

ORDINANCE NO. 2025-05

AN ORDINANCE OF THE TOWN OF INDIAN SHORES, FLORIDA, AMENDING SECTION 66-46 DEFINITIONS; AMENDING SECTION 66-49 LEGAL DUTY OF AN OPERATOR; INCORPORATING FINDINGS; PROVIDING FOR REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Town of Indian Shores (the “Town”) is a Florida municipal corporation and political subdivision of the State of Florida; and

WHEREAS, substantial state and federal case law has been promulgated which has clarified the constitutional issues and limitations surrounding curfews in particular; and

WHEREAS, the Town passed temporary curfew ordinances for the past two years; and

WHEREAS, as a result of the temporary ordinances, the Town saw a reduced number of calls as compared to the previous years; and

WHEREAS, the Town adopted Ordinance 2025-02 that permanently codified its juvenile curfew; and

WHEREAS, the Town’s police department informed the Town that the Town of Redington Shores is amending its juvenile curfew for the July 4th holiday; and

WHEREAS, the Town’s police department serves the law enforcement needs of both communities; and

WHEREAS, uniform juvenile curfew hours will provide for uniform enforcement across both communities; and

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

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

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

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

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

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

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

WHEREAS, residents of the Town, including parents of minor children, as well as business owners and managers in the Town have asked the Town to develop a lawfully balanced means of assisting them in both reducing the risks to children who are out and unsupervised during nighttime hours, and in reducing the negative effect of unsupervised children being out at night, including vandalism, theft, public urination, underage consumption of alcohol or unlawful narcotics, and disturbance of the peace; and

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

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

WHEREAS, the Town does not have sidewalks along Gulf Boulevard, and the congregation of youth on the shared mobility path within the Town during evening hours impedes the free flow of traffic and persons using those mobility paths for their intended purpose; and

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

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

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

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

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

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

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

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

WHEREAS, it is the intent of the Town to adopt this Ordinance for the protection of the general public, including minors, by establishing a limited curfew in the Town during certain hours

of the day or night during under certain circumstances, in a manner which will protect the fundamental rights of youth and parents by setting out a body of regulations and standards which are narrowly tailored so as to advance public interests deemed by the Council as compelling, which shall conform with requirements set out by the Florida Supreme Court in *State v. JP*, and guidelines of other State and Federal Courts, as well as meeting all requirements of the Constitutions of the United States and the State of Florida; and

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

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

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF INDIAN SHORES:

Section 1: That all of the above recitals are true and correct, and the same are incorporated into this Ordinance as if fully set forth herein.

Section 2: Section 66-46 of the Town of Indian Shores Code of Ordinance shall hereby be amended to read as follows:

Sec. 66-46. Definitions.

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

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

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

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

Guardian means:

(1) A person who, under court order, is the guardian of a youth,

(2) A court appointed person or agency acting in the role of a parent.

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

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

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

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

Legal holidays shall be understood to include those holidays designated in F.S. § 683.01.

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

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

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

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

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

Remain means to:

- (1) Linger or stay unnecessarily in a particular place; or
- (2) Fail to leave the premises when requested to do so by a duly authorized law enforcement officer or the owner, operator, or other person in control of the premises.

Semi-public place means any privately-owned or privately-operated real property (including any structure thereon) to which the general public has access and a right to

enter or remain for business, recreation, entertainment, or other lawful purpose, and includes any common area of any condominium or housing complex, any vacant lot or vacant or abandoned buildings, and includes but is not limited to any store, shop, restaurant, tavern, theatre, parking lot, alley, road, or shopping center.

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

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

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

Restricted hours or Youth curfew hours mean:

~~11:00 p.m. until 5:00 a.m.~~

Sunday – 11:00 p.m. until 5:00 a.m.

Monday – 11:00 p.m. until 5:00 a.m.

Tuesday – 11:00 p.m. until 5:00 a.m.

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

Thursday – 11:00 p.m. until 5:00 a.m.

Friday – 11:00 p.m. until 6:00 a.m.

Saturday – 11:00 p.m. until 6:00 a.m.

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

July 3rd through July 5th – 10:00 p.m. until 6 a.m.

Section 3: Section 66-49 of the Town of Indian Shores Code of Ordinance shall hereby be amended to read as follows:

Sec.66-49. Legal duty of an operator; fine.

- (a) It shall be unlawful for any operator of a business to knowingly permit a youth to remain, linger, stay, congregate, move about, wander or stroll upon premises of the business during youth curfew hours.
- (b) Operators are encouraged, but not required, to post in a prominent location in their business premises the following notice in no smaller than 30-point font: "PURSUANT TO TOWN CODE §66-46, IT IS UNLAWFUL FOR ANY UNEMANCIPATED PERSONS LESS THAN 18 YEARS OF AGE TO REMAIN ON THESE PREMISES DURING THE YOUTH CURFEW HOURS BEGINNING AT ~~10:00 P.M.~~11:00 P.M. AS SET FORTH IN TOWN CODE §66-46, UNLESS SPECIFICALLY ALLOWED BY TOWN CODE §66-50."

