

## PART I - CHARTER

### Footnotes:

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**Editor's note**— Printed herein is the Charter of the Town of Sewall's Point, Florida, as adopted by Laws of Fla. ch. 57-1865. Amendments to the Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

## ARTICLE I. - GENERAL PROVISIONS

### Section 1. - [Established; territorial limits.]

A municipal corporation to be known as the Town of Sewall's Point, in the county of Martin and State of Florida, is hereby created and established and the territorial limits of said municipality shall be as follows:

#### TOWN OF SEWALL'S POINT

Beginning at a point where the east line of the west 66 feet of government lot 6, section 35, township 37 south, range 41 east, intersects the shoreline of the St. Lucie River, thence run north along said east line of the west 66 feet of said government lot 6, to a point that is 156.44 feet south of the north line of said government lot 6, thence run east on a line parallel to said north line of said government lot 6, a distance of 150 feet to a point, thence run north on a line parallel to the west line of government lot 6, a distance of 156.44 feet to a point on the north line of said government lot 6, thence run east along said north line of government lot 6, to the southwest corner of the government lot 4, section 26, township 37 south, range 41 east, thence run north along the west line of said government lot 4, section 26, township 37 south, range 41 east a distance of 700 feet to a point, thence run S 88°07' east to a point in the center line of Sewall's Point Road, thence run north 21°51'30" west along the center line of Sewall's Point Road a distance of 19.3 feet to a point, thence run south 88°47'06" east to a point of intersection with the westerly shoreline of the Indian River; thence run north 65°04' east to the point of intersection with the center line of the Intracoastal Waterway, thence run southeasterly along the center line of the Intracoastal Waterway to a point where said Intracoastal Waterway center line intersects the easterly extension of the center line of the St. Lucie River, thence run westerly and northerly along said extension and the center line of said St. Lucie River to a point where said center line of the St. Lucie River intersects the southerly extension of the east line of the west 66 feet of

government lot 6, section 35, township 37 south, range 41 east, thence run north along said southerly extension of said east line of the west 66 feet of said government lot 6, to the point of beginning.

(Laws of Fla. ch. 59-1873, § 1)

**State Law reference—** Municipal annexation or contraction, F.S. ch. 171.

Section 2. - [Perpetual succession; powers generally.]

That said corporation shall have perpetual succession and by the name of the Town of Sewall's Point may sue, be sued and defend, plead and be impleaded, in all Courts and places, and in all matters and proceedings; may acquire by gift, grant, devise, bequest, purchase or in any other manner similar or dissimilar, receive, own, lease, hold, use and enjoy or sell and dispose of real and personal property or any interest therein; may take by devise, bequest, gift, donation or otherwise any property, real or personal, in trust for public, charitable or other purposes and to do all acts and things necessary or appropriate to effectuate such trusts, with power to manage, sell, lease or otherwise dispose of said property in accordance with the terms of said trusts; may use any of said real property, whether within or without the territorial limits of said municipality, for roads, streets, cemeteries and the erection, maintenance and operation of municipal buildings, works and construction of every character, including municipal offices, schools, courthouses, fire and police stations, houses of detention and correction, hospitals, infirmaries, wharves, docks, bridges, markets, lighting and power plants and waterworks to supply light, power and water for public purposes, or to be sold for profit, and buildings, works and constructions for all other purposes that said municipality, through its commission, may deem necessary or proper for the welfare of said municipality or the inhabitants thereof, and may exercise all other powers herein conferred.

**Editor's note—** This section, which has not been amended by referendum after July 1, 1973, may have been superseded or may be unnecessary as home rule powers of a municipality are derived from the constitution and F.S. ch. 166, but contains extraterritorial power which may not be amended without approval by referendum of the electors.

Section 3. - [Town Commission—Generally.]

That the corporate authority of said municipality shall be vested in a commission created by this Act. Said commission shall be composed of five members elected at large and shall be designated as the Town Commission of the Town of Sewall's Point, Florida. The term of office of each commissioner shall be four years, or until his successor is duly elected and qualified, except as hereinafter provided. The terms of office shall be staggered.

On the first Tuesday in March, A.D. 1958 and thereafter on the first Tuesday in March of each succeeding second year, an election of the registered, qualified voters of said Town shall be held to elect successors to the Town Commissioners named and designated by this Act. The commissioners who are elected shall assume office on the third Tuesday in March following their election and shall immediately organize by electing one of their members as Mayor, [and] one as Vice-Mayor. Beginning in 2012, on the first Tuesday in November and thereafter on the first Tuesday in November of each succeeding second year, an election of the registered, qualified voters of said Town shall be held to elect successors to the Town Commissioners named and designated by this Act. Beginning in 2012, the commissioners who are elected shall assume office on the third Tuesday in November following their election and shall immediately organize by electing one of their members as Mayor, [and] one as Vice-Mayor.

