

ITEM 7
MEMORANDUM

TO: Planning and Zoning Board

DATE: February 12, 2021

Public Hearing Case #2021-01-009 – ORDINANCE 21-02 - AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA; AMENDING THE CITY'S SIGN REGULATIONS UNDER CHAPTER 52 OF THE CITY CODE; PROVIDING DEFINITIONS; AMENDING AND ADDING REGULATIONS RELATED TO TEMPORARY SIGNS, PROTECTION OF FIRST AMENDMENT RIGHTS, AND OTHER MATTERS RELATED TO SIGNS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

Background:

1. A Notice of Public Hearing legal advertisement was placed in the Saturday, February 13, 2021, Orlando Sentinel.
2. Letters to the abutting property owners within 300 feet of the subject property were mailed on February 12, 2021.

The Board may adopt all, some, or none of these determinations as part of their findings-of-fact. The Board may also add any additional findings-of-fact that are presented at the public hearing. The Board will need to determine if the criteria set forth in Chapter 42, Article III, Section 42-64(1) of the Land Development Code have been met, and approve, approve with conditions, or deny this request.

SAMPLE MOTION TO APPROVE:

"I move, TO RECOMMEND APPROVAL OF THE REQUESTED ORDINANCE 21-02 TO CITY COUNCIL.

SAMPLE MOTION TO DENY:

"I move, TO DENY THE REQUESTED ORDINANCE 21-02 TO CITY COUNCIL.



April Fisher, AICP
PRESIDENT
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February 12, 2021

Zoning Application: Amendments to the Land Development Code Sign Regulations

These are City-initiated amendment to the Land Development Code (LDC) to update the sign regulations in Chapter 52 of the Belle Isle LDC regarding temporary sign regulations.

Background Information

The City issued Notices of Violation to property owners regarding political signs remaining on properties long after an election. These notices of violation were challenged, and the City reviewed the regulations with the City Attorney.

It was determined that the City's sign regulations for temporary signs is legally questionable based on court rulings made in 2015 regarding content of signs. The City did not revise its code at that time. Therefore, the City Attorney advised the Code should be amended so that the size, location, and number of signs as well as the duration of posting are regulated (time, place, and manner), but NOT the content of the sign.

The Planning and Zoning Board is responsible for reviewing all proposed changes to the LDC and prepares a recommendation to City Council on the proposed changes.

Since the January Board meeting where the amendments were introduced, Vice Chairman Woods worked with the City Manager to make some additional amendments to clarify the Code regarding sign regulations.

Staff Recommendations

Staff recommends that the Board recommend approval of the proposed changes to Chapter 52 of the Belle Isle LDC regarding temporary sign regulations to City Council for final action.

Next Steps

Following recommendation by the Board, the proposed LDC amendments will be considered by City Council. The Council shall hold two readings on all ordinances. The Council shall adopt changes to the LDC only after holding at least one advertised public hearing in accordance with Florida Statutes.

ORDINANCE NO. 21-02

AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA; AMENDING THE CITY'S SIGN REGULATIONS UNDER CHAPTER 52 OF THE CITY CODE; PROVIDING DEFINITIONS; AMENDING AND ADDING REGULATIONS RELATED TO TEMPORARY SIGNS, PROTECTION OF FIRST AMENDMENT RIGHTS, AND OTHER MATTERS RELATED TO SIGNS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Belle Isle finds that it is in the best interests of the public welfare, health, and safety that the City's sign regulations be amended and supplemented as provided in this Ordinance.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF BELLE ISLE, FLORIDA:

SECTION 1. Recitals. The foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance.

SECTION 2. City Code Amendment. Sections 52-2 and 52-34 of the Belle Isle City Code are hereby amended, and new Sections 52-35 and 52-36 are hereby created, all as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions; stars * * * * * indicate breaks between sections and subsections and do not indicate changes to the City Code).

Sec. 52-2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The word "shall" is mandatory and the word "may" is permissive. Any terms defined in the plural include the singular.

