

ORDINANCE NO. 355

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SEWALL'S POINT, FLORIDA, AMENDING CHAPTER 22, ARTICLE III, "NOISE", SECTION 22-67 ENTITLED "CONSTRUCTION WORK"; 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, simultaneously with the consideration of this Ordinance, the Town Commission is also considering Ordinance No. 354 which adopts days and times for the performance of construction work and contractor hours in Chapter 50 "Buildings and Building Regulations"; and

WHEREAS, to ensure the quiet enjoyment of residential properties, the Town Commission wishes to establish the decibel levels for noise generated by construction work; and

WHEREAS, the Town Commission has reviewed these recommended amendments and determined that they further 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 22, Article III, Section 22-67 of the Town Code of Ordinances entitled "Construction work" is hereby amended as follows:

Section 22-67. Construction work. Construction work by contractors, as that term is defined in Sec. 50-183, shall be authorized on the days and times set forth in Chapter 50,

Article XI, Section 50-183 “Construction and contractor hours”. Noise from any construction work, as that term is defined in Sec. 50-183, shall not exceed the limits set forth for the receiving use ~~occupancy~~ category in Table 1 below more than ten percent of any measurement period, which shall not be less than ten minutes when measured from the residence or from the outdoor living space of the complainant’s property.

Section 22-68. General prohibitions of noise. No person shall operate or cause to be operated any source of sound from any ~~occupancy~~ property in such a manner as to create a sound level which exceeds the limits set forth for the receiving use ~~occupancy~~ category in Table 1, below, more than ten percent of any measurement period, which shall not be less than ten minutes when measured from the residence or from the outdoor living space of the complainant’s property.

TABLE 1

TABLE INSET:

USE OCCUPANCY CATEGORY	DAY OF WEEK	TIME OF DAY	MAXIMUM SOUND LEVEL LIMIT
Residential Service Providers	Mon-Sat	8:00am-5:00pm 5:00pm-8:00am	Unregulated Not Permitted
	Sunday	N/A	Not Permitted
Property Owners	Mon-Sat	8:00am-5:00pm	Unregulated
		5:00pm-8:00pm	80 dba
		8:00pm-10:00pm	65 dba
	Sunday	10:00pm-8:00am	50 dba
		10:00am-4:00pm	80 dba
		4:00pm-10:00pm	65 dba
		10:00pm-10:00am	50 dba
Business	Mon-Sat	8:00am-10:00pm	65 dba
		10:00pm-8:00am	55 dba
	Sunday	8:00am-10:00pm	65 dba
		10:00pm-8:00am	55 dba

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