(Ord. No. 341, § 2, 1-31-2008; referendum of 3-4-2008)

Section 4. - [Same—Rules of procedure; meetings.]

Special meetings may be held upon the call of any Commissioner.

**Editor's note—** This section, except for the last sentence, has been editorially transferred to the Code of Ordinances as certain provisions of a Charter adopted prior to July 1, 1973, and not subsequently amended by referendum have been converted to ordinances by operation of F.S. § 166.021(5).

Section 5. - [Same—Commissioners' oath.]

**Editor's note—** This section has been editorially transferred to the Code of Ordinances as certain provisions of a Charter adopted prior to July 1, 1973, and not subsequently amended by referendum have been converted to ordinances by operation of F.S. § 166.021(5).

Section 6. - [Same—Filling of vacancies; qualifications.]

In the event a vacancy occurs on the Commission and the unexpired term of the Commissioner is equal to or exceeds six (6) months, the vacancy shall be filled by duly electing a new Commissioner at the next regularly scheduled general election, if such election is scheduled to be held within three (3) months of the time of the vacancy. If the unexpired term is equal to or exceeds six (6) months and no regular election is scheduled within three (3) months, a special election shall be held within ninety (90) days of the occurrence of the vacancy. If the unexpired term is for less than six (6) months, the vacancy shall not be filled. Any officer elected to fill a vacancy shall serve for the unexpired term. No person shall be eligible for election as Commissioner who is not a registered, qualified voter in the Town of Sewall's Point.

(Ord. No. 75, § 2, 5-11-1972; referendum of 11-3-1992)

**State Law reference—** Filling of vacancies provision required, F.S. § 166.031.

## ARTICLE II. - MUNICIPAL POWERS

### Section 1. - [Ordinance powers.]

The Commission within the limitations of this Act shall have the power by ordinance:

9th. To provide the town with a supply of water for public purposes and to sell the same to private individuals for profit, by waterworks to be within or beyond the boundaries of the Town, and for that purpose to acquire, build, construct or lease or permit others to acquire, build, construct or lease waterworks and a water system, and to dig artesian wells. The Town Commission may contract with other municipalities or private individuals for the supply of water to be furnished the inhabitants and citizens of the Town of Sewall's Point whose water plants, or facilities, for furnishing water may be outside the Town limits. The Town Commission may also grant a license and privilege to any person, firm, corporation or municipality to use its streets, alleys and ways for water mains, fire hydrants, and such other water distribution system as is necessary for the serving of the inhabitants and citizens of the Town with water and fire protection. Nothing herein contained shall compel the Town to provide water beyond existing facilities.

10th. To provide for the prevention and extinguishment of fires and to organize and establish fire departments. The Town Commission may contract with other Fire Departments, located beyond its limits, for its services in providing the inhabitants and citizens of the Town of Sewall's Point with fire protection, and is authorized to pay a reasonable sum for the services of said Fire Department or Departments.

11th. To provide for the lighting of the Town by electricity, gas or other illuminating material and to sell gas or electricity to others for profit, within or beyond the boundaries of the municipality.

15th. To license, tax and regulate carriages, wheel chairs, cars, vehicles, motors, omnibuses, wagons and drays, and to fix the rate to be charged for the carriage of persons and property within the Town limits and to the public works and property without the Town limits.

36th. To provide by ordinance for the appointment of a Town Manager, to prescribe his duties and fix his compensation. The Town Manager need not be a resident or property holder in the Town, County or State and may be dismissed at the pleasure of the Commission. The salary of the Town Manager shall be fixed by the Town Council [Commission].

37th. To provide by ordinance for the adoption of a Town plan, creation of a Town Planning Board and the appointment of the members thereof. The Commission shall, by ordinance, prescribe the duties of the Town Planning Board, enact ordinances for the enforcement of the Board and

prescribe penalties for their violation.

41st. To prohibit the dumping of filth, dirt, garbage, shells, trash, refuse or other things in the waters of any body of water within the Town limits, or any body of water adjacent to or adjoining the Town limits.

**Editor's note**— Subsections 1—8, 12—14, 16—35, 38—40 and 42—26 of this section, which have not been amended by referendum after July 1, 1973, and which are not extraterritorial powers, have been editorially deleted as unnecessary as home rule powers of a municipality are derived from the constitution and F.S. ch. 166.

