

Second Draft  
February 6, 1984

Coding: Words underscored are deletions from existing ordinance;  
words in **BOLDFACE** type are additions

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ORDINANCE NO. 150

AN ORDINANCE OF THE TOWN OF SEWALL'S POINT, FLORIDA, CREATING SUBSECTION F OF SECTION VIII OF APPENDIX B - ZONING, CODE OF ORDINANCES, TOWN OF SEWALL'S POINT, FLORIDA; DEFINING LATE NIGHT USES TO BE ANY USE IN THE B-1 ZONING DISTRICT BETWEEN THE HOURS OF 11:00 P.M. AND 6:00 A.M.; PROVIDING FOR PERMITTING PROCEDURE FOR LATE NIGHT USES; 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 Chapter 163, Florida Statutes, and the Town Charter of the Town of Sewall's Point, Florida, styled Chapter 57-1865, Laws of Florida, the Town of Sewall's Point has authority to enact ordinances; and

WHEREAS, the Town Commission of the Town of Sewall's Point has determined that it is necessary and appropriate to amend its existing zoning ordinances to regulate the conduct of permitted uses in the B-1 Business District between the hours of 11:00 p.m. on any day of the week and 6:00 a.m. on the following day for the following reasons:

(a) In the B-1 Business Districts all uses are located in close proximity to residential uses within the Town so that their continued operation after 11:00 p.m. and before 6:00 a.m. without adequate safeguards creates a high likelihood of disturbance to the home life and tranquility of the citizens of the Town, which is contrary to the health and general welfare of the public; and

(b) The operation of uses in the B-1 Business District after 11:00 p.m. and before 6:00 a.m. without adequate safeguards creates increased traffic and a higher potential for disturbance and breaches of the peace during hours when the police department of the Town of Sewall's Point maintains a minimum staff, which increases the danger of physical injury to law enforcement officers of the Town.

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 subsection to Section VIII, Appendix B - Zoning, to be numbered F, which subsection reads as follows:

**F. Late Night Uses:** It shall be unlawful to operate or conduct a late night use within any B-1 District without first having obtained a permit for such late night use from the Town.

1. For the purposes of this subsection, the term "late night use" is hereby defined as any use permitted in B-1 Districts that is open for the conduct of business with the general public at any time between the hours of 11:00 p.m. on any day of the week and 6:00 a.m. on the following day.
2. All applications for a late night use shall be on forms prescribed by the Town and shall set forth such information regarding the proposed use as may be reasonably required, including, but not limited to, a detailed description of the measures to be accomplished or maintained by the applicant to ensure that the proposed use will not result in public loitering or noise that may intrude upon adjacent residential uses.
3. All applications for a late night use permit shall be determined by vote of the Town Commission at a public meeting, and the applicant shall be permitted to amend the application at any time before such determination.
4. Any permit issued under this subsection shall be nontransferrable by the applicant and may be conditioned upon the applicant's faithful performance of those measures for limiting loitering and noise in connection with the late night use as are presented by the applicant and approved by the Commission.

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 9th day of May, 1984.

Passed second reading at the regular meeting of the Town Commission held on the 13th day of June, 1984.

ATTEST:

Joan Barrow  
JOAN BARROW, Town Clerk

Approved as to form and  
correctness:  
M. Lanning Fox  
M. LANNING FOX,  
Town Attorney

John C. Guenther  
JOHN C. GUENTHER, Commissioner

G. C. Strubell  
GILBERT C. STRUBELL, Vice-Mayor  
- Commissioner

Robert R. Aune  
ROBERT R. AUNE, Commissioner

Clifford B. Drake  
CLIFFORD B. DRAKE, Commissioner

Helena B. Towl  
HELENA B. TOWL, Commissioner