



ORDINANCE NO. 434

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SEWALL'S POINT, FLORIDA, AMENDING CHAPTER 82 ZONING, ARTICLE IV DISTRICTS AND DISTRICT REGULATIONS, DIVISION 3 BUSINESS DISTRICT, B-1, SECTION 82-302 PERMITTED AND PROHIBITED USES TO ADDRESS CONDITIONAL USE PERMITS FOR RESTAURANTS AND FOOD STORES AND TO GRANDFATHER IN EXISTING RESTAURANTS AND FOOD STORES; PROVIDING FOR SEVERABILITY, THE REPEAL OF ALL CONFLICTING ORDINANCES, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the Town of Sewall's Point, Florida (the "Town") 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's Code of Ordinances currently requires all restaurants and food stores doing business within the Town to secure a permit for such use from the Town Commission; and

WHEREAS, the Town Commission wishes to amend this ordinance to provide for the Board of Zoning Adjustment (the "BZA") to review applications for conditional uses for restaurants and food stores and to also grandfather in the Town's existing restaurants and food stores; and

WHEREAS, the Town Commission finds and declares that the adoption of this ordinance is appropriate, and in the best interest of the health, safety and welfare of the Town, its residents and visitors.

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 82 Zoning, Article IV District and District Regulations, Division 3 Business District, B-1, section 82-302 Permitted and prohibited uses is hereby amended to read as follows:

Sec. 82-302. – Permitted and prohibited uses.

- (a) *Permitted uses.* Uses permitted in the B-1 district are as follows:
- (1) All uses permitted in any residential district, subject to all the provisions specified for such residential districts.
 - (2) Stores and shops for the conducting of a retail business which do not involve the manufacture of products.
 - (3) Personal service shops.
 - (4) Professional and business offices.
 - (5) Churches, provided that the church building is an independent structure and is not part of an existing shopping center or other building or structure having multiple tenants or businesses operating within the same building or structure.
 - (6) Such accessory buildings and uses as are normally incidental to the permitted uses outlined in this subsection.
 - (7) Other uses which the town commission decides are of the same general character such as, but not limited to, those listed as permitted uses, and which will not be detrimental to the health, safety, morals and general welfare of the district in which they are located.
- (b) *Prohibited uses.* Any trade or use that is obnoxious or offensive by the emission of odor, dust, smoke or noise is prohibited.
- (c) *Conditional uses* ~~Restaurants~~. Restaurants and food stores.

(1) Definitions. The following terms, when used in this section, shall have the meanings ascribed to them in this subsection except where the context clearly indicates a different meaning:

Food store means an establishment where most of the floor area is devoted to the sale of food products for home preparation and consumption. Food store also includes convenience stores.

Restaurant means an establishment where the principal business is the sale of ready-to-consume food and beverage sold to the public primarily for consumption on the premises.

(2) Conditional use process. Restaurants and food stores, other than convenience stores, will be permitted by the board of zoning adjustment through a conditional use permit application process as set forth in Chapter 82, Article II, Division 3, Subdivision IV Conditional Uses. Food stores, such as convenience stores, specializing in the retail sale of limited family conveniences and necessities, such as but not limited to groceries, drugs, gasoline, and takeout food and drink such as sandwiches and beer, shall not be permitted.

(3) Existing restaurants and food stores. Restaurants and food stores lawfully established as of _____ (the date of this ordinance) shall be allowed to continue without submitting an application for the permit described above; however, these existing businesses shall comply with all other applicable ordinances.

~~shall be permitted only in those places and under such conditions as in the opinion of the town commission would not adversely affect the public health, safety, morals or general welfare of the town or community. No restaurant shall be operated except upon permit granted by the town commission upon the town commission's review of a written application accompanied by, but not limited to, full development plans, traffic control plans, parking layout plans and trash collection system plans.~~

- (d) ~~Food stores. Food stores, other than convenience stores, shall be permitted only in these places and under such conditions as in the opinion of the town commission would not adversely effect the public health, safety, morals or general welfare of the town or community. Stores, such as convenience stores, specializing in the retail sale of limited family conveniences and necessities, such as but not limited to groceries, drugs, gasoline, and takeout food and drink such as sandwiches and beer, shall not be permitted. Furthermore, no food store shall operate or be open to the public between the hours of 9:00 p.m. and 9:00 a.m. No food store shall be operated except upon permit granted by the town commission upon the town commission's review of a written application accompanied by, but not limited to, full development plans, traffic control plans, parking layout plans and trash and garbage collection system plans.~~
- (e) ~~Violations of this section shall be a Class D violation, punishable as set forth in chapter 18.~~

Section 3. 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 4. Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 5. 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 6. Effective Date. This ordinance shall take effect immediately upon adoption.

Commissioner Kummman offered the Ordinance for its first reading and moved its adoption. The motion was seconded by *Vice Mayor Campo*, and upon being put to a vote, the vote was:

KAIJA MAYFIELD, MAYOR
 JAMES W. CAMPO, VICE MAYOR
 FRANK FENDER, COMMISSIONER

<u>AYE</u>	<u>NAY</u>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>

DAVE KURZMAN, COMMISSIONER
JOHN TOMPECK, COMMISSIONER

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✓

Passed first reading at the Regular Meeting of the Town Commission held on the 27th day of April, 2021.

Vice Mayor Campo offered the Ordinance for its second reading and moved its adoption. The motion was seconded by Commissioner Kurzman and upon being put to a vote, the vote was:

KAIIA MAYFIELD, MAYOR
JAMES W. CAMPO, VICE MAYOR
FRANK FENDER, COMMISSIONER
DAVE KURZMAN, COMMISSIONER
JOHN TOMPECK, COMMISSIONER

<u>AYE</u>	<u>NAY</u>
<u>✓</u>	<u> </u>
<u>✓</u>	<u> </u>
<u>✓</u>	<u> </u>
<u>✓</u>	<u> </u>
<u>✓</u>	<u> </u>

Passed second reading at the Regular Meeting of the Town Commission held on the 25th day of May, 2021. The Mayor thereupon declared this Ordinance approved and adopted by the Town Commission on this 25th day of May, 2021.

TOWN OF SEWALL'S POINT, FLORIDA

Kaija Mayfield
Kaija Mayfield, Mayor

ATTEST:

April C. Stancius
April C. Stancius, CMC, Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

Glen J. Torcivia
Glen J. Torcivia, Town Attorney
Florida Bar No. 343374

