

ORDINANCE NO. 133

AN ORDINANCE OF THE TOWN OF SEWALL'S POINT, FLORIDA, AMENDING APPENDIX B-ZONING, OF THE CODE OF ORDINANCES BY ADDING SECTION TO VIII-A-11 DEFINING ALCOHOLIC BEVERAGES; ADDING A CHAPTER TO BE ENTITLED ALCOHOLIC BEVERAGES; PROVIDING FOR INSERTION IN THE TOWN CODE; PROVIDING REPEAL OF ORDINANCES AND RESOLUTIONS IN CONFLICT THEREWITH; PROVIDING FOR SEPARATION IN THE EVENT A SECTION OR PORTION IS DECLARED TO BE UNCONSTITUTIONAL; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, pursuant to Florida Constitution Article VIII Section 2(b) and Florida Statute 562.45(2) and Florida Statute 166 known as the Municipal Home Rule Powers Act, the Town of Sewall's Point has the power to regulate the hours of business, and the location of the place of business and sanitary regulations therefore, of any licensee under the Statutes of the State of Florida concerning alcoholic beverages, wherein said licensee is within the Municipal Corporate limits of the Town of Sewall's Point, and

**WHEREAS**, pursuant to Chapter 166, Florida Statutes, and the Town Charter of the Town of Sewall's Point, styled Chapter 57-1865, Laws of Florida, the Town of Sewall's Point has the authority to enact zoning ordinances.

**NOW THEREFORE, BE IT ORDAINED** by the Town Commission of the Town of Sewall's Point, Florida, that the Code of Ordinances, Town of Sewall's Point, Florida, is hereby amended by adding a Chapter to be entitled "Alcoholic Beverages".

SECTION 1: Definitions.

As used in this Chapter:

(a) Alcoholic Beverages means all beverages containing more than one (1) percent of alcohol by weight,

measured in the manner described in Section 561.01(4)(b), Florida Statutes (1979), and successor provisions thereto.

(b) Beer and Malt beverage shall mean all brewed beverages containing malt.

SECTION 2: Sale of alcoholic beverages without license prohibited: alcoholic beverage stamps, labels.

It shall be unlawful for any person to manufacture, possess, offer for sale or sell within the Town alcoholic beverages which have not been manufactured and licensed pursuant to the laws of the United States and of the State of Florida. No alcoholic beverages shall be sold by any person where the container thereof does not have and bear the stamps, marks and labels required by the laws of the United States and the State of Florida relating to Alcoholic Beverages. In any prosecution under this Chapter a prima facie case against the Defendant shall be established by the production of such alcoholic beverage in a container which does not have and bear the stamps, marks and labels required by the laws of the United States and the State of Florida relating to alcoholic beverages and by proving the manufacturing, possession or sale thereof by the Defendant.

SECTION 3: Curb Service Prohibited.

No alcoholic beverages shall be sold or served to persons in automobiles, and all curb service of alcoholic beverages is hereby prohibited.

SECTION 4: Hours of Operation.

No vendor shall sell or deliver any alcoholic beverages to any person, or to keep his place of business open for the sale or delivery of any alcoholic beverages:

(a) On Sunday, between the hours of 2:00 A.M. and 1:00 P.M.

(b) On any day of the week other than Sunday between the hours of 2:00 A.M. and 10:00 A.M.

(c) It shall be deemed a violation of this Section for any person, or any agent, servant or employee of any person, licensed under the State Beverage Law, during the hours prohibited under paragraph (a) and (b) above, to gratuitously give any kind of alcoholic beverage, whether conditioned upon the purchase of another kind of alcoholic beverage, or product of any nature, at any inflated price, or otherwise, or in the form of a so-called bonus predicated upon another purchase, or as a gift.

SECTION 5: Location of business restricted; survey required.

(a) The sale of alcoholic beverages for consumption on the premises within five hundred (500) feet of any established church or school is prohibited. The distance shall be measured from the center of the main entrance of the proposed business and follow the usual and customary path of pedestrian travel to the center of the main entrance of a church or, with respect to schools, shall be measured to the nearest point of the school grounds.

(b) This section shall not be construed or held to affect the rights of any existing established business or successors or assigns with respect to the location of the business.

(c) Whenever a business has been lawfully established and thereafter a church or school be established

within a distance otherwise prohibited by this section, the establishment of such church or school shall not be cause for the revocation of the license or otherwise prevent the continuation of the business.

(d) Applicants for licenses and licensees from the State of Florida who are required to show that the location of the proposed business is in conformity with zoning and other applicable regulations of the Town shall furnish a survey made by a registered surveyor showing that the location of the premises of the applicants conforms to this section.

SECTION 6: Zoning Chapter unaffected.

The terms and provisions of this chapter are not to repeal the terms and provisions of the zoning chapter.

SECTION 7: Sales restricted to certain zoning districts.

The sale of alcoholic beverages shall be permitted only in B-1 Zoning District if all applicable requirements of the zoning district are met.

SECTION 8: Distances between establishments.

