

Third Draft
December 11, 1985

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

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ORDINANCE NO. 160

AN ORDINANCE OF THE TOWN OF SEWALL'S POINT, FLORIDA, AMENDING ARTICLE IV, "TREE REMOVAL REGULATIONS" OF THE TOWN OF SEWALL'S POINT CODE OF ORDINANCES; REQUIRING THE REMOVAL OF BRAZILIAN PEPPER, AUSTRALIAN PINE AND MELALEUCA PLANTS OR TREES FROM PROPERTY BEING IMPROVED BY NEW CONSTRUCTION PRIOR TO THE ISSUANCE OF A BUILDING PERMIT; PROHIBITING PLANTING OF SUCH SPECIES; 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, the Town Commission for the Town of Sewall's Point has determined that the following species of plants or trees:

Schinus Terabinthifolius (Brazilian Pepper or Florida Holly)

Casuarina (Australian Pine)

Melaleuca Leucadendron (Melaleuca)

are both offensive and detrimental to the health of the residents of the Town and to the natural vegetative environment and ecology of the Town and the surrounding area; and

WHEREAS, the Town Commission for the Town of Sewall's Point has determined that it is necessary to protect and promote the public health and welfare of the residents of the Town by requiring the systematic removal of said species of plants or trees from the Town; and

WHEREAS, the Town Commission for the Town of Sewall's Point has determined that the following ordinance is a necessary and proper exercise of the Town's authority.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SEWALL'S POINT, FLORIDA, that Article IV, "Tree Removal Regulations", is hereby amended by adding the following sections which shall read as follows:

Sec. 11-50. Definitions.

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Offensive plant or tree means any plant or tree of the following species :

Schinus Terabinthifolius (Brazilian Pepper or Florida Holly)

Casuarina (Australian Pine)

Melaleuca Leucadendron (Melaleuca)

Principal building means any residential or commercial building intended for permanent or temporary human occupancy.

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Sec. 11-52. Same - Exceptions to requirement.

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(b) The following types of trees Any offensive plant or tree, as defined herein, and plants of the species Ficus Aurea (Strangler Fig) may be removed or destroyed without obtaining a permit to do so.

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Sec. 11-57. Penalties; violations. Required removal of offensive plants or trees.

Any person who commences new construction of a principal building within the Town shall, prior to applying for a building permit, remove or cause to be removed from the property subject to the permit all offensive plants or trees.

Sec. 11-58. Same - Affidavit.

As a condition precedent to the issuance of any building permit, all applicants shall submit to the building inspector a sworn affidavit stating that all offensive plants or trees located on the property subject to the permit have been permanently removed from the property as of the date of the affidavit.

Sec. 11-59. Same - Permit.

Any building permit issued in violation of this article or based upon any false or incorrect statement made pursuant to this article shall be revoked by the building inspector.

Sec. 11-60. Planting prohibited. It shall be unlawful for any person to plant an offensive plant or tree within the Town.

Sec. 11-61. Penalties; violations.

Any person convicted for the violation of the terms of this article shall be punished by a fine in the amount of five hundred dollars (\$500.00). Each tree removed, or destroyed or planted in violation of this article shall constitute a separate offense.

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 of 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 13th day of November, 1985.

Passed second reading at the regular meeting of the Town Commission held on the 11th day of December, 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

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

Robert R. Aune
ROBERT R. AUNE, Commissioner

Clifford B. Drake
CLIFFORD B. DRAKE, Commissioner

Dorothy D. Roche
DOROTHY D. ROCHE, Commissioner