

Proposed Truck Ordinance Option (2) Two

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SEWALL'S POINT, FLORIDA, AMENDING CODE OF ORDINANCES, CHAPTER 42, "TRAFFIC AND VEHICLES", ARTICLE II, "STOPPING, STANDING AND PARKING", AMENDING SECTION 42-23 ENTITLED "DEFINITIONS"; AMENDING SECTION 42-24 "PARKING RESTRICTIONS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Sewall's Point, Florida is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town Commission has adopted code provisions pertaining to restrictions on the parking of trucks in residential areas of the Town, which have been codified in Article II "Stopping, Standing and Parking" of Chapter 42 "Traffic and Vehicles", of the Code of Ordinances; and

WHEREAS, such provisions require amending to enhance the constitutional integrity of these restrictions based on recent Florida caselaw; and

WHEREAS, the Town Commission seeks to provide for the public safety and general welfare of the citizens of the Town of Sewall's Point and to permissibly preserve the unique residential character of its neighborhoods and to eliminate noise and traffic hazards through the establishment of limitations and regulations on parking and storage of certain types of vehicles within the residential zones of the town limits; and

WHEREAS, the Town Manager has recommended to the Town Commission that the Town Code of Ordinances at Chapter 42, Article II, Sections 42-23 and 42-24 be amended to further the public's health, safety and general welfare; and

WHEREAS, the Town Commission has reviewed these recommendations and determined that such amending of Chapter 42, Article II, Sections 42-23 and 42-24 of the Town Code furthers the public health, safety and general welfare of the residents and citizens of the Town.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SEWALL'S POINT, FLORIDA:

Section 1. The whereas clauses are incorporated herein as true and correct and as the legislative findings of the Town Commission.

Section 2. Chapter 42, Article II, Section 42-23 of the Town Code of Ordinances entitled "Definitions" is hereby amended to read as follows:

Sec. 42-23. Definitions.

For purposes of this section, the following definitions shall apply:

Boats. Watercraft of any size, description and method of propulsion.

Hauling trailers. Devices designed to be pulled by a motor vehicle for the purpose of hauling or towing items. Hauling trailers are usually constructed in the manner of open framework, carts, wagons or vans, and their common purpose is to pull, haul or tow.

Inoperable motor vehicles. Vehicles which for any reason are inoperable shall be considered inoperable motor vehicles. Lack of current registration and mechanical failure or disability of the vehicle render a vehicle inoperable for purposes of this chapter.

Commercial lettering. Letters, numbers, symbols or combinations thereof which advertise a trade, business, industry or other activity for profit, or a product, commodity or service, whether or not for profit or other nonpersonal use of any kind. The term shall not include bumper stickers, decals required for parking or other regulated activity, personalized license plates or vanity plates.

~~*Commercial vehicles.* All motor vehicles not defined as standard vehicles or as nonstandard vehicles or as inoperable motor vehicles shall be commercial~~

~~vehicles. Vehicles that have been factory manufactured or altered, or individually manufactured or altered, and are often known as vans, trucks (of any description), delivery wagons, tractors, landscaping vehicles, commercial vehicles, or vehicles with passenger conveying forward cabs and open or enclosed rear compartments, flatbeds or areas intended or used for purposes other than conveying passengers fall within the definition. Any vehicle which either has commercial lettering or which otherwise displays evidence of a commercial or nonpersonal use, including, but not limited to, racks; cabinet boxes; tools and/or cargo, visible from the street or abutting property or which exceeds the height of the bed of a truck or which extends beyond or above the tailgate. Commercial vehicles may include, but are not limited to, automobiles, vans, trucks, pickups, box trucks, tractor trucks, panel trucks, delivery wagons/trucks, agricultural vehicles, dump trucks, wreckers, semitrailers, trailers, tractor cranes, power shovels, buses, taxis, limousines, non-emergency ambulances, and hearses.~~

Nonstandard vehicles. All passenger vehicles not defined as standard vehicles shall be considered nonstandard vehicles. Nonstandard vehicles include those that have been manufactured or altered for a purpose other than, or in addition to, private conveyance of drivers and passengers on roadways and those that have been individually designed, individually manufactured or individually altered to feature nonstandard bodies, seats, windows, sides or other characteristics. Nonstandard vehicles also include those that provide plumbing, cooking, refrigerator, living, conduct of business or trade, recreation, towing,

hauling, trailering, delivering, camping or sleeping facilities. ~~Nonstandard vehicles include commercial vehicles, and are often known as vans, trucks, panel trucks, pickup trucks or pickups, delivery wagons, recreational vehicles or RVs, trailers, campers, travel trailers, mobile homes, travel cars, dune buggies, swamp buggies, buses, agricultural vehicles, tractors, or vehicles with passenger-conveying forward cabs and open or enclosed rear compartments, flatbeds, or areas intended or used for purposes other than conveying passengers. An otherwise standard vehicle that has been modified or altered to display by commercial lettering a business or advertising sign on the body shall be considered and classified as a nonstandard vehicle.~~

Private passenger van, or private passenger pickup truck. Any private passenger van or private passenger pickup truck having a gross vehicle weight rating of five thousand (5,000) pounds or less and used solely for personal activities; however, any such vehicle with commercial lettering or which otherwise displays evidence of a commercial or nonpersonal use, including, but not limited to, racks; cabinet boxes; tools and/or cargo, visible from the street or abutting property or which exceeds the height of the bed of a truck or which exceeds beyond or above the tailgate, for the purpose of this article, shall be determined to be a commercial vehicle regardless of the gross vehicle weight.