(a) Under the power and right to zone areas in which the sale of alcoholic beverages is prohibited or permitted within the Town limits, it is hereby established that the sale of alcoholic or intoxicating beverages for consumption on or off the premises under authority of a State License issued under provisions of Florida Statutes Section 563.02(1)(b), Section 564.02(1)(b) and Section 565.02(1)(a) and (b), other than special licenses for hotel and restaurant bars, is prohibited in any place of business located within five hundred (500) feet of another place of business in which there is already an existing

retail vendor's license to sell alcoholic or intoxicating beverages for consumption on or off the premises, under authority of a license issued under the provisions of Section 565.02(1)(a) and (b), such distance to be measured in the same manner as the distances between schools and churches hereinabove stated in Section 5; nor shall a new place of business for the sale of alcoholic beverages for consumption on or off the premises under authority of license issued under the above stated paragraphs of Florida Statutes, be permitted at such location during the period in which a valid existing state license is renewable at such location, nor shall an existing state license be permitted to be transferred from location to location as to violate such area zoning distances between places selling alcoholic beverages.

(b) Provided, however, that as to dining rooms or restaurants where the sale or service of alcoholic beverages is incidental to the sale and service of food, the Board of Adjustment is authorized to grant special exceptions to the distance requirements as established by subsection (a) above where the board finds that such special exception will not be contrary to the public interest. The application for a special exception and processing and hearing upon said application shall be in accordance with Section XV of Appendix B-Zoning of the Code of Ordinances.

SECTION 9: Serving of set-ups, etc., by vendors not licensed to sell for consumption on premises.

No vendor licensed under the State Beverage Law, who is not licensed to sell alcoholic beverages to be consumed upon the premises, shall knowingly furnish or provide any

set-ups, glasses, or other service to any person for the purpose of consuming alcoholic beverages in, at or upon the licensed premises.

SECTION 10: Hours, music or disturbing noises prohibited.

No person licensed under the State Beverage Law shall allow or permit after 11:00 P.M. instrumental music, singing or other forms of entertainment, in any room where alcoholic beverages are sold or offered for sale, indoors or outdoors, unless such room or rooms are soundproofed, in order that the noise therefrom may not disrupt the peace and quiet of the neighborhood. It being intended hereby that in rooms soundproofed as defined herein, music, singing and other forms of entertainment may be conducted during the hours that alcoholic beverages may be sold, as set forth in this chapter, but at no other hours.

SECTION 11: Penalty.

Any person, or any agent, servant or employee of any person, licensed under the State Beverage Law, violating the provisions of this Chapter shall upon conviction be punished as provided in Section 1-8 of this code.

**SEPARATION.**

If any section, sentence, clause, phrase or word of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this Ordinance, and it shall be construed to have been the intent of the Board to adopt this Ordinance without such unconstitutional, invalid or

inoperative part therein, and the remainder of this Ordinance after the exclusion of such part or parts, shall be deemed and held to be valid as if such part or parts had not been included herein. If this Ordinance or any provision thereof shall be held to be inapplicable to any person, groups of persons, property, kind of property, circumstances or set of circumstances, such holdings shall not affect its applicability to any other person, property or circumstances.

**REPEAL.**

Town ordinances and Town resolutions, or parts thereof, in conflict with this Ordinance are hereby abolished and repealed to the extent of such conflict.

**INCORPORATION IN TOWN CODE.**

Provisions of this Ordinance shall be incorporated in the Town Code and the word "Ordinance" may be changed to "section", "article", or other appropriate word, and the sections of this Ordinance may be renumbered or relettered to accomplish such intention.

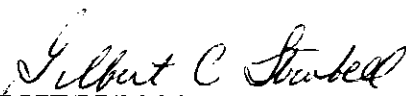
**EFFECTIVE DATE.**

This Ordinance shall become effective immediately upon the date of its passage according to law.

Passed first reading at the regular meeting of the Town Commission held on the 10th day of March, 1982.

Passed second reading at the regular meeting of the Town Commission held on the 14th day of April, 1982.

ATTEST:

  
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Gilbert C. Strubell,  
Mayor-Commissioner

Joan Barrow  
Joan Barrow,  
Town Clerk

Helena B. Towl  
Helena B. Towl,  
Commissioner

Approved as to form and  
Correctness.

William E. Barton  
William E. Barton, III  
Commissioner

James E. Knight  
James E. Knight,  
Town Attorney

Dana deWindt  
Dana deWindt,  
Commissioner

Edward H. Gluckler  
Edward H. Gluckler,  
Commissioner





NOTICE is hereby given that the following proposed Ordinance Repealing Ordinance No. 127, will be introduced in writing and read for the second time at the regular meeting of the Town Commission of the Town of Sewall's Point to be held at the Town Hall in Sewall's Point, Florida, on the 10th day of March, 1982, at 7:30 p.m., or as soon thereafter as is practicable.

A full copy of said proposed Ordinance Repealing Ordinance 127, entitled hereafter, may be inspected at the Town Hall in Sewall's Point, Florida during regular business hours. All interested parties may appear at said meeting and be heard with respect to this proposed Ordinance.

The Town Commission of the  
TOWN OF SEWALL'S POINT

By: Joan Barrow  
Joan Barrow, Town Clerk

ORDINANCE NO. 132

AN ORDINANCE OF THE TOWN OF SEWALL'S POINT, FLORIDA, REPEALING ORDINANCE NUMBER 127 OF THE TOWN OF SEWALL'S POINT CODE OF ORDINANCES; PROVIDING FOR INSERTION IN THE TOWN CODE; PROVIDING REPEAL OF ORDINANCES AND RESOLUTIONS IN CONFLICT THEREWITH; PROVIDING FOR SEPARATION IN THE EVENT A SECTION OR PORTION IS DECLARED TO BE UNCONSTITUTIONAL; PROVIDING FOR AN EFFECTIVE DATE.

COPY

to J.B.  
Mirror  
2-24-82