

ORDINANCE NO. 171

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SEWALL'S POINT, FLORIDA, PROHIBITING THE ERECTION OR MAINTENANCE OF OBSTRUCTIONS WITHIN THE RIGHT-OF-WAY, CREATING NEW CODE SECTION 13-32, ENTITLED PUBLIC RIGHT-OF-WAY OBSTRUCTIONS, REPEALING ORDINANCES AND RESOLUTIONS IN CONFLICT THEREWITH, PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the Town Commission of the Town of Sewall's Point is concerned with the erection, construction and placement of structures or obstructions, including, but not limited to, posts, poles, fencing, railroad ties, logs, rocks, and car stops within the public right-of-way, which unduly create a risk of hazard both to vehicular and pedestrian traffic; and

WHEREAS, the Town Commission wishes to protect the health, safety and welfare of its residents by providing a clear and unobstructed right-of-way for vehicular and pedestrian traffic; and

WHEREAS, the Town of Sewall's Point, Florida has determined that the following ordinance is necessary and proper to preserve and promote the public health, safety and welfare;

NOW, THEREFORE, be it enacted by the people of the Town of Sewall's Point, Florida that:

The following new Section 13-32 is hereby added to the Code of Ordinances of the Town of Sewall's Point reading as follows: Sec. 13-32. Public right-of-way obstructions.

(a) Except as provided herein, it shall be unlawful for any person to construct, place or maintain any structures or obstructions, including, but not limited to, posts, poles, fencing, railroad ties, logs, rocks, car stops, or any other obstructions as may pose a hazard to vehicular and pedestrian traffic, within the right-of-way for any public street, regardless of whether the right-of-way is paved or unpaved.

(b) Notwithstanding the foregoing, mailboxes and mailbox posts shall be permitted within the public right-of-way, provided that the same shall have a breakaway strength not

exceeding that of a wooden post no larger than 4 inches by 4 inches or 4 1/2 inches in diameter, or a post or pole of metal, aluminum or steel no larger than 2 inches in diameter.

(c) The provisions of this section shall apply to all existing structures and obstructions within the public right-of-way, except that any property owner who wishes to maintain a structure existing on August 1, 1987, may make application to the building inspector for a permit to maintain the structure, whereupon the building inspector shall inspect the property and determine whether the existing structure poses a substantial threat to vehicular or pedestrian traffic, based upon such factors as breakaway strength, location, construction, history of accidents or complaints, and such other factors as relate to the threat of danger posed by the maintenance of such structure. In the event the building inspector finds that the existing structure does not pose a substantial threat to vehicular or pedestrian traffic, the building inspector shall issue a revocable permit that authorizes the maintenance of the structure upon the undertaking of the property owner to indemnify and hold the Town harmless from all claims and expenses arising therefrom.

(d) Public utility companies and all lawful holders of franchises granted by the Town of Sewall's Point are hereby exempted from the provisions of this section.

**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 to

be held and 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 holding 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 words "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.

Adopted on first reading at a duly called meeting of the Town Commission of the Town of Sewall's Point, Florida, held on the 12th day of August, 1987.

Passed on second reading at a duly called meeting of the Town Commission of the Town of Sewall's Point, Florida, held on the 2nd day of September, 1987.

PASSED AND ADOPTED this 2nd day of September, 1987.

ATTEST:


Joan Barrow  
JOAN BARROW, Town Clerk

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

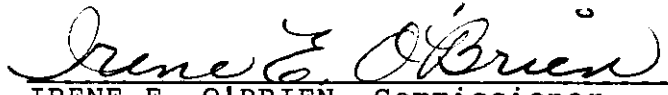
Approved as to form and  
correctness:

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

M. LANNING FOX, Town Attorney

  
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ROBERT R. AUNE, Commissioner

  
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RUSSELL A. MACDONNELL, Commissioner

  
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IRENE E. O'BRIEN, Commissioner