condition or which by its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvement or is infected with any injurious fungus, insects or other pests.
- (c) *Tree topping.* It shall be unlawful as a normal practice for any person or firm to top any street tree, park tree or other tree on public property except where authorized by the town. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter with the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Palm trees shall be trimmed under the guidelines as published by the Pinellas County Cooperative Extension Service.
- (d) *Pruning corner clearance.* Every owner of any tree or other vegetation overhanging any street or right-of-way within the town shall prune the branches so the branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection so that there shall be clear space of eight feet above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or hazardous trees; and broken or decayed limbs which constitute a menace to the safety of the public or property. The town shall have the right to prune any tree or other vegetation on private property when it interferes with the proper spread of light along the street from a street light or interferes with the visibility of any traffic control device or sign.

Sec. 12-642. - Dead, diseased and hazardous trees removal on private property.

In the event the town code enforcement officer (with the assistance as necessary of a certified arborist or county extension agent) finds that a tree situated on private property is dead, diseased, infected, harboring invasive or destructive insects or a disease which have the realistic potential to spread to or to threaten other trees within or proximate to the town, or which, due to its condition presents a present hazard to life or property, such tree shall be deemed to be a public nuisance and the owner thereof shall remove said tree at owner's expense within 30 days after the written notice of the violation has been served on the owner. If, in the judgment of the code enforcement officer, the tree's condition is the result of a tropical storm, the owner may be given up to 60 days to

~~accomplish the removal. In the event of failure of the owner to comply with the requirement to remove the tree, the nuisance shall be abated pursuant to § 12-31 of this code. The town shall have the right to cause the removal of any dead, diseased or hazardous trees on private property within the town when such trees constitute a hazard to life and property or harbor infections or disease which are a potential threat to other trees in the town. Removal shall be done by the owner of said trees at their expense within 30 days after the written notice of the violation has been served on the owner. However, the removal period will be extended after a very severe storm up to 60 days. In the event of failure of the owner to comply with such notice of violation, the nuisance shall be abated pursuant to chapter 2 of the Code of Ordinances and cost of the removal will be the responsibility of the owner.~~

Section 4. Article IV of Chapter 12 of the Redington Beach Town Code, addressing *Noise*, inclusive of § 12-81 through and including § 12-96, is hereby repealed in its entirety.

Section 5. A new Article IV of Chapter 12 of the Redington Beach Town Code, addressing *Noise*, inclusive of § 12-80 through and including § 12-83, is hereby created to read:

ARTICLE IV. – NOISE

Sec. 12-80. - Definitions.

All words or phrases used in this article which are not defined below and are of a technical nature shall be defined according to applicable publications of the American National Standards Institute (ANSI) or the American Society for Testing and Materials (ASTM) or their successor bodies, where same have been defined.

Adjacent: Shall mean to have property lines, or portions thereof, in common or facing each other across a street, or right-of-way.

A-weighted sound level (dBA): The sound pressure level in decibels as measured using A-weighting network on a sound level meter that meets the standards set forth in ANSI Standard S1.4-1983 (or more recent version). The level so read is designated "dBA."

Ambient sound: The surrounding or steady background sound in a particular location as distinct from the specific noise being measured.

C-weighted sound level (dBC): The sound pressure level in decibels measured using the C-weighting network on a sound level meter that meets the standards set forth in ANSI Standard S1.4-1983 (or more recent version). The level so read is designated "dBC."

Construction activity: Any site preparation, assembly, erection, substantial repair, alteration, or improvement of realty, whether publicly or privately owned, and whether above ground or below ground.

Continuous sound: A sound which remains essentially constant in level during a period of observation.

Decibel (dB): The practical unit of measurement for sound pressure level; the number of decibels of a measured sound is equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (twenty [20] micropascals); abbreviated "dB."

Emergency: Any occurrence or set of circumstances involving actual or imminent physical trauma to human beings or living creatures or property damage which necessitates immediate attention.

