

ORDINANCE NO.354

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SEWALL'S POINT, FLORIDA, ADOPTING CHAPTER 50, ARTICLE XI, "MISCELLANEOUS", SECTION 50-183 ENTITLED "CONSTRUCTION AND CONTRACTOR HOURS"; PROVIDING FOR DAYS AND TIMES FOR CONSTRUCTION WORK; PROVIDING FOR DAYS AND TIMES FOR LANDSCAPING ACTIVITIES; PROVIDING FOR EXEMPTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Town of Sewall's Point, Florida is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town Commission has adopted code provisions pertaining to noise in the Town, which have been codified in Article III of Chapter 22 of the Code of Ordinances; and

WHEREAS, loud and raucous construction noise and landscaping activities have an adverse effect on the wellbeing of persons and the tranquility and privacy of the home, and interferes with the comfortable enjoyment of life and property, thus constituting a threat to the economic and aesthetic wellbeing of the community; and

WHEREAS, both the effective control and the elimination of loud and raucous construction noise and landscaping activities are essential to the health and welfare of the city's inhabitants and visitors and to the conduct of the normal pursuits of life, including recreation, work and communication; and

WHEREAS, it is the policy of the Town to provide days and times for permissible construction noise and landscaping activities in various areas and manners and to prohibit such noise during other days and times to secure each resident's quiet enjoyment of his or her residence; and

WHEREAS, the Town Commission has reviewed these recommended amendments and determined that the adoption of Chapter 50, Article XI, Section 50-183 of the Town Code furthers the public health, safety and general welfare of the residents and citizens of the Town.

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

Section 1. The whereas clauses are incorporated herein as true and correct and as the legislative findings of the Town Commission.

Section 2. Chapter 50 “Buildings and Building Regulations”, Article XI, “Miscellaneous”, Section 50-183 “Construction and contractor hours” of the Town Code of Ordinances is hereby adopted to read as follows:

Section 50-183. Construction and contractor hours.

(a) Definitions. For the purposes of this section, the following definitions shall apply:

(1) Contractor shall mean any person or entity, including its employees, laborers, or others working thereunder, that is required to secure a business tax receipt, certification, registration, occupational license, or other authorization from any regulatory agency, organization or governmental entity prior to performing any construction work, as well as any landscaping activities. The term contractor shall also include any subcontractor, sub-subcontractor, or employee, laborer or others working thereunder, and any person that holds itself out as a provider of construction work.

(2) Construction work for the purposes of this section shall mean any work done to improve, build, repair, alter, excavate, dredge or demolish any improvement over, upon, connected with or beneath the surface of real property and shall include landscaping activities. The term construction work shall also include the delivery of any materials by a contractor for any of these purposes, or the performance of any labor or services upon the improvements.

(3) Landscaping activities shall mean any landscaping, planting, tree trimming, hedging, edging, blowing, lawn cutting, weeding, mulching, fertilizing, or any other landscape installation or maintenance activity.

(b) Contractors; permitted work. Contractors are permitted to perform construction work Monday through Saturday, from 8:00 a.m. to 5:00 p.m. It shall be unlawful for any contractor to perform any construction work outside of these days and hours, or at any time on the following legal holidays: New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. This subsection shall not

prevent a contractor who is also a homeowner or resident within the Town of Sewall's Point from performing construction work on his or her residence provided that no other contractor is performing such construction work on behalf of the homeowner/resident contractor.

(c) Noise. All construction work is subject at all times to the noise level limits and restrictions set forth in Chapter 22 "Environment", Article III "Noise".

(d) Exemptions.

(1) It shall be within the discretion of the town manager or designee when any such construction work does not create adverse effects on the residents or inhabitants of the town in the vicinity of the construction to grant a written exception to this section.

(2) The operation of equipment relating to the essential services of the town and equipment operating during emergency conditions shall be exempted from this section.

(3) Any urgent repair that, if not undertaken at once, poses an immediate threat to the safety of a person or an immediate threat of damage to a property shall be exempted from this section.

(4) This section shall not prohibit Utility Companies or those working thereunder from making repairs.

(e) Violations. A violation of this section shall be a Class A violation and shall be punishable as set forth in Chapter 18.

Section 3. 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 4. Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 5. 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 6. Effective Date. This ordinance shall take effect immediately upon adoption.

_____ 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>
DON OSTEEEN, MAYOR	_____	_____
MARK KLINGENSMITH, VICE MAYOR	_____	_____
PAUL SCHOPPE, Commissioner	_____	_____
JACQUI THURLOW-LIPPISCH, Commissioner	_____	_____
NEIL SUBIN, Commissioner	_____	_____

Passed second reading at the Regular Meeting of the Town Commission held on the _____ day of _____, 2010. The Mayor thereupon declared this Ordinance approved and adopted by the Town Commission on this _____ day of _____, 2010.

TOWN OF SEWALL'S POINT, FLORIDA

Don Osteen, Mayor

ATTEST:

Ann-Marie S. Basler, Town Clerk
(TOWN SEAL)

Glen J. Torcivia, Town Attorney
Florida Bar No. 343374
Approved as to form and legal sufficiency