

Second Draft  
June 12, 1985

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

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ORDINANCE NO. 158

AN ORDINANCE OF THE TOWN OF SEWALL'S POINT, FLORIDA, AMENDING ARTICLE III, CHAPTER 7, CODE OF ORDINANCES, TOWN OF SEWALL'S POINT, FLORIDA; PROVIDING FOR LOCAL IMPLEMENTATION OF THE WATER SHORTAGE PLAN OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT; PROVIDING ADDITIONAL DEFINITIONS; PROVIDING FOR APPLICATION OF ORDINANCE; PROVIDING FOR ENFORCEMENT AND PENALTIES; 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, a water shortage or water shortage emergency may be declared from time to time by the South Florida Water Management District affecting the Town of Sewall's Point, Florida; and

WHEREAS, during such water shortage condition the amount of surface and groundwater supplies may become insufficient to meet current or anticipated demands; and

WHEREAS, upon the existence of such conditions it becomes imperative to the public well being that certain uses of water be restricted or curtailed and that available water resources be allocated; and

WHEREAS, the South Florida Water Management District has primary responsibility under Chapter 373, Florida Statutes, for regulating water use and allocating available water supplies during periods of water shortage; and

WHEREAS, the South Florida Water Management District has adopted a "Water Shortage Plan," codified as Chapter 40E-21, Florida Administrative Code, for the purpose of allocating and conserving the water resource during periods of water shortage and maintaining a uniform approach towards water use restrictions; and

WHEREAS, the South Florida Water Management District has requested the assistance of the Town Commission of the Town of

Sewall's Point, Florida, in the enforcement of the provisions of the "Water Shortage Plan;" and

WHEREAS, it is the desire of the Town Commission of the Town of Sewall's Point, Florida, to provide the South Florida Water Management District with all possible assistance in the enforcement of the provisions of the "Water Shortage Plan" during a water shortage or water shortage emergency; and

WHEREAS, Section 373.609, Florida Statutes, provides that it shall be the duty of the municipal governmental and law enforcement officials to assist the South Florida Water Management District in the enforcement of Chapter 373, Florida Statutes, and any rules adopted thereunder, upon request by the South Florida Water Management District.

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 making Article III to Chapter 7, Health and Sanitation, read as follows:

#### ARTICLE III. WATER SHORTAGE PLAN

##### Sec. 7-31. Intent and purpose.

It is the intent and purpose of this ordinance to protect the water resources of the Town of Sewall's Point, Florida, from the harmful effects of overutilization during periods of water shortage and allocate available water supplies by assisting the South Florida Water Management District in the implementation of its Water Shortage Plan.

##### Sec. 7-32 7-31. Definitions.

For the purpose purposes of this ordinance article, the following terms, phrases, words and their derivatives derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

- (a) "District" is the South Florida Water Management District.
- (b) "Person" is any person, firm, partnership, association, corporation, company, or organization of any kind.
- (c) "Town" is the Town of Sewall's Point, Florida.
- (d) (a) "Water resource" means any and all water on or beneath the surface of the ground, including natural or artificial water courses, lakes, ponds, or diffused surface water, and water percolating, standing, or flowing beneath the surface of the ground.

- (e) (b) "Water shortage condition" is exists when sufficient water is not available to meet present or anticipated needs of persons using the water resource, or when conditions are such as to require temporary reduction in total water usage within a particular area to protect the water resource from serious harm. A water shortage condition usually occurs due to drought.
- (f) "Water shortage emergency" means that situation when the powers which can be exercised under Part II of Chapter 40E-21, Florida Administrative Code, are not sufficient to protect the public health, safety, or welfare, or the health of animals, fish or aquatic life, or a public water supply, or commercial, industrial, agricultural, recreational or other reasonable uses.

Sec. 7-33 7-32. Application of ordinance article.

The provisions of this ordinance article shall apply to all persons or entities using the water resource within the geographical areas subject to the "water shortage" or "water shortage emergency," as determined by the District, whether from public or privately owned water utility systems, private wells, or private connections with surface water bodies. This ordinance article shall not apply to persons using treated effluent or saltwater.

Sec. 7-34. Amendments to water shortage plan.

Chapter 40E-21, Florida Administrative Code, as same may be amended from time to time, is incorporated herein by reference as a part of the Code of Ordinances of the Town of Sewall's Point, Florida.

Sec. 7-35 7-33. Declaration of water shortage; water shortage emergency.

The declaration of a water shortage or water shortage emergency within all or any part of the Town of Sewall's Point by the governing board or the executive director of the District shall invoke the provisions of this ordinance article. Upon such declaraiion, all water use restrictions or other measures adopted by the District pursuant to Chapter 40E-21, Florida Administrative Code, applicable to the Town of Sewall's Point or any portion thereof, shall be subject to enforcement action pursuant to this ordinance section 7-34 of this article. Any violation of the provisions of Chapter 40E-21, Florida Administrative Code, or any order issued pursuant thereto, shall be a violation of this ordinance article.

Sec. 7-36. System-based water shortages.

The Mayor may declare a water shortage and impose water restrictions in accordance with the District's water shortage plan, when necessary to curtail water use within the Town due to a mechanical failure or other operational problem within the water system serving the Town.

Sec. 7-37 7-34. Enforcement.

Every police officer of the Town shall, in connection with all other duties imposed by law, diligently enforce the provisions of this ordinance article. In addition, the Mayor of the Town may also delegate enforcement responsibility for this ordinance to other departments of the Town government, in accordance with state and local law.

Sec. 7-38 7-35. Penalties.

Violation of any provisions of this ordinance article shall be subject the violator to the following penalties:

First violation	\$25.00 <u>fine</u>
Second and subsequent violations	Fine not to exceed \$500.00 and/or imprisonment in the county jail not to exceed 60 days

Each day in violation of this ordinance article shall constitute a separate offense. In the initial stages states of a water shortage or water shortage emergency, law enforcement officials may shall attempt to provide violators with no more than one written warning. The Town, in addition to the criminal sanctions contained herein, may take any other appropriate legal action, including but not limited to emergency injunctive action, to enforce the provisions of this ordinance.

Sec. 7-39 7-36. Water users to accept provisions of ordinance article.

No water service shall be furnished to any person by a public or private utility unless until such person agrees to accept all the provisions of this ordinance article. The acceptance of water service shall be in itself the acceptance of the provisions thereof.

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 8<sup>th</sup> day of May, 1985.

Passed second reading at the regular meeting of the Town Commission held on the 12<sup>th</sup> day of June, 1985.

ATTEST:

Joan Barrow  
JOAN BARROW, Town Clerk

John C. Guenther  
JOHN C. GUENTHER, Mayor -  
Commissioner

Approved as to form and  
correctness:

M. Lanning Fox  
M. LANNING FOX, Town  
Attorney

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

ROBERT R. AUNE, Commissioner

Clifford B. Drake  
CLIFFORD B. DRAKE, Commissioner

Helena B. Towl  
HELENA B. TOWL, Commissioner