Emergency work: Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency, including work necessary to restore property to a safe condition following an emergency.

Impulsive sound: Any sound or vibration that has an abrupt increase immediately followed by an abrupt decay.

Leq: The average sound level.

Noise: Any sound which annoys or disturbs a reasonable person of ordinary sensibilities or causes or tends to cause an adverse physical or psychological effect on humans. "Noise" includes, but is not limited to, low frequency sounds that can induce vibration in structures or human beings.

Noise disturbance: Any sound or vibration which:

- (a) May disturb, annoy, or be harmful or injurious to the health or welfare of a reasonable person of ordinary sensibilities; or
- (b) Exceeds the maximum allowable limits set forth in this article.

Person: A natural person, any corporation, firm, association, joint venture, partnership, or any other entity whatsoever or any combination of such, jointly and severally.

Public right-of-way: Any street, avenue, boulevard, highway, sidewalk or alley or similar place normally accessible to the public which is owned or controlled by a governmental entity.

Public space: Any real property or structure thereon normally accessible to the public which is owned or controlled by a governmental entity.

Real property line:

- (a) The imaginary line along the ground surface, including its vertical extension that separates one parcel of real property from another; or
- (b) The vertical and horizontal boundaries of a dwelling unit that is one unit in a multi-dwelling-unit building.

Receiving land: The property which receives the transmission of sound.

Residential area: Any area within the town that is designated for residential use pursuant to the town's land development code.

School: This term shall have all of the same meanings as set forth in the town's land development code.

Short duration and non-repetitive: Any sound with a duration of less than thirty (30) seconds.

Sound: A temporal and spatial oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

Sound analyzer: A device for measuring the octave band level of a sound as a function of frequency.

Sound level: The conversion of sound pressure to a logarithmic measure called the decibel.

The criteria required to properly define the sound level limits include the following:

1. The actual sound level limit with the frequency weighting to be used, such as A-weighting or C-weighting (i.e. 55 dBA, 60 dBC, etc.).
2. The acoustical metric to be used, such as real time measurement using fast/slow time constant, an average sound level (L_{eq}), a maximum sound level (L_{max}), etc. or a combination of multiple metrics.
3. The time duration of the measurement (i.e. instantaneous, time average, percentage of time sound level is not to be exceeded, etc.).

Sound level or noise meter: An instrument which includes a microphone, amplifier, RMS detector, integrator or time average, output meter, and weighting networks used to measure sound pressure levels. The output meter reads sound pressure level when properly calibrated, and the instrument is of type 2 or better, as specified in the American National Standards Institute publication S1.4-1983 or its successor publication.

Sound pressure: The instantaneous difference between the actual pressure and the average or barometric pressure at a given location.

Sound pressure level: Twenty (20) times the logarithm to the base ten (10) of the ratio of the RMS sound pressure to the reference pressure of twenty (20) micronewtons per square meter ($20 \times 10^{-6} \text{ N/m}^2$). The sound pressure level is expressed in decibels.

Vibration: A temporal and spatial oscillation of displacement, velocity and acceleration in a solid material.

Sec. 12-81. - Exemptions.

The following activities or sources are exempt from the requirements of this article:

- (1) The emission of sound or noise for the purpose of alerting persons to the existence of an emergency or in the performance of emergency work.
- (2) Operation of equipment or conduct of activities normal to residential or agricultural communities as set forth herein:

<u>Description</u>	<u>Hours of Operations</u>

a.	<u>Lawn care, soil cultivation, domestic power tools, lawn mowers, maintenance of trees, hedges, gardens, saws and tractors, street sweepers, mosquito fogging, tree trimming and limb chipping and other normal community operations</u>	<u>7:00 a.m. to 8:00 p.m.</u>
b.	<u>Operation of equipment for solid waste and recycling collection in or adjacent to residential uses</u>	<u>6:00 a.m. to 6:00 p.m.</u>
c.	<u>Operation of equipment for solid waste collection in nonresidential locations</u>	<u>4:00 a.m. to 10:00 p.m.</u>

(3) The usual sounds or noises of construction and operation of construction equipment between the hours of 7:00 a.m. to 6:00 p.m.

