

1 **ORDINANCE 20-01**

2 AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA, AMENDING THE BELLE ISLE LAND  
3 DEVELOPMENT CODE, CHAPTER 48, ARTICLE III, SECTION 48-63 – TREE PROTECTION;  
4 PROVIDING CLARIFICATION OF TREE PRESERVATION PROCESSES, PROVIDING FOR AN  
5 APPEAL PROCESS AND PROCEDURES; PROVIDING SEVERABILITY, CODIFICATION, AND AN  
6 EFFECTIVE DATE.

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8 WHEREAS, House Bill 1159, also known as the Private Property Rights Protection Act, went  
9 into effect July 1st. Under the new legislation, municipal governments are not allowed to require any  
10 permits, notice, or approval from residents who wish to remove dangerous trees from their  
11 properties; and

12 WHEREAS, the City Council has determined that further amendment to Chapter 48, Article III  
13 of the City Land Development Code is necessary in order to further improve and clarify the City’s tree  
14 protection regulations and to respond to the concerns of the citizens of Belle Isle; and

15 WHEREAS, the City of Belle Isle Tree Board serves as a recommending body for the City; and

16 WHEREAS, the Tree Board, acting in its capacity as the City’s recommending Tree Board, has  
17 duly considered and recommended approval to the City Council of the revisions to the tree  
18 protection regulations effected by this Ordinance at a public meeting on February \_\_\_\_, 20 \_\_\_\_; and

19 WHEREAS, the City Council has found and determined that the adoption of this Ordinance is  
20 in the interests of the public health, safety and welfare, will aid in the harmonious, orderly and  
21 progressive development of the City, and serves a valid public purpose.

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23 BE IT ORDAINED by the City Council of the City of Belle Isle, Florida as follows:  
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1 Sec. 48-63. - Tree protection.

2 (c) *Exceptions and exemptions.*

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4 (1) *Exceptions.* The requirements of this section shall apply to all property in the city  
5 except those used for the following purposes:

6 a) Commercial plant nursery or tree farm;

7 b) Public right-of-way or easement; and

8 c) A residential property owner who obtains documentation or a report from an  
9 arborist certified by the International Society of Arboriculture or a Florida licensed  
10 landscape architect that the tree presents a danger to persons or property, provided  
11 that the residential property owner provides a copy of the documentation or report to  
12 the City within ten (10) days of receipt of the documentation or the report. The City  
13 may, at the City's expense, have the City's arborist review the documentation or  
14 report and inspect the tree(s) set forth therein for verification purposes.

15 d) A residential property owner that is exempted under subsection ~~(b)~~ (c) is not  
16 required to replant a tree that was pruned, trimmed, or removed in accordance with  
17 this section, nor is that residential property owner required to contribute to the City's  
18 tree fund so long as the documentation or report complies with subsection ~~(b)~~(c).

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20 (2) *Exemptions.* In the case of an emergency such as a hurricane, flood or other  
21 disaster, or agricultural diseases, the city manager or the city manager's designee  
22 may waive the requirements of this section so as to not hamper public and/or private work  
23 to restore order.

1 (d) *Requirements.*

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3 (3) In the event the city manager or city manager's designee is unable to determine  
4 whether the criteria for removal are met, an additional fee, to be established by city council,  
5 shall be required for review by an arborist. In lieu of paying the additional fee, the property  
6 owner, at their own expense, may provide an independent arborist's opinion; provided,  
7 however, that said arborist shall not be employed by the tree removal service hired by the  
8 property owner, if any. Any person denied a permit for removal by the City Manager may  
9 within five working days after issuance of the denial by the City Manager file a written  
10 request for an appeal of the decision before the Tree Board. Hearing the appeal shall be set at  
11 a regular or special meeting of the Tree Board to be held not earlier than seven working days  
12 or later than 30 days after the filing of such request. The person appealing the City Manager's  
13 decision shall be given at least five working days' written notice of the time and place of the  
14 meeting. At the completion of the meeting, the Tree Board shall decide whether or not the  
15 permit denial was justified and whether or not the denial should be upheld. In the event the  
16 Tree Board overturns the City Manager's decision, the permit shall be issued. The decision of  
17 the Tree Board is final.

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19 (4) *Use of unregistered tree removal service and/or landscape architect prohibited.* No  
20 commercial tree removal service shall be used by the owner or occupant of the property  
21 unless the service has first registered with the city. A violation of this subsection (d)(4) may  
22 be brought before the city code enforcement magistrate pursuant to section 14-31, et al.,  
23 as an irreversible violation subject to imposition of a fine not to exceed \$5,000.00 per  
24 violation.