### ARTICLE III. - MUNICIPAL ORGANIZATION AND OFFICERS

*Footnotes:*

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**Editor's note**— *Ord. No. 329, § 6, adopted Oct. 6, 2006, and passed at referendum of Nov. 7, 2006, amended art. III to read as herein set out. Formerly, said article pertained to similar subject matter as enacted by Laws of Fla. ch. 57-1865.*

#### Section 1. - Form of government.

The form of government shall be known as the Commissioner-Manager Plan. Pursuant to its provisions and subject only to the limitations imposed by the state constitution and by this Charter, all powers of the Town shall be vested in an elective council hereinafter referred to as "the Commission" which shall enact local legislation, adopt budgets, determine policies and appoint a Town Manager, who shall execute the laws and administer the day-to-day governance of the Town as prescribed by this Charter; and the Town's Code of Ordinances; if the manner is not prescribed, then in such manner as may be prescribed by the Town Commission.

(Ord. No. 329, § 6, 10-6-06/11-7-06)

#### Section 2. - Authority of Commission.

That the legislative authority of the Town shall be vested in the Commission. The Commission shall be composed of five members elected at large. The term of office of each Commissioner shall be four years, or until his successor is duly elected and qualified. The Commission shall elect annually one of its members to the office of Mayor, whose duties shall include:

1. Preside at all meetings of the Town Commission.
2. Act as head of the Town government for all ceremonial purposes and recognized by the Governor for purposes of military law.

3. Signing deeds, negotiable notes and bonds, evidences of indebtedness or other instruments in writing to which the Town shall be a party when authorized to do so by the Town Commission, except that the Commission may delegate the power to the Town Manager. The Commission also shall elect annually one of its members to the office of Vice-Mayor whose duty shall be to assume the duties of the Mayor during his absence or disability.

All powers of the Town and the determination of all matters of policy shall be vested in the Town Commission. The Town Commission shall have the power, among other powers to:

1. Appoint and remove the Town Manager and Town Attorney.
2. Establish administrative departments
3. Adopt the budget of the Town.
4. Develop long term goals and policies which would be designed for the betterment of the Town and its residents.
5. Adopt employee personnel policies and salary and benefit plans.
6. Authorize the issuance of bonds in accordance with the constitution and laws of the State.
7. Inquire into the conduct of any department of the Town and make investigations as to municipal affairs.
8. Provide for an independent audit.
9. Other duties as prescribed by State law.

(Ord. No. 329, § 6, 10-6-06/11-7-06)

### Section 3. - Commission relations with Town Manager.

Neither the Commission nor any of its members shall direct or request the appointment of any person to, or their removal from, employment by the Town Manager or by any of his subordinates, or in any manner take part in the appointment or removal of employees under the direct responsibility of the Town Manager except as otherwise expressly provided by this Charter. The Commission and its members shall deal solely through the Town Manager and neither the Commission, nor any member thereof shall give orders to any subordinate of the Town Manager either publicly or privately.

(Ord. No. 329, § 6, 10-6-06/11-7-06)

### Section 4. - Future amendment of the Charter.

The Town Commission shall meet at least once every decade to consider whether amendment of the Charter would be in the best interests of the Town. The Town Commission may appoint a Charter Review Board of residents to advise the Town Commission on such Charter amendment. The Commission shall submit to the electors proposed amendments of the Charter in a manner in accordance with State laws.

(Ord. No. 329, § 6, 10-6-06/11-7-06)

#### Section 5. - Town Attorney.

For the purpose of systematically handling the Town's legal affairs, the Commission shall appoint, by a majority of its membership, a Town Attorney who shall serve at the pleasure of the Town Commission. The compensation of the Town Attorney shall be determined by the Town Commission.

(Ord. No. 329, § 6, 10-6-06/11-7-06)

### ARTICLE IV. - TOWN MANAGER'S DUTIES AND RESPONSIBILITIES

*Footnotes:*

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**Editor's note**— Ord. No. 329, § 6, adopted Oct. 6, 2006, and passed at referendum of Nov. 7, 2006, amended art. IV to read as herein set out. Formerly, said article was entitled mayor and town chief of police as enacted by Laws of Fla. ch. 57-1865.