- (4) Motor vehicles operating on a public right-of-way in compliance with Florida Statutes Chapter 316 and § 403.415. This exception shall not apply to amplified sound produced by the sound system speakers or other electrical or mechanical sound making device or instrument from within the motor vehicle so that the sound is plainly audible from fifty (50) feet from the source vehicle. In determining whether a sound is plainly audible:
- a. The primary means of detection shall be by means of the officer's ordinary auditory senses, so long as the officer's hearing is not enhanced by any mechanical device, such as a microphone or hearing aid; and,
 - b. The officer must have a direct line of sight and hearing to the motor vehicle producing the sound so that he/she can readily identify the offending motor vehicle and the distance involved; and,
 - c. The officer need not determine the particular words or phrases being produced or the name of any song or artist producing the sound.
- (5) Any residential unit with air-conditioning or pool pump equipment when in reasonable mechanical condition operating with the standard sound and vibration control systems typically provided by the manufacturer in a sound level not to exceed sixty (60) dBA or sixty-five (65) dBC. Air conditioning units are presumed to be in reasonable mechanical condition if the unit meets the sound specifications contained in the Air Conditioning, Heating, and Refrigeration Institute's ("AHRI") Applied Directory of Certified Product Performance Variable Air Volume terminals.
- (6) Any aircraft operating in conformity with, or pursuant to, federal law, federal air regulations and air traffic control instructions used pursuant to and within the duly adopted federal air regulations.
- (7) Between the hours of 7:00 a.m. and 11:00 p.m., the emission of sound or noise from lawful and proper activities on park or school grounds and places primarily used for athletic contests and sporting events.

- (8) Fireworks displays, special events, and events for which all required permits have been obtained in compliance with any conditions imposed by a permit that has been issued by the relevant jurisdiction.
- (9) Impulsive sound.

Sec. 12-82. - Prohibited acts.

The occurrence of the conditions, acts or omissions as described in subsection (1) or (2) of this section shall constitute a violation of this article. Requirements in any one of the said subsections stand alone. Measurements described in subsection (2) shall constitute *prima facie* evidence of a violation of this article. However, such measurements are not necessary for enforcement of this article, i.e., neither sound measurements and maximum permissible sound levels as provided in subsection (2) nor any other type of sound measurement are necessary to prove a violation of subsection (1) of this section so long as evidence exists sufficient to establish that the sound constitutes a noise disturbance pursuant to the applicable standard of proof.

- (1) Noise disturbance. Notwithstanding any other provision of this article, and in addition thereto, it shall be unlawful for any person to make or continue, or cause or permit to be made or continued, any noise disturbance, as defined in § 12-80.
 - a. Standards. The standards to be considered in determining whether a violation of subsection (1) of this section exists must include consideration of one or more of the following factors:
 - 1. The sound level of the noise.
 - 2. The intensity of the noise.
 - 3. Whether the nature of the noise is usual or unusual.
 - 4. The volume and intensity of the ambient sound, if any.
 - 5. The proximity of the noise to residential sleeping facilities.
 - 6. The nature and zoning of the area from which the noise emanates.
 - 7. The nature and zoning of the receiving land.
 - 8. The time of the day or night the noise occurs.
 - 9. The duration of the noise.
 - b. Persons affected. Persons affected include residents, passersby, or code enforcement officials, law enforcement officials, or others who may be reasonably disturbed by excessive noise in the general conduct of their affairs.
- (2) Maximum permissible sound levels.
 - a. Sound level limits pursuant to this section shall be measured with a sound level meter as a L_{eq} (average sound level) for a minimum thirty (30) second period of time.

