

ORDINANCE NO. 446

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SEWALL'S POINT, FLORIDA, TO UPDATE THE LAND DEVELOPMENT REGULATIONS TO BE CONSISTENT WITH THE 2022 COMPREHENSIVE PLAN AS REQUIRED BY FSS 163.3201, BY AMENDING CHAPTER 78, SUBDIVISIONS, ARTICLE I, IN GENERAL, SECTION 78-7, ACCESSORY DWELLING UNITS, REMOVING SECTION 78-112, EXTENSION OF RIVER ROAD; REMOVING SUBDIVISION III. RESIDENTIAL ESTATE CLASSIFICATION AND SECTION 82-261, SETBACK FOR ACCESSORY DWELLINGS, GUEST HOUSES OR SERVANTS' QUARTERS, AND AMENDING SECTION 82-276, FENCES, TO PROVIDE FOR TEMPORARY FENCE STANDARDS; AND FOR OTHER PURPOSES; PROVIDING FOR SEVERABILITY, THE REPEAL OF ALL CONFLICTING ORDINANCES, CODIFICATION AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Sewall's Point, was chartered by the Florida Legislature in 1957; and

WHEREAS, the Town of Sewall's Point, adopted Land Development Regulations in 1978; and

WHEREAS, the Town of Sewall's Point adopted a Comprehensive Plan in 1989; and

WHEREAS, the Town of Sewall's Point, updated its comprehensive plan on June 28, 2022; and

WHEREAS, Florida state statute 163.3201 requires appropriate local regulations on the development of lands and waters within the area to comply with the comprehensive plan; and

WHEREAS, the code is being updated to be consistent with the updated comprehensive plan related to guest houses and River Road; and

WHEREAS, the town desires to update the code to include a provision for temporary fences;

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION
OF THE TOWN OF SEWALL'S POINT, FLORIDA THAT:**

Section 1. The foregoing recitals are hereby fully incorporated herein by reference as legislative findings of the Town Commission of the Town of Sewall's Point.

Section 2. Accessory dwellings and guesthouses.

Sec. 78-8. Construction of accessory dwellings, or guesthouses .

Any owner of a residentially zoned parcel of land may apply for a building permit to construct an accessory dwelling or guesthouse by providing evidence via survey that the lots are comprised of at least 27,500 square feet of land, and the lots have no existing accessory dwelling or guesthouse. The town building department shall be responsible for approving building permits to ensure the structure complies with all local regulations and with the Florida Building Code.

Section 3. River Road.

Sec. 78-112. Reserved.

Section 4. Zoning for Accessory Dwellings and Guesthouses.

Subdivision III. Accessory Dwellings and Guesthouses ~~Residential-~~ **Sec. 82-261. Setback for accessory dwellings or, guesthouses ~~or servants'~~** **~~quarters.~~**

Any owner of a residentially zoned property may obtain permission ~~person subdividing land by a plat or minor plat subsequent to the date of adoption of the subdivision regulations (chapter 78) may obtain permission~~ to construct an accessory dwellings, or guesthouses ~~or staff quarters~~ upon the subdivided land ~~by requesting residential estate classification~~ by showing that the lots are comprised of ~~proposed for this classification have~~ at least 27,500 square feet of land, and the lots have no existing accessory dwelling or guesthouse. ; ~~and thereafter the~~ The town building department ~~official~~ shall be responsible for approving building permits to ensure the structure complies with all local regulations and the Florida Building Code.~~upon such subdivided lands, which building permits must comply with section 82-274 with respect to setback requirements. Notice is required as provided in section 2-325.~~

~~(b) Any lands which have been subdivided prior to July 25, 1990, and have been granted an RE or residential estate zoning classification by the town commission shall not have to reapply for such classification under this section, but shall nevertheless comply with all setback requirements in this section prior to the issuance of a building permit.~~

Violations of this section shall be a Class D violation, punishable as set forth in chapter 18.

Section 5. Dimensions for Accessory Dwellings or Guesthouses.

Sec. 82-275. Minimum enclosed living area.

The minimum enclosed living floor space in residential districts shall be 1,500 square feet for all lots on which a dwelling was located (completed or under construction) on April 17, 2001; on all other lots 2,000 square feet. Open porches (covered or not), terraces, patios, courts, breeze ways, carports or garages shall not be included in the computation of minimum enclosed living area. An accessory dwelling or guesthouse shall be exempt from this requirement but shall not be comprised of less than 350 square feet of living space.