Attached window sign means signs which are physically attached to or painted on any surface of a window.

Awning means a cloth, plastic, or other nonstructural covering that either is permanently attached to a building or can be raised or retracted to a position against the building when not in use.

Banner sign means a sign either enclosed or not enclosed in a ridged frame and secured or mounted to allow movement caused by the atmosphere, and includes pennants and streamers. A flag is not a banner sign.

Building frontage means the length of a building wall where the primary pedestrian entrance is located.

Changeable surface sign means a sign the copy display of which may be changed or rearranged

electronically, mechanically or manually without altering the sign structure.

Corner lot sign means a sign located within the triangular area formed by the apex of two right-of-way lines and a line connecting them at points a designated distance from the apex of the right-of-way lines.

Development means, for the purposes of this chapter only, an approved residential, commercial, industrial subdivision, mobile home park, or multifamily project.

Development sign means a sign located in an approved residential, commercial, industrial subdivision, mobile home park, or multifamily projects.

Digital billboard means an off-site sign capable of displaying words, symbols, or images that can be electronically or mechanically changed by remote or automatic means.

Directional signs means a sign located on premises with exits, entrances, driveways, or off-street parking.

Erect means to build, construct, assemble, attach, hang, place, suspend, affix, create, paint, draw, or in any other way bring into being or establish a sign.

Finished grade level means the completed or settled level of the ground, asphalt, or pavement on which a sign is erected; except that if the sign is erected on an artificial mound or similar artificial rise, the term shall mean the completed or settled level of the ground, asphalt or pavement which surrounds all or the majority of the building on the parcel or site on which the sign is erected.

Flag means a piece of cloth, canvas, or other textile, typically oblong or square, which is attachable by one edge to a pole and/or a rope, with the length of such textile perpendicular to the supporting pole or rope when fully extended and used as the symbol or emblem of a country, state, local government, group, organization, or institution. A flag is not a banner means a rectangular piece of fabric that is used as a signaling device.

Glare means the effect produced by brightness sufficient to cause annoyance, discomfort or loss in visual performance and visibility.

Ground sign means a sign supported by uprights or braces which is placed on, near or at ground level, and which is not attached to any building. The definitions of "ground sign" and "pole sign" are mutually exclusive.

Height means the vertical distance from the finished grade level to the highest point of a structure.

Home occupation sign means a sign attached to a single-family or multifamily dwelling used as a home occupation as authorized by chapter 54, article III.

Illegal sign means a sign erected after the effective date of the ordinance from which this chapter is derived, which is prohibited by this chapter.

Illuminated sign means a sign which is lighted by artificial light source, either internal or external to the sign, for the purpose of illuminating the sign.

Integral sign means a memorial sign or tablet cut into any masonry surface, or constructed of a permanent or incombustible material mounted on the face of a building.

Marquee means a structure, including a hood, canopy, or awning, normally composed of rigid material projecting from a building, which fully or partially covers an entrance, sidewalk, or other pedestrian way.

Marquee sign means a sign attached to or made a part of a marquee, including an awning sign.

Off-site sign means a sign identifying an activity which is not conducted or products or services which are not available on the premises where the sign is located.

On-site sign means a sign (i) identifying an activity conducted or products or services available on the premises where the sign is located; or (ii) displaying a noncommercial message; or (iii) any combination of (i) and (ii).

Parapet means the extension of a false front or wall above the roof line.

Pole (or pylon) sign means a sign supported by at least one upright pole, pylon or post which is secured to the ground and the bottom of the sign face of which is at least six feet above the finished grade level. The definitions of "pole sign" and "ground sign" are mutually exclusive.

Political campaign sign means a sign advertising a candidate, political party, ballot issue, or political issue to be voted upon in a local, state, or national election or referendum. *Portable sign* means a sign, excluding an A-frame sign, which is not permanently secured or attached to the ground or to a structure.

Projecting sign means a sign affixed to a building which projects in such a manner that both sides of the sign are visible.