- b. Sound level limits. No person shall generate or cause to be generated from any source, sound which, when measured in accordance with the requirements of subsection (d) of this section, exceeds:
1. Sixty (60) dBA or sixty-five (65) dBC during the hours between 7:00 a.m. and 10:00 p.m., Sunday through Thursday. Friday, Saturday and the day prior to a federally recognized holiday, the hours shall be from 7:00 a.m. to 11:00 p.m.
 2. Seventy-two (72) dBA or seventy-seven (77) dBC if the receiving land is a residential use adjacent to a commercial use during the hours between 7:00 a.m. and 10:00 p.m., Sunday through Thursday. Friday, Saturday and the day prior to a federally recognized holiday, the hours shall be from 7:00 a.m. to 11:00 p.m.
 3. Fifty-five (55) dBA or sixty (60) dBC during the hours between 10:00 p.m. and 7:00 a.m., Sunday through Thursday. Friday, Saturday and the day prior to a federally recognized holiday, the hours shall be from 11:00 p.m. to 7:00 a.m.
- c. Correction for character of sound. For any source of sound which emits a continuous sound, the maximum sound level limits set forth in subsection (2)(b) shall be reduced by five (5) dBA. For any source of sound which is of short duration and is nonrepetitive, the maximum sound level limits set forth in subsection (2)(b) shall be increased by five (5) dBA from 7:00 a.m. to 10:00 p.m.
- d. Correction for ambient sound. Corrections for ambient sound should be made in accordance with applicable ASTM standards.
- e. Methods of measurements.
1. The measurement of sound shall be made with a decibel or a sound level meter operating on the "A" or "C"-weighted scale of any standard design and quality meeting the standards prescribed by the American National Standards Association. The instruments shall be maintained in calibration and good working order. Measurements recorded shall be taken so as to provide a proper representation of the sound source. The microphone used during measurement shall be positioned so as to not to create any unnatural enhancement or diminution of the measured sound. A wind-screen for the microphone should be used when required. Traffic, aircraft, and other background ambient sounds shall not be considered in taking measurements except where such ambient sound interferes with the primary noise being measured.
 2. If the receiving property is an agricultural area the measurement shall be made within thirty (30) feet of a receiving occupied structure or facility approximately five (5) feet above ground.
 3. For all other properties, the measurement shall be made within the boundary of the receiving property as appropriate approximately five (5) feet above ground.
 4. Acoustical measurements should be made in general conformance with ASTM Standard E1503-06 (or most recent) Standard Test Method for Conducting

Outdoor Sound Measurements Using a Digital Statistical Sound Analysis System or ANSI Standard S1.13, Measurement of Sound Pressure Levels in Air, with regard to addressing issues such as measurement equipment, equipment interferences, calibration of the equipment, and measurement procedures.

Sec. 12-83. - Enforcement and penalties.

- (1) Enforcement. The provisions of this article shall be enforced throughout the town. The sheriff and his or her deputies are hereby designated as code enforcement officers for purposes of enforcing the provisions of this article within their respective jurisdictions and are fully authorized to enforce the provisions of this article. Enforcement methods may be any of those procedures set forth in article III of chapter 2 of this code.
- (2) Except as set forth in subsection (4) below, when a code enforcement officer or law enforcement officer has reasonable cause to believe that a violation of this article has occurred, based upon personal investigation, he or she shall provide notice to the person that the person has committed a violation of this article and shall establish a reasonable time period within which the person must correct the violation. Absent special circumstances, a reasonable time period shall be fifteen (15) minutes. If, upon personal investigation, a code enforcement officer or law enforcement officer finds that the person has not corrected the violation within a reasonable time period, they may engage in any of the enforcement actions set out in section (1).
- (3) A notice issued under any section of this article may be contested by requesting a hearing before the code enforcement special magistrate. However, the pendency of a hearing on the contested notice shall not entitle the person to continue any activity which formed the basis of the alleged violation, unless and until the special magistrate rescinds such notice.
- (4) A code enforcement officer or law enforcement officer is not required to provide the person with a reasonable time period to correct the violation prior to issuing a citation summons, notice to appear, or prior to making an arrest, and may immediately take such action if a repeat violation within three hundred sixty-five (365) days is found or if the code enforcement officer or law enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, the violator is engaged in violations of an itinerant or transient nature, or if the violation is irreparable or irreversible.