#### Section 1. - Town Manager.

The Town Commission by a majority of its membership shall appoint a Town Manager who shall serve at the pleasure of the Town Commission. The compensation and benefits of the Town Manager shall be determined by the Town Commission

(Ord. No. 329, § 6, 10-6-06/11-7-06)

#### Section 2. - Town Manager's duties and responsibilities—Powers generally.

Generally. The Town Manager shall have the power to hire, demote, suspend or terminate any employee of the Town. The Town Manager shall have general administration and supervision over all Town employees and over the Town's administrative affairs.

The Town Manager shall also have the power and be required to:

1. Prepare an annual budget and submit it to the Commission for approval and adoption and be responsible for its execution.
2. In conjunction with the budget process, submit a five-year capital improvement plan to the Commission for approval and adoption.
3. Submit to the Commission a monthly report showing the condition of all funds, and to prepare and submit annually to the Commission and make available to the public a complete report on the financial and administrative activities of the Town for the preceding year.
- 4.

Submit annually to the Commission recommendations for wage and benefit plans for Town staff for approval by the Commission.

5. Recommend to the Commission any legislation for adoption or repeal thereof.
6. Attend all Commission meetings and shall have the right to take part in discussions but not to vote, and to attend other Town meetings as directed.
7. Ensure that all laws, rules, regulations and provisions of this Charter and acts of the Commission, subject to enforcement by the Manager are faithfully executed.
8. Act as a representative for the Town with other municipalities, counties and state agencies.
9. Purchase all appropriate materials, supplies or equipment for which funds are provided for in the budget, but may not purchase any item which exceeds the budgetary appropriation until the Commission has increased the appropriation.
10. Consolidate or combine offices, departments or positions which are under his jurisdiction.
11. With regard to all public monies to be disbursed by check, review and sign such checks, which checks shall also require the signature of the Mayor, or in his absence, another member of the Commission.
12. Any other duties as appointed by the Town Commission.

(Ord. No. 329, § 6, 10-6-06/11-7-06)

## ARTICLE V. - [ORDINANCES]

### Section 1. - [Adoption procedure.]

**Editor's note**— This section, which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power, has been editorially deleted as superseded by F.S. § 166.041.

### Section 1.5. - Budget procedure.

The Commission shall adopt the Town budget and all budget related matters by resolution.

(Ord. No. 240, § 1, 9-10-1997)

**Editor's note**— This section, regarding adoption of the budget by resolution, was adopted without a referendum pursuant to F.S. § 166.241(3).

### Section 2. - [Franchises.]



**Editor's note**— This section, which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power, has been editorially deleted as unnecessary as home rule powers of a municipality are derived from the constitution and F.S. ch. 166.

Section 3. - [Records.]

**Editor's note**— This section, which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power, has been editorially deleted as superseded by F.S. § 166.041.

ARTICLE VI. - [BONDS]

Section 1. - [Authority to issue.]

**Editor's note**— The text of §§ 1—3 and 5—7 of this article has been omitted as superseded by F.S. §§ 166.101—166.141.

Section 2. - [Signing; interest; due dates.]

**Editor's note**— See the editor's note following § 1 of this article.

Section 3. - [Ordinance prerequisite to issuance.]

**Editor's note**— See the editor's note following § 1 of this article.

Section 4. - [Form; denomination; Treasurer's surety bond; town officers', etc., interest in contract.]

**Editor's note**— This section, which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power, has been editorially deleted as unnecessary as home rule powers of a municipality are derived from the constitution and F.S. ch. 166.

Section 5. - [Accounting records.]

**Editor's note**— See the editor's note following § 1 of this article.

Section 6. - [Notice of sale.]

**Editor's note**— See the editor's note following § 1 of this article.

Section 7. - [Revenue bonds, certificates and debentures.]

**Editor's note**— See the editor's note following § 1 of this article.

## ARTICLE VII. - REVENUE AND TAXATION

### Section 1. - [Powers generally.]

**Editor's note**— This section, which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power, has been editorially deleted as ad valorem taxes are limited by Fla. Const., art. VII, § 9, and F.S. § 166.211 to ten mills, except for taxes levied for payment of bonds and taxes levied for periods of not longer than two years and subject to referendum.

### Section 2. - [Assessments.]

**Editor's note**— The text of sections 2—9 and 11—16 of this article has been omitted as superseded by F.S. chs. 192—195.

### Section 3. - [Returns—Generally.]

**Editor's note**— See the editor's note following § 2 of this article.

### Section 4. - [Same—Form, etc.]

**Editor's note**— See the editor's note following § 2 of this article.

### Section 5. - [Railroad property.]

**Editor's note**— See the editor's note following § 2 of this article.

### Section 6. - [Powers to enforce collection.]

**Editor's note**— See the editor's note following § 2 of this article.

### Section 7. - [Assessment roll; Board of Equalization; tax sales.]

**Editor's note**— See the editor's note following § 2 of this article.

### Section 8. - [Statute of limitations.]

**Editor's note**— See the editor's note following § 2 of this article.

### Section 9. - [Assessment roll to constitute notice of lien.]

**Editor's note**— See the editor's note following § 2 of this article.

Section 10. - Millage limit; other taxes.