Restricted vehicles. All vehicles that are not defined as standard passenger vehicles, including, but not limited to, commercial vehicles, nonstandard vehicles, and or inoperable vehicles. Restricted vehicles also include vehicles greater than seven (7) feet in height, having more than two (2)

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axles, or having more than four (4) tires regardless of whether it is otherwise defined as a standard vehicle. ~~This shall include, but not be limited to vans, trucks, panel trucks, pickup trucks or pickups, delivery wagons, trailers, travel trailers, vehicles manufactured or altered for a purpose other than, or in addition to, private conveyance of drivers and passengers on roadways, vehicles with nonstandard bodies, seats, windows, sides or other characteristics, those that provide plumbing, cooking, refrigerator, living space, conduct of business or trade, recreational vehicles ("RVs"), towing, hauling, trailing, delivering, camping or sleeping facilities, trailers, campers, mobile homes, travel cars, dune buggies, swamp buggies, buses, agricultural vehicles, tractors, vehicles with passenger-conveying forward cabs and open or enclosed rear compartments, flatbeds, or areas intended or used for purposes other than conveying passengers.~~

Standard vehicles. Only those motor vehicles whose function is private conveyance of drivers and passengers on roadways and only those that are complete, bona fide, factory-designed vehicles with complete, bona fide, factory-designed bodies, seats, windows and standard windowed sides shall be considered standard vehicles. Standard vehicles are ~~usually~~ commonly known as sedans, coupes, convertibles, sport utility vehicles (SUVs), mini-vans, and station wagons and are manufactured in size classes standard, semi-compact, compact and subcompact. Standard vehicles include private passenger vans and private passenger pickup trucks as defined above. ~~No other motor vehicle, regardless of a name or description associated with such motor vehicle, shall, for the purposes of this section, be considered a standard passenger automobile.~~

Section 3. Chapter 42, Article II, Sections 42-24 of the Town Code of Ordinances shall be amended to read as follows:

Sec. 42-24. Parking restrictions.

(a) *Parking of standard vehicles in R-1 district.* Any resident may park, keep, store and maintain, without restriction, standard vehicles, whether or not owned by the resident, anywhere on the resident's private property designed for parking vehicles in any R-1 district of the town. The vehicle need not be garaged, walled, enclosed or otherwise concealed from view.

(b) *Overnight parking on street.* No overnight parking shall be permitted on streets, roads or rights-of-way in the town.

(c) *Enclosure of restricted vehicles required in R-1 district.* No restricted vehicles may be parked, kept, stored or maintained upon a street, road or right-of-way or on private property within any R-1 district of the town unless the vehicle is:

(1) Totally concealed from the view of any abutting property (whether occupied or not) or any street, road, right-of-way or private easement serving the property on which the ~~motor~~ restricted vehicle, ~~or hauling trailer~~ is located; or

(2) Engaged in temporary work or service on the premises between the hours of 8:00 a.m. and 5:00 p.m. ~~A pick-up truck of 3/4 tons or less, that is operable and in good working order, and which is parked in a driveway on private property between the hours of 8:00 a.m. and 5:00 p.m., Monday through Sunday. The parking of a pick-up truck which is inoperable, because it is in a wrecked, derelict, or partially dismantled condition, or the~~

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~~parking of a pick up truck which (1) does not display a current license tag, or (2) is prohibited, or (3) has built in tool racks or spinning hub caps.~~

(3) Construction equipment which cannot reasonably be removed until termination of construction or current usage.

(d) *Parking of travel trailers and campers.* Resident-owned, rented or leased travel trailers and campers may be temporarily parked in the residents' driveways while being loaded and prepared for use or while being unloaded after use, provided that:

(1) The temporary parking does not exceed 24 hours.

(2) No resident temporarily parks a travel trailer or camper more than one time in any consecutive seven days. The term "one time" shall be construed to allow the resident to load, leave the residence, return and unload;

(3) During temporary parking, the travel trailer or camper is not used for any purpose other than loading or unloading; and sleeping or other occupancy and/or the habitation thereof, is strictly prohibited.

(e) *Parking of boats.* No boat (whether on a trailer or not) may be parked, kept, stored or maintained upon a street, road or right-of-way or on private property within any R-1 district of the town unless it is concealed from the first floor living area view of any abutting property (whether occupied or not) or any street, road, right-of-way or private easement serving the property on which the boat is located. A boat may be parked temporarily unconcealed, on property in an R-1 district, while being loaded and prepared for use or while being unloaded and

cleaned after use, providing the temporary parking does not exceed three daylight hours. Boats owned by residents may be unconcealed if moored to owners' docks and seawalls, suspended from davits adjacent to owners' docks and seawalls, or beached upon shorelines of owners' properties not having seawalls.

(f) *Exemption for nonresidents.* Persons residing outside the town who are traveling in or with any restricted vehicle or boat, other than inoperable motor vehicles, shall be exempt from the provisions of subsections (c), (d), and (e) if they are visiting a resident of the town and they spend no more than 72 hours in any consecutive ten-day period.

(g) *Parking of commercial vehicles in nonresidential districts.*

(1) No overnight parking shall be permitted on town streets, roads or rights-of-way.

(2) Commercial vehicles shall not be parked in nonresidential districts except when:

- a. In use for commercial purposes; or
- b. When the driver or occupants are visiting the nonresidential premises.

Section 4. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 5. Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 6. Codification. The sections of the ordinance may be made a part of the Town Code of Laws and ordinances and may be re-numbered or re-lettered to accomplish such, and the word “ordinance” may be changed to “section,” “division,” or any other appropriate word.

Section 7. Effective Date. This ordinance shall take effect immediately upon adoption.