“Repeat violation” is a violation of this article by a person who has been previously found by the code enforcement special magistrate or any other quasi-judicial or judicial process, to have violated or who has admitted violating this article, notwithstanding the violations occur at different locations.

Additionally, payment of a civil citation, failure to pay the civil penalty or failure to contest the citation within the time frame specified on the citation shall be deemed an admission of a violation of this article for the purposes of a repeat violation.

Due to the mobile nature of motor vehicles, violations involving amplified sound produced by a radio, tape player, CD player, or other mechanical soundmaking device or instrument from within motor vehicles are deemed *per se* itinerant or transient in nature.

- (5) A violation of § 12-81(4)(a)—(c) of this article shall be a written warning for a first offense, a one hundred dollar (\$100.00) civil penalty for a second offense committed within three hundred sixty-five (365) days of the written warning, and a two hundred fifty dollar (\$250.00) civil penalty for any third or subsequent offense committed within three hundred sixty-five (365) days of the second violation.

For a violation of any other section of this article:

- a. First violation: A code enforcement officer may issue a citation, in accordance with subsections (2)—(4), with a one hundred dollar (\$100.00) fine or a notice to appear in county court subject to the penalties of a second degree misdemeanor, as provided in Florida Statutes § 775.082. A law enforcement officer may issue a citation, in accordance with subsections (2)—(4), with a one hundred dollar (\$100.00) fine, a summons, or a notice to appear in county court or arrest by a law enforcement officer subject to the penalties of a second degree misdemeanor, as provided in Florida Statutes § 775.082.
- b. Second violation: Within three hundred sixty-five (365) days of the first violation, a code enforcement officer may issue a citation with a two hundred fifty dollar (\$250.00) fine or a notice to appear in county court subject to the penalties of a second degree misdemeanor, as provided in Florida Statutes § 775.082. A law enforcement officer may issue a citation with a two hundred fifty dollar (\$250.00) fine, a summons, or a notice to appear in county court or arrest by a law enforcement officer subject to the penalties of a second-degree misdemeanor, as provided in Florida Statutes § 775.082.
- c. Third or subsequent violation: Within three hundred sixty-five (365) days of the second violation, a code enforcement officer may issue a five hundred dollar (\$500.00) fine or a notice to appear in county court subject to the penalties of a second degree misdemeanor, as provided in Florida Statutes § 775.082. A law enforcement officer may issue a citation with a five hundred dollar (\$500.00) fine or effectuate an arrest or issue a citation a summons, or a notice to appear in county court subject to the penalties of a second-degree misdemeanor, as provided in Florida Statutes § 775.082.
- (6) A citation issued under any section of this article shall be contested in county court.
- (7) If the violator elects to contest the citation, he, she or it shall request a hearing through the procedure described on the citation and within the time frame specified on the citation.
- (8) If the violator neither pays the civil penalty nor contests the citation within the time frame specified on the citation, he, she or it shall be deemed to have waived the right to contest the citation and it shall be deemed an admission to the violation. A judgment may be entered against that person for the maximum civil penalty of five hundred dollars (\$500.00) plus applicable fees and costs.

Section 6. A new Article VII of Chapter 12 of the Redington Beach Town Code, addressing *Unsolicited printed/written materials*, inclusive of § 12-140 through and including § 12-141, is hereby created to read:

ARTICLE VII. – UNSOLICITED PRINTED/WRITTEN MATERIALS

Sec. 12-140. – Definitions.