- (c) A business in violation of this section, after having received a prior written warning, is guilty of a civil infraction and shall pay a fine of \$50.00 for the first infraction and a fine of \$100.00 for each subsequent violation.
- (d) It shall constitute a defense if the operator notified a law enforcement officer that the youth was present on the premises of the business during the restricted hours and the youth refused to leave the premises after being requested by the operator to leave.
- (e) It shall also constitute a defense if the operator had posted notice in the form set forth in subsection (b) above and had also notified the youth that the youth was not permitted to the premises during the restricted hours.

Section 4: That all Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 5: That if any provision or part of this Ordinance is declared invalid or unenforceable as a matter of law, the offending portion shall be stricken and all other provision hereof shall remain valid and enforceable.

Section 6: The provision of this Ordinance shall be incorporated as an appendix to the Code of Ordinances of the Town of Indian Shores, Florida, as an addition or amendment thereto.

Section 7: This Ordinance shall become effective immediately upon adoption in the manner provided by law.

FIRST READING this 10th day of June, 2025.

The first reading of the above Ordinance, upon motion by Vice Mayor Ellen Bauer and seconded by Councilor Mike Howard as duly approved at a regular Council Meeting held on the 10th day of June, 2025.

Voting in favor of the First Reading: Mayor Diantha Schear, Vice Mayor Ellen Bauer
Councilor Mark Housman, and Councilor Mike Howard

Voting in opposition: None Absent: Councilor Nicholas Menchise Abstaining: None

SECOND READING AND FINAL PASSAGE this 30th day of June, 2025.

The second reading of the above Ordinance, upon motion by Councilor Mike Howard and seconded by Councilor Nicholas Menchise as duly approved at a Special Town Council Meeting held on the 30th day of June, 2025.

Voting in favor of the Second Reading: Mayor Diantha Schear, Vice Mayor Ellen Bauer, Councilor Mike Howard, Councilor Mark Housman, and Councilor Nicholas Menchise

Voting in opposition: None

Absent: None

Abstaining: None

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF INDIAN SHORES, FLORIDA, THIS 30 day of June, 2025.

ATTEST:


Diantha Schear
Mayor


Freddie Lozano, CMC
Town Clerk

Approved as to form:


Daniel P. Lewis, Esq.
Town Attorney



Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the Town of Indian Shore's website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference:

Ordinance No. 2025-05

AN ORDINANCE OF THE TOWN OF INDIAN SHORES, FLORIDA, AMENDING SECTION 66-46 DEFINITIONS; AMENDING SECTION 66-49 LEGAL DUTY OF AN OPERATOR; INCORPORATING FINDINGS; PROVIDING FOR REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the Town of Indian Shores is of the view that a business impact estimate is not required by state law¹ for the proposed ordinance, but the Town of Indian Shores is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- The proposed ordinance is required for compliance with Federal or State law or regulation;
- The proposed ordinance relates to the issuance or refinancing of debt;
- The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- The proposed ordinance is an emergency ordinance;
- The ordinance relates to procurement; or
- The proposed ordinance is enacted to implement the following:
 - a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
 - b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;

¹ See Section 166.041(4)(c), Florida Statutes.

- c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
- d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

In accordance with the provisions of controlling law, even notwithstanding the fact that an exemption noted above may apply, the Town of Indian Shores hereby publishes the following information:

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare): **The ordinance amends the curfew times for unattended minors who do not fall within specified exceptions. It also amends the signage language for operators of property open to the public.**

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the Town of Indian Shores, if any:

- (a) An estimate of direct compliance costs that businesses may reasonably incur;
- (b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and
- (c) An estimate of the Town of Indian Shores' regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

NONE.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance: **NONE.**

4. Additional information the governing body deems useful (if any):

*[You may wish to include in this section the methodology or data used to prepare the Business Impact Estimate. For example: Town of Indian Shores staff solicited comments from businesses in the Town of Indian Shores as to the potential impact of the proposed ordinance by contacting the chamber of commerce, social media posting, direct mail or direct email, posting on Town of Indian Shores website, public workshop, etc. You may also wish to include efforts made to reduce the potential fiscal impact on businesses. You may also wish to state here that the proposed ordinance is a generally applicable ordinance that applies to all persons similarly situated (individuals as well as businesses) and, therefore, the proposed ordinance does not affect only businesses].***NONE.**