1 (5) *Registration requirements for tree removal service and/or landscape architect.* Any  
2 commercial tree removal service which desires to provide tree removal services within the  
3 city must first register with the city by providing its business name, occupational  
4 license number, contact person, address and telephone number. Upon registration, the  
5 tree removal service shall be provided information regarding the city's permitting  
6 requirements as set out in this section 48-63. A list of those tree services registered with the  
7 city will be available in the city clerk's office. The city keeps a list of businesses that are  
8 allowed to operate in the city. This list is to assist in providing residents with a variety of  
9 choices for a service or product. Any specific commercial product, process, or service by  
10 trade name, trademark, manufacturer, or otherwise, is not an endorsement or  
11 recommendation by the city or its employees. Further, the city does not endorse or  
12 recommend any commercial products, processes, or services. The city will not recommend  
13 one tree service over another to residents. In the event any registered tree removal service is  
14 determined by the city manager or designee to have violated the city's requirements for tree  
15 removal, that service shall be removed from the list of registered services with written  
16 notice mailed to the service.

17 (7) *Replacement of trees.* Trees with a DBH of up to ~~four six~~ inches and/or restricted trees,  
18 regardless of DBH, that are approved for removal shall not require replacement. ~~Trees with~~  
19 ~~a DBH of six inches up to but not including 24 inches shall be replaced at a 1:1 ratio. Trees~~  
20 ~~with a DBH of 24 inches or greater shall be replaced at a 2:1 ratio.~~ All replacement trees  
21 should have a minimum DBH of four inches.  
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<u>DBH—Removal tree</u>	<u>Number of Replacement Trees</u>
<u>4" <del>6"</del> up to but not including 12" <del>less than 12"</del></u>	<u>1 tree</u>
<u>12" up to but not including 18"</u>	<u>2 trees</u>
<u>18" or greater</u>	<u>3 trees</u>

(8) ~~Suggested and Restricted Trees Recommended trees with a DBH of six inches up to 24 inches shall be replaced at a 1:1 ratio with trees from the recommended list. Suggested Recommended trees with a DBH of 24 inches or greater shall be replaced at a 2:1 ratio with trees from the suggested recommended list and having a minimum DBH of four inches.~~

a) ~~Suggested Recommended~~ trees. The city council, by resolution, will adopt a list of trees for planting, ~~as stated in "Selecting and Planting Trees for the Central Florida Urban Forest," by the Florida Urban Forestry Council. . This resolution and The recommended suggested~~ tree list will be on file in the city clerk's office and on the back of the Tree Removal Permit.

b) *Restricted trees.* The city council will adopt, by resolution, a list of restricted trees which will be kept on file in the city clerk's office and on the back of the Tree Removal Permit.

(e) *Penalties.*

(1) Violations of this section shall be subject to the following:

a) Where violations of this section have occurred, remedial action shall be taken to restore the property consistent with a restoration plan approved by the city

1 manager or the city manager's designee. The restoration plan shall require tree  
2 replacement according to the following:

DBH—Removal Tree	Number of Replacement Trees
4" <del>6"</del> up to but not including 12" <del>less than 12"</del>	1 tree
12" up to but not including 18"	2 trees
18" <del>up to but not including 24"</del> or greater	3 trees
<del>24" and above</del>	<del>4 trees</del>

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11 SECTION 2. Codification. This Ordinance shall be incorporated into and codified within the Land  
12 Development Code of the City of Belle Isle, Florida. Any section, paragraph number, letter and/or  
13 any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical,  
14 typographical and similar or like errors may be corrected, and additions, alterations, and omissions  
15 not affecting the construction or meaning of this ordinance or the Land Development Code may be  
16 freely made.

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18 SECTION 3. Severability. If any section, subsection, sentence, clause, phrase, word or provision of  
19 this Ordinance is for any reason held invalid or unconstitutional by any court of competent  
20 jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be  
21 deemed a separate, distinct and independent provision, and such holding shall not affect the validity  
22 of the remaining portions of this Ordinance.

1 SECTION 4. Conflicts. In the event of a conflict or conflicts between this Ordinance and any other  
2 ordinance or provision of law, this Ordinance controls to the extent of the conflict, as allowable under  
3 the law.  
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5 SECTION 5. Effective Date. This Ordinance shall become effective immediately upon adoption by  
6 the City Council of the City of Belle Isle, Florida.  
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8 First Reading on March \_\_\_\_, 2020.

9 Second Reading and Adoption this \_\_\_\_\_ day of \_\_\_\_\_, 2020.  
10

	YES	NO	ABSENT
11			
12 Ed Gold	_____	_____	_____
13 Anthony Carugno	_____	_____	_____
14 Karl Shuck	_____	_____	_____
15 Mike Sims	_____	_____	_____
16 Harvey Readey	_____	_____	_____
17 Jim Partin	_____	_____	_____
18 Sue Nielsen	_____	_____	_____

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20 ATTEST:

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22 Yolanda Quiceno, CMC

23 City Clerk

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22 Nicholas Fouraker, Mayor

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Approved as to form and legality  
For use and reliance by the City  
Kurt Ardaman, City Attorney

STATE OF FLORIDA  
COUNTY OF ORANGE

I, Yolanda Quiceno, City Clerk of the City of Belle Isle do hereby certify that the above and foregoing document ORDINANCE 20-01 was duly and legally passed by the Belle Isle City Council, in session assembled on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at which session a quorum of its members were present.

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Yolanda Quiceno, CMC-City Clerk