For the purpose of this article, the following definitions shall apply:

Front door. The street-facing entrance(s) to a principal structure. In the event no door faces the street, then any other door of a principal structure nearest the street shall be considered a front door for purposes of this section. The term includes the door of a multi-family dwelling structure which are designed with doors allowing primary apartment/unit entry or exit from within an interior common area.

Porch. An exterior appendage to a principal structure leading to a doorway, including any stairway attached thereto.

Premises. A lot, plot, or parcel of land including any structures, driveways, or other impervious surfaces thereon.

Principal structure. A structure, or combination of structures of primary importance on the premises, and that contains the primary use associated with the premises. The primary use is characterized by identifying the main activity taking place on the premises.

Unsolicited printed/written materials. Any printed or written materials delivered to any premises without the express invitation or permission, in writing or otherwise, by the owner, occupant, or lessee of such premises.

Sec. 12-141. – Unsolicited written/printed materials.

(a) Unsolicited printed/written materials delivered to premises shall be delivered or placed only in the following methods and in the following order:

- (1) By placement in a distribution box or receptacle located on or adjacent to the premises labeled as the designated point of distribution for unsolicited printed/written materials.
- (2) By delivering the materials to an on-duty concierge, security guard, property manager, or other person present on a multi-family premises for subsequent retrieval by residents.
- (3) By causing the materials to be delivered by the United States Postal Service.
- (4) Through a mail slot on the front door or principal structure, if one exists, as permitted by the United States Postal Service Domestic Mail Manual, Section 508 Recipient Services, Subsection 3.1.2.
- (5) By handing the materials personally to the owner, occupant, and/or lessee of the premises.
- (6) Between the exterior front door, if one exists and is unlocked, and the interior front door.
- (7) By complete insertion of the material between the bottom of the front door and the door sill such that the material is not sticking out of the exterior of the door.

(b) No other method of distribution or placement of unsolicited printed/written materials shall be permitted on premises within the town, including, but not limited to, affixing, tying or hanging such materials onto door knobs, door handles, door locks.

security monitoring devices, house or apartment numbers, porch lights, or on windshields of parked vehicles.

(c) Unsolicited written materials placed at a premises create a rebuttable presumption that the materials were placed at the premises by the owner, agent, manager, and/or authorized distributor of the business, product, good, service, message, or idea, which is being advertised, promoted, endorsed, or conveyed in such materials.

(d) Notwithstanding subsection (a) above, an owner, lessee, or other person with property rights in the premises retains all rights to post premises with no-trespassing notices, to cause persons to receive trespass notices, to cause persons subject to trespass notices to be removed and arrested as provided for by law, to maintain secured limited access to common areas of multi-family premises, and to bring private actions against persons or entities for private nuisance.

(e) The provisions of this section do not apply to the United States Postal Service.

(f) This article shall be enforced according to the procedures set forth in article III of chapter 2 of this code. A fine of two hundred dollars (\$200.00) shall result from each violation of this section.

Section 7. For purposes of codification of any existing section of the Redington Beach 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 8. 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 9. The Codifier shall codify the substantive amendments to the Redington Beach Town Code contained in Sections 1 through 6 of this Ordinance as provided for therein, and shall not codify the exordial clauses nor any other sections not designated for codification.

Section 10. Pursuant to Florida Statutes § 166.041(4), this Ordinance shall take effect immediately upon adoption.

ADOPTED ON FIRST READING on the ____ day of _____, 2019, by the Board of Commissioners of the Town of Redington Beach, Florida.

ADOPTED ON SECOND AND FINAL READING on the _____ day of _____, 2019, by the Board of Commissioners of the Town of Redington Beach, Florida.

James Simons, Mayor

Attest:

Missy Clarke, CMC, Town Clerk

Approved as to form:

Jay Daigneault, Town Attorney