Real estate sign means a temporary sign on a parcel which is for sale or rent. *Roof*

sign means a sign which is erected or installed on the roof of a building. *Rotating*

sign means a sign which has a revolving sign face.

Setback means the distance between a property line or right-of-way line and the edge of a sign which is nearest to the property line or right-of-way line.

Sidewalk sign means any A-frame, sandwich board or other movable sign placed outside the premises during business hours only.

Sign means any surface, fabric, device, which bears symbols, letters, numbers, or sculptured

matter, whether illuminated or unilluminated, designed to identify, announce, direct, or inform, and that is visible from a public right-of-way. For the purposes of this chapter, the term "sign" shall include all parts of the sign and its supporting structure.

Sign face means the part of a sign, including trim embellishments, and background, which contains surface area on which symbols, letters, numbers, or sculptured matter may be displayed.

Sign spinner means a person, visible from any public road right-of-way, who carries a sign, wears a costume, or uses other attention getting devices to advertise the goods or services offered by the establishment on whose premises the person is located.

Site means a parcel of land suitable or set apart for some specific use.

~~*Snipe sign* means any unauthorized sign of any material whatsoever that is placed upon public property or attached in any way to any public utility pole, tree, or any other object located or situated on or within any public road right-of-way or easement or placed upon a private property without the express written permission of the property owner. *Snipe sign* means a sign which is attached to utility pole, tree, or a similar object.~~

Subdivision means a portion of land consisting of multiple lots or parcels, which were or will be developed by a common developer pursuant to a development plan.

Surface area means the total square footage encompassed within any sign face.

~~*Temporary sign* means any sign that is not a permanent sign. Temporary signs shall include any and all signs formerly or commonly referred to as temporary election signs, temporary political signs, temporary free expression signs, temporary real estate signs, temporary directional signs, temporary construction signs, temporary grand opening signs, or any other temporary sign unless otherwise expressly provided herein. Permitted temporary signs shall not include any sign devoted to commercial off-site advertising for services such as lawn care, day care, construction services or solicitations. *Temporary sign* means a sign used or displayed for a temporary period of time.~~

Unattached window sign means signs located inside the building but visible from the exterior, and not physically attached to or painted on the window.

Wall sign means a sign erected on the wall, cupola, or parapet of a building or structure in such a manner that only one side of the sign is visible, or a sign which is affixed to or painted on the wall, cupola, or parapet of a building or structure. The definitions of a "wall sign" and a "projecting sign" are mutually exclusive.

* * * * *

~~Sec. 52-34. Temporary signs.~~

~~(a) Prohibitions.~~

~~(1) A temporary on-site sign shall not be erected in a manner that wholly or partially obstructs the visibility of a permanent on-site sign.~~

~~(2) A temporary on-site sign shall not be erected on a corner lot within the triangular area formed by the apex of two right-of-way lines and a line connecting them at points 25 feet from the apex of the right-of-way lines.~~

~~(b) Banners, cold air inflatable signs, and searchlights.~~

~~(1) Banners and cold air inflatable signs are permitted in any zoning district as authorized by this subsection.~~

~~(2) A banner or cold air inflatable sign shall not exceed 75 feet in copy area per sign face in the commercial, industrial and agricultural districts. Such sign shall not exceed 24 square feet in copy area per sign face in all other districts.~~

~~(3) Banners and cold air inflatable signs are allowed one time only for a change in use or change in occupancy of a parcel from two weeks prior to the change in use or occupancy until one month after the change in use or occupancy.~~

~~(4) Searchlights are allowed one time only for a change in use or change in occupancy of a parcel for a maximum period of three days.~~

~~(c) Real estate signs. Minimum standards and requirements of real estate signs are as follows:~~

~~(1) In residential districts, real estate signs shall not exceed six square feet per sign face in surface area, unless the tract size is in excess of two acres, in which case the surface area shall not exceed 24 square feet per sign face.~~

~~(2) There shall be a limit of two real estate signs per parcel within a residential district.~~

~~(3) The maximum height of a real estate sign in a residential district is four feet.~~