Violations of this section shall be a Class D violation, punishable as set forth in chapter 18.

Section 6. Provision for Temporary Fences.

Division 2. RESIDENTIAL DISTRICT

Sec. 82-276. Fences, height, type, and construction standards.

Definitions:

Fence means any freestanding lightweight structure, usually constructed of posts and wire, wood, plastic or aluminum and designed to restrict or prevent movement across a boundary.

Fence, temporary means a fence constructed to temporarily secure a property while it is being developed or redeveloped.

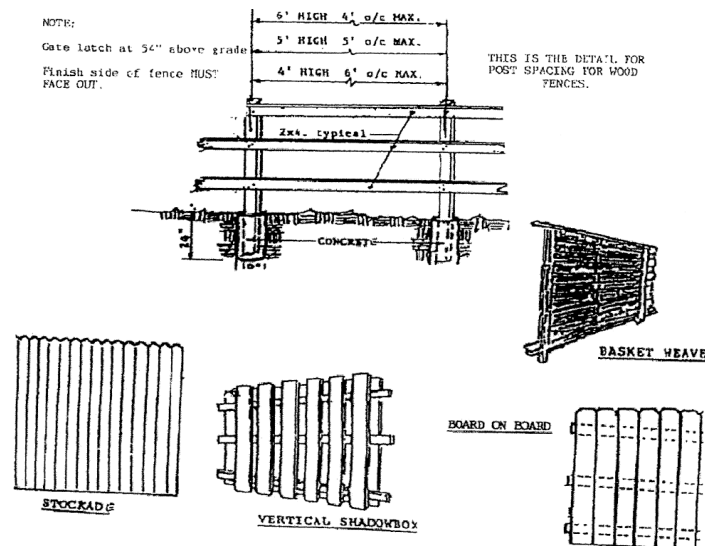
Hedge means a lineal barrier or boundary of plants grown and maintained in such a way that their limbs intertwine and designed to restrict or prevent movement across a boundary.

Wall means a freestanding barrier made from solid brick, stone, concrete or concrete block and designed to restrict or prevent movement across a boundary.

(1) Fences and walls. The following height, type and construction standards shall apply to fences and walls:

- a. All fences and walls constructed street-ward of the front building setback lines shall be designed so that no more than five feet of its height is a complete solid barrier and not more than seven feet in height overall measured on both sides of the fence, wall or other enclosure from the finished grade of the lot.
- b. Fences, walls and other enclosures adjacent to business zoned property may be ten feet in height.
- c. Where a property line borders on a bay, river, strait or canal the following shall apply: Fence, hedge or other enclosure heights shall be not more than three feet above the finished grade of the lot or bulkhead, to the nearest setback line; with the exception of fences that are required in order to comply with the Florida Building Code and or for insurance purposes when in conjunction with a newly constructed or existing swimming pool/spa.
- d. Fences for swimming pools/spas shall be of a type that does not create an obstruction to any view above three feet in height.
- e. All fences street-ward of the front building setback line or along any side or rear lot line adjacent to the public right-of-way shall be designed and constructed to comply with ASCE 7-02 and withstand wind speeds of 140 m.p.h., three second gust. Unless designed by rational analysis, wood fences not exceeding six feet in height may be constructed to meet the following minimum requirements:
 1. Vertical post of pressure-treated 4" × 4" spaced as indicated below. Post shall be embedded a minimum of 24 inches into a concrete footing 12 inches in diameter. Horizontal framing shall

consist of a minimum of three horizontal rails of pressure-treated 2" x 4" boards for six-foot and five-foot high fences and two horizontal rails of pressure-treated 2" x 4" boards for four-foot high fencing. Rails shall be fastened with two 16D nails or two three-inch deck screws at each post. Three-quarter-inch thick boards (pickets) a maximum of eight-inch width shall be fastened to each rail with two 6D nails or two two-inch deck screws. All lumber shall be a minimum of #2 grade or better. All fasteners shall be corrosion resistant.



2. WARNING: Pre-manufactured sections may not comply with this code. Product approval may be required.
- f. Chain link fences are not permitted street ward of the front building setback line.
- g. Hog wire, chicken wire, barbed wire, electrified fences, fences with broken glass, spikes or other sharp points are prohibited in all zoning districts.
- h. Fences, walls or other enclosures constructed on side and rear lot lines of non-waterfront properties shall not exceed seven feet in height, except fences, walls and other enclosures adjacent to business zoned property may be ten feet in height.
- i. Fences or walls located in utility and drainage easements on single-family residential zoned property shall require a written waiver issued by the appropriate authority having jurisdiction over the easement.
- j. Fences with one finished side shall be constructed with the finished side facing out and the support posts and structural members facing inward.

