



ORDINANCE NO. 425

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SEWALL'S POINT, FLORIDA, AMENDING CHAPTER 46, ARTICLE II "DEVELOPMENT PERMITS", SECTION 46-31 "PAYMENT FOR PROFESSIONAL SERVICES RENDERED BY TOWN" OF THE TOWN CODE TO PROVIDE FOR COST RECOVERY FOR DEVELOPMENT REVIEW; PROVIDING FOR SEVERABILITY, THE REPEAL OF LAWS IN CONFLICT, CODIFICATION, AND AN EFFECTIVE DATE.

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

WHEREAS, by adopting Section 46-31(a) of the Town Code, which provides that "Each applicant for a development order...shall pay to the town the cost of all professional services...which are caused or required by the application," the Town Commission previously determined that it is in the best interests and welfare of the Town and its residents to recover the costs from applicants for the City's review of development applications; and

WHEREAS, it is the purpose and intent of the Town Commission to clarify Section 46-31(a) by amending Section 46-31(b) of the Town Code to set forth that the costs which shall be recovered from an applicant shall be the actual cost of review of the development review application; and

WHEREAS, the Town Commission has reviewed the proposed ordinance and has determined that it serves a public purpose and is in the best interests of the health, safety and welfare 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 46, Article II "Development Permits", Section 46-31 "Payment for professional services rendered by town" is hereby amended to read as follows:

Sec. 46-31. - Payment for in-house costs and professional services rendered by town.

(a) Each applicant for a development order, building permit, rezoning, comprehensive plan amendment, special exception, variance, major or minor subdivision, plat approval, letter of determination, or any other type of application relating to land development, land use, or land improvement (collectively, "Development Applications") shall pay a filing fee. Unless otherwise established by ordinance, such fees shall be set from time to time by resolution. Such costs include, but are not limited to, postage, publication, and staff services. Each filing fee shall be paid at the same time the application is filed with the town. If the costs incurred by the town exceed the filing fee, the town may invoice the applicant for the balance of the costs, and the applicant shall pay such costs upon receipt of the invoice. If any fee or cost is not timely received by the town, the application may be deemed incomplete and its processing may be delayed.

(b) Outside professional consultants, including but not limited to, engineers, attorneys, scientists, planners, and their respective assistants and staff, may be engaged by the town, in its discretion, in connection with a Development Application, who thereby requires official action or assistance from either the town staff or the town commission, Each applicant shall pay to the town the actual cost of all such outside professional consultant services upon receipt of the invoice for the services. The town may request the applicant to pay a deposit (at the time application is made) to cover the estimated costs of the outside professional consultant(s). If the outside professional consultant fees exceed or are anticipated to exceed the deposit, the town may request additional deposits or may choose to invoice the applicant for such costs. Any unused deposit shall be returned to the applicant when the application process has been completed. If an applicant fails to pay a deposit or any invoice for outside professional consultant services, the application may be deemed incomplete and its processing may be delayed. including, but not limited to the services of the town attorney, the town engineer, their assistants and staff, rendered in connection with conferences, telephone calls, meetings, document preparation, document revision, document review, public hearings, site visitations and the rendition of other miscellaneous professional services which are caused or required by the application. The town commission shall determine, by resolution, from time to time, a reasonable hourly rate to be charged for the professional services and may require a deposit to cover the estimated costs of professional services with each application. In determining the hourly rates, the town commission shall consider rates charged by attorneys, engineers, and other professionals in the area for similar work.

(c) No permit shall be issued or ~~Development a~~Application or ~~petition~~ approved until such time as all ~~filing fees, costs and professional fees, as determined by the town commission pursuant to this section,~~ have been paid in full.

(d) This section shall not apply to applications by governmental authorities, ~~or public utilities, and franchisees of the town.~~

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.

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

	<u>AYE</u>	<u>NAY</u>
FRANK FENDER, MAYOR	<u>✓</u>	_____
VINCENT N. BARILE, VICE MAYOR - <u>not present</u>	_____	_____
JAMES W. CAMPO, COMMISSIONER	<u>✓</u>	_____
DAVE KURZMAN, COMMISSIONER	<u>✓</u>	_____
KAIJA MAYFIELD, COMMISSIONER	<u>✓</u>	_____

Passed first reading at the Regular Meeting of the Town Commission held on the 22nd day of September, 2020.

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

	<u>AYE</u>	<u>NAY</u>
FRANK FENDER, MAYOR	<u>✓</u>	_____
VINCENT N. BARILE, VICE MAYOR	<u>✓</u>	_____
JAMES W. CAMPO, COMMISSIONER - <u>not present</u>	_____	_____
DAVE KURZMAN, COMMISSIONER	<u>✓</u>	_____

KAIJA MAYFIELD, COMMISSIONER

Passed second reading at the Regular Meeting of the Town Commission held on the 27th day of October, 2020. The Mayor thereupon declared this Ordinance approved and adopted by the Town Commission on this 27th day of October, 2020.

TOWN OF SEWALL'S POINT, FLORIDA



Frank Fender, Mayor

ATTEST:




April Stoncius, CMC, Town Clerk

(Town Seal)



APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By:



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