~~(4) The erection, alteration, relocation or replacement of a real estate sign in a residential district shall not require a building permit.~~

~~(5) In nonresidential districts, real estate signs shall have a maximum surface area of 32 square feet per sign face.~~

~~(6) There shall be a limit of one real estate sign per parcel in nonresidential districts.~~

~~(7) The maximum height of a real estate sign in a nonresidential district is eight feet.~~

~~(8) In residential districts where a subdivision is being developed or offered for sale, the~~

~~maximum surface area for a real estate sign is 24 square feet, and each subdivision may display two such signs.~~

~~(9) All real estate signs shall be set back at least five feet from any property line or right-of-way line.~~

~~(10) All real estate signs on the water side of a parcel shall be at least five feet landward from the normal high water elevation of the lake.~~

~~(d) Political campaign signs.~~

~~(1) [Where permitted.] Political campaign signs may be permitted in all zoning districts.~~

~~(2) Residential districts. A maximum of two non-illuminated political campaign signs, not more than four feet in height, nor more than four square feet in area, each, shall be permitted in residential districts. Any such sign may only be installed by, or with the express consent of the occupant of the premises or the owner of vacant property.~~

~~(3) Other districts. Political campaign signs shall be permitted in all other zoning districts, under the following conditions:~~

~~a. Political campaign signs shall be non-illuminated and shall not exceed 32 square feet in area each.~~

~~b. No sign larger than four square feet in area shall be located within 40 feet of any other campaign sign.~~

~~c. On any unimproved or unoccupied property, the property owner shall be responsible for the placement and removal of campaign signs.~~

~~d. On occupied property the tenant shall be responsible for the placement and removal of campaign signs.~~

~~e. For any sign larger than four square feet, a location sketch indicating the street address and size of sign(s) proposed for installation must be submitted to the city manager prior to installation. The city manager shall have the authority to require the removal of any such sign that is not properly maintained or becomes a hazard to the public safety during the time it is displayed.~~

~~f. Signs erected pursuant to this section shall not be considered as part of the maximum allowable sign area for the premises upon which they are located.~~

~~(4) Installation. Political campaign signs shall not be erected more than 90 days before date of the election or referendum.~~

~~(5) Removal. Political campaign signs shall be removed no later than (48) hours after the close of the election or referendum and any sign not removed within this time frame shall be considered an abandoned sign, subject to removal without notice.~~

~~(6) Prohibited on public property. Campaign signs shall not be placed on public property, and any sign so located may be removed immediately by a city code enforcement officer.~~

~~(7) Campaign sign spinners. Sign spinners holding a political campaign sign shall be permitted only on the day of the specific election or referendum advertised thereby.~~

Sec. 52-34. – Temporary signs. In addition to other signs permitted by this section, temporary signs may be permitted in accordance with the following requirements. Such temporary signs shall meet all requirements of this article except as otherwise provided in this subsection. Further, a temporary sign may display multiple independent messages on any portion of the sign surface or copy area of such temporary sign.

(a) Each property in the City shall be allowed twelve (12) square feet of non-illuminated temporary signage on each street frontage. Such temporary signs may be either where an owner or resident is actively attempting to sell or lease such property, either personally or through an agent, or is displaying signage which is supporting an election or political purpose or free expression purpose. Such temporary sign(s) shall not individually exceed four (4) square feet in area nor six (6) feet in height. Such sign(s) may be up to twelve (12) square feet in size in areas that are permitted for nonresidential buildings as long as the twelve (12) square feet is used entirely for the purpose of advertising the sale or lease of property, otherwise, such signs are limited to four (4) square feet in size.

(b) Temporary signs used for the purpose of supporting an event, including an election, may be posted no earlier than 30 days prior to the event and shall be removed within seven (7) days after the event is concluded. For elections, the event is considered Election Day and signs shall be removed seven (7) days after the City's polling places close. Regardless of the foregoing, no temporary signs, except for real estate sale signs advertising an active sale of onsite property, may be displayed for longer than 180 days.