**Editor's note**— This section, which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power, has been editorially deleted as unnecessary as repealed by F.S. § 195.207.

Section 11. - [Tax Assessor and Collector.]

**Editor's note**— See the editor's note following § 2 of this article.

Section 12. - [Tax Assessor's duties.]

**Editor's note**— See the editor's note following § 2 of this article.

Section 13. - [Tax Collector's duties.]

**Editor's note**— See the editor's note following § 2 of this article.

Section 14. - [Board of Equalization.]

**Editor's note**— See the editor's note following § 2 of this article.

Section 14-A. - [Equalization Board meetings not required if Town uses county valuations.]

**Editor's note**— See the editor's note following § 2 of this article.

Section [15. - Taxes to constitute lien.]

**Editor's note**— This section as originally enacted was numbered as a second section "14." To eliminate confusion and facilitate indexing, it has been designated "[15]". As to omission of the text of the section, see the editor's note following § 2 of this article.

Section 16. - [Publication of notices.]

**Editor's note**— See the editor's note following § 2 of this article.

ARTICLE VIII. - STREETS, PAVEMENTS AND TOWN LOTS

Section 1. - [Commission to have control.]

**Editor's note**— This section, which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power, has been editorially deleted as unnecessary as home rule powers of a municipality are derived from the constitution and F.S. ch. 166.

Section 2. - [Improvements; procedure.]

**Editor's note**— This section, which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power, has been editorially deleted as unnecessary as home rule powers of a municipality are derived from the constitution and F.S. ch. 166.

**State Law reference**— Supplemental method of making local improvements, F.S. ch. 170.

Section 3. - [Removal of weeds, refuse, etc.]

**Editor's note**— This section has been editorially transferred to the Code of Ordinances as certain provisions of a Charter adopted prior to July 1, 1973, and not subsequently amended by referendum have been converted to ordinances by operation of F.S. § 166.021(5).

Section 4. - [Definition of "freeholders."]

**Editor's note**— This section has been editorially deleted as unnecessary because F.S. § 166.032 provides that any person who is a resident of a municipality, who has qualified as an elector of the state, and who has registered in the procedural manner provided by general law and ordinance of the municipality, shall be a qualified elector of the municipality.

ARTICLE IX. - [MISCELLANEOUS PROVISIONS]

Section 1. - [Application of municipal law.]

**Editor's note**— This section, which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power, has been editorially deleted as unnecessary as home rule powers of a municipality are derived from the constitution and F.S. ch. 166.

Section 2. - [Contracts involving expenditures.]

**Editor's note**— This section, which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power, has been editorially deleted as superseded by F.S. §§ 166.241(3) and 200.065.

Section 3. - [Town not liable for certain injuries.]

**Editor's note**— This section, which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power, has been editorially deleted as superseded by F.S. § 768.28.

**State Law reference**— Tort liability, F.S. § 768.28.

Section 4. - [Time limitation for bringing suit against Town.]

**Editor's note**— This section, which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power, has been editorially deleted as superseded by F.S. § 768.28.

**State Law reference**— Tort liability statute of limitation, F.S. § 768.28.

Section 5. - [Notice of injury or claim.]

**Editor's note**— This section, which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power, has been editorially deleted as superseded by F.S. § 768.28.

**State Law reference**— Tort liability, F.S. § 768.28.

Section 6. - [Severability.]

The fact that any particular provision of this Charter shall be declared by any Court to be unconstitutional shall not affect the constitutionality of any other provision of this Act.

Section 7. - [Clerk's certificate as to publication or posting of notices to be conclusive evidence of same.]

**Editor's note**— This section, which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power, has been editorially deleted as unnecessary as home rule powers of a municipality are derived from the constitution and F.S. ch. 166.

Section 8. - [Repeal of conflicting laws.]

All laws and parts of laws in conflict with the provisions of this Act are hereby repealed.

Section 9. - [When effective.]

This Act shall become effective immediately upon its becoming a law.

Section 10. - Transition schedule.

Commissioners in office as of the third Wednesday in March, 2008 shall continue to hold office until their successors are elected and take office in accordance with the provisions of Section 3, Article I, Town Charter.