



ORDINANCE NO. 442

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SEWALL'S POINT, FLORIDA, AMENDING CHAPTER 62 "MARINE ACTIVITIES, FACILITIES AND STRUCTURES," ARTICLE III "MARINE STRUCTURES," DIVISION 2 "DOCKS" TO ADD A NEW SECTION 152 PROVIDING FOR SPECIAL PERMITS FOR CERTAIN NON-COMPLIANT DOCKS IN EXISTENCE AS OF JUNE 1, 2022; 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, the Town has established regulations regarding the construction of docks in Chapter 62 "Marine Activities, Facilities and Structures," including necessary minimum construction regulations to better protect the environment, abutting riparian property owners' rights, and the Town; and

WHEREAS, dock structures, including dock roofs, may have negative impacts on the marine environment, including critical seagrass beds; and

WHEREAS, dock structures that include roofs may also detract from neighboring property owners' use and enjoyment of their property by obstructing the view; and

WHEREAS, the Town Commission desires that the permitting requirements and dock roof height restrictions applicable to dock structures be consistently enforced; and

WHEREAS, the Town Commission finds that there are certain dock structures which have been allowed to exist despite lacking the required permits and/or have been permitted despite failing to comply with Section 67-175 (1) of the Sewall's Point Code of Ordinances to the extent that the height of the dock roof exceeds the finished grade of the upland riparian property; and

WHEREAS, the Town Commission desires to create a process for bringing those certain dock structures into compliance with permitting requirements and granting limited legal

nonconforming status only to the extent that the dock roof currently exceeds the finished grade of the property; 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 foregoing whereas clauses are incorporated herein as true and correct and as the legislative findings of the Town Commission.

Section 2. Chapter 62 "Marine Activities, Facilities and Structures," Article III "Marine Structures," Division 2 "Docks," is hereby amended by adding new Section 152 to read as follows:

Sec. 62-152. Special permits and limited legal non-conforming status for certain docks existing as of June 1, 2022.

- (a) This section applies to dock structures in existence as of June 1, 2022 that (1) do not possess both the required Florida Department of Environmental Protection ("FDEP") and Town and Sewall's Point (Town) dock permits and (2) whose roof height exceeds the finished grade of the upland riparian property in violation of Section 62-175(1). Dock structures meeting these criteria are defined as "noncompliant" and may be brought into compliance as set forth in subsection (b) and (c) below.
- (b) The noncompliant roof of any dock structure in existence as of June 1, 2022 for which the owner has demonstrated compliance with all FDEP requirements and has obtained a Town permit by June 1, 2022 will be entitled to limited legal non-conforming status only to the extent that the roof exceeds the finished grade of the upland riparian property in violation of Section 62-175(1).
- (c) The owner of any dock structure with a noncompliant roof in existence as of June 1, 2022 which lacks the required Town dock permit may apply for a special permit by submitting a completed special permit application prior to December 1, 2022. A completed application shall include all required

information, supporting documentation, and payment of applicable fees and fines. In order to be issued a special permit the applicant must meet all of the following requirements:

- (1) The applicant has obtained a permit from FDEP and/or provided satisfactory evidence showing that all FDEP requirements have been satisfied.
 - (2) The applicant has paid a fine of \$500.00 for constructing the roof without a permit.
 - (3) The applicant has paid an additional fee set by resolution which will be placed in a designated fund that the Town will use for marine environmental education and remediation purposes.
 - (4) The Building Official has conducted a general inspection of the roof, with special reference to safety standards, and the inspection is deemed satisfactory.
- (d) Except for those docks that have been issued special permits and/or been granted limited legal nonconforming status under the process set forth in (a) through (c) above, all dock roofs, whether existing or proposed, must comply with all requirements of Article III of Chapter 62, including permitting and roof height limits.

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

	AYE	NAY
JOHN TOMPECK, MAYOR	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DAVE KURZMAN, VICE MAYOR	<input type="checkbox"/>	<input checked="" type="checkbox"/>
JAMES W. CAMPO, COMMISSIONER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FRANK FENDER, COMMISSIONER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
KAIJA MAYFIELD, COMMISSIONER	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Passed first reading at the Regular Meeting of the Town Commission held on the 26th day of April, 2022.

Commissioner Campo offered the Ordinance for its second reading and moved its adoption.

The motion was seconded by Commissioner Fender and upon being put to a vote, the vote was:

	AYE	NAY
JOHN TOMPECK, MAYOR	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DAVE KURZMAN, VICE MAYOR	<input type="checkbox"/>	<input checked="" type="checkbox"/>
JAMES W. CAMPO, COMMISSIONER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FRANK FENDER, COMMISSIONER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
KAIJA MAYFIELD, COMMISSIONER	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Passed second reading at the Regular Meeting of the Town Commission held on the 10th day of May, 2022. The Mayor thereupon declared this Ordinance approved and adopted by the Town Commission on this 10th day of May, 2022.

TOWN OF SEWALL'S POINT, FLORIDA

John Tompeck
John Tompeck, Mayor

ATTEST:

April Stencius
April Stencius, CMC, Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: Glen J. Torcivia
Glen J. Torcivia, Town Attorney