(c) One on-site non-illuminated temporary development sign may be permitted on property where there is an active building program is underway to identify the project, the developer, architect, contractor, realtor and others involved in the design, construction and financing in accordance with Florida law. Such sign shall be permitted on a temporary basis and shall not be erected more than five days prior to the start of construction. Such temporary sign shall be removed upon issuance of a certificate of occupancy or when there has been no construction activity on the property for sixty (60) days or more. Such sign shall be limited to one per street frontage and shall not exceed eight (8) square feet in size or six (6) feet in height for single family and duplex building projects; thirty-two (32) square feet in size and eight (8) feet in height for multifamily building projects and thirty-two (32) square feet for nonresidential building projects. For construction projects of multi-family or non-residential buildings, the wind screen coverings on construction fences may contain pictures and perspective elevations of the project but the area of text, words, logos, and other project information shall not cover more than thirty-two (32) square feet of the fence wind screen

materials per street frontage.

(d) All temporary signs shall be located only on private property with the express permission of the property owner or occupant of such property, and such signage shall be located behind the sidewalk, or ten (10) feet behind the curb or edge or pavement, whichever is greater. When a vacant property is used for the placement of more than two (2) temporary signs, the City may presume that the property owner has not granted express permission for such temporary signage and such signs may be removed by the city. No such temporary signage shall be allowed on any public property or within the public right-of-way. Temporary signage that is placed in violation of this subsection is subject to immediate removal and disposal by the city.

Sec. 52-35. - Protection of first amendment rights.

Any sign, display, or device allowed under this article may contain, in lieu of any other copy, any otherwise lawful noncommercial message that does not direct attention to a business operated for profit or to a commodity or service for sale, and that complies with all other requirements of this article.

Sec. 52-36. - Severability.

(a) Generally. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter.

(b) Severability where less speech results. Without diminishing or limiting in any way the declaration of severability set forth elsewhere in this section, this Code, or any adopting ordinance, if any part, section subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter, even if such severability would result in a situation where there would be less speech, whether by subjecting previously exempt signs to permitting or otherwise.

(c) Severability of provisions pertaining to prohibited signs. Without diminishing or limiting in any way the declaration of severability set forth elsewhere in this chapter, this Code, or any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter or any other law is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter that pertains to prohibited signs, including specifically those signs and sign-types prohibited and not allowed under section 52-31 of this chapter. Furthermore, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of chapter is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the

declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of section 52-34 of this chapter.

(d) Severability of prohibition on off-site signs. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter and/or any other Code provisions and/or laws is declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the prohibition on off-site signs as contained in this chapter.

SECTION 3. Codification. This Ordinance shall be incorporated into the Belle Isle City Code. Any section, paragraph number, letter and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical and similar or like errors may be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this ordinance and the City Code may be freely made.

SECTION 4. Severability. If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 5. Conflicts. In the event of a conflict or conflicts between this Ordinance and any other ordinance or provision of law, this Ordinance controls to the extent of the conflict, as allowable under the law.

SECTION 6. Effective date. This ordinance shall become effective immediately upon adoption by the City Council of the City of Belle Isle, Florida.

FIRST READING: _____, 2021

SECOND READING: _____, 2021

ADOPTED this _____ day of _____, 2021, by the City Council of the City of Belle Isle, Florida.

	YES	NO	ABSENT
Ed Gold	_____	_____	_____
Anthony Carugno	_____	_____	_____
Karl Shuck	_____	_____	_____
Mike Sims	_____	_____	_____
Harvey Readey	_____	_____	_____
Jim Partin	_____	_____	_____
Sue Nielsen	_____	_____	_____

City Council

City of Belle Isle

ATTEST: _____

Yolanda Quiceno, CMC

City Clerk

Nicholas Fouraker, Mayor

Kurt Ardaman, City Attorney

Approved as to form and legality for the use
and reliance of the City of Belle Isle, FL, only.

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 21-02 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.

Yolanda Quiceno, CMC-City Clerk

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