- k. All fences shall be constructed to withstand tropical storm-force winds or greater.
 - l. Support posts for all fences shall be set in concrete footers.
 - m. Any fence over seven feet in height shall be designed and constructed to comply with the American Society of Civil Engineers (ASCE) 7-02 or the most current version and withstand wind speeds of 140 m.p.h., three second gust.
 - n. A property owner may apply for a temporary fence permit to secure their property while there is active development. Such permit will run concurrently with the building permit(s). The temporary fence may be constructed of materials other than those required for permanent fencing except those listed in **g.** of this section. The property owner is required to remove temporary fencing when there are no active permits on file with the Building Official.
- (2) *Hedges.* Hedges located street-ward of the front building line shall not exceed ten feet in height, hedges located along a side lot line behind the front building line or along a rear lot line may exceed the ten-foot height limitation (and the three-foot limitation for lots bordering bays, rivers, straits or canals), so long as the owners of property adjacent to any such hedge do not file an objection with the town building official. Hedges shall not be composed of exotic or invasive species as defined by the Florida Department of Environmental Protection (FDEP). Nonconforming hedges of exotic or invasive species in place at the time of the codification of this section shall be allowed to remain, however any replacement, additions or modification made to any existing hedge for any reason, shall be of a plant not listed by FDEP as an exotic or invasive species.
- (3) *Corner lots.* On a corner lot, no fence, hedge or other enclosure shall be permitted within 40 feet of the intersection of the adjacent right-of-way lines of the two streets, unless such fence, hedge or other enclosure does not exceed three feet in height and is set back no less than ten feet from the edge of the paved surface of the street. In areas on corner lots facing roads where fences, hedges, or other enclosures are allowed higher than three feet, fence, hedge or other enclosure is limited to four feet from the property line abutting a road right-of-way back to the front building line.
- (4) *Ornamental entrance gates and gate posts.* Ornamental entrance gates and gate posts shall not exceed eight feet in height overall and shall be designed to comply with ASCE 7-02 or the most current version and withstand wind speeds of 140 m.p.h., three second gust.

- (5) *All fences, walls and hedges shall be maintained in a suitable manner.* Fences and walls shall be kept clean and free from stains, mold or mildew and in a sound structural condition. Hedges shall be kept trimmed and free any exotic, dead or diseased plants. Hedges shall be maintained by the owner so that they do not extend onto or over any adjacent public or private property or any road right-of-way.

Section 7. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 8. Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 9. Codification. The sections of the ordinance may be made a part of the Town Code of Laws and ordinances and may be re-numbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "division," or any other appropriate word.

Section 10. Effective Date. This ordinance shall take effect immediately upon adoption.

_____ offered the Ordinance for its first, reading and moved its adoption. The motion was seconded by _____, and upon being put to a vote, the vote was:

	<u>AYE</u>	<u>NAY</u>
JOHN TOMPECK, MAYOR	_____	_____
DAVE KURZMAN, VICE MAYOR	_____	_____
JAMES W. CAMPO, COMMISSIONER	_____	_____
FRANK FENDER, COMMISSIONER	_____	_____
KAIJA MAYFIELD, COMMISSIONER	_____	_____

Passed first reading at the Regular Meeting of the Town Commission held on the 13th day of December, 2022.

_____ offered the Ordinance for its second reading and moved its adoption. The motion was seconded by _____, and upon being put to a vote, the vote was:

	<u>AYE</u>	<u>NAY</u>
JOHN TOMPECK, MAYOR	_____	_____
DAVE KURZMAN, VICE MAYOR	_____	_____
JAMES W. CAMPO, COMMISSIONER	_____	_____
FRANK FENDER, COMMISSIONER	_____	_____
KAIJA MAYFIELD, COMMISSIONER	_____	_____

Passed second reading at the Regular Meeting of the Town Commission held on the ____ day of ____, 2023. The Mayor thereupon declared this Ordinance approved and adopted by the Town Commission on this ____ day of ____, 2023.

TOWN OF SEWALL'S POINT, FLORIDA

John Tompeck, Mayor

ATTEST:

April Stoncius, CMC, Town Clerk
(TOWN SEAL)

Approved as to form and legal sufficiency:

Glen J. Torcivia, Town Attorney
Florida Bar No. 343374