

1 **ORDINANCE 25-02**

2 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELLE ISLE, FLORIDA, AMENDING CHAPTER  
3 26 ENTITLED "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES" OF THE CITY OF BELLE ISLE  
4 CODE OF ORDINANCES TO ADD A NEW ARTICLE III ENTITLED "OFFENSES INVOLVING PUBLIC PEACE  
5 AND ORDER", TO PROHIBIT URINATING AND DEFECATING IN PUBLIC, TO PROHIBIT PUBLIC CAMPING,  
6 TO PROHIBIT SITTING OR LYING ON SIDEWALKS AND BICYCLE PATHS, AND TO PROVIDE FOR  
7 TRESPASS WARNINGS ON PUBLIC PROPERTY; PROVIDING FOR CODIFICATION, SEVERABILITY,  
8 CONFLICTS AND AN EFFECTIVE DATE.

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10 **WHEREAS**, Section 166.021(3), Florida Statutes, provides, in pertinent part, that "[t]he Legislature  
11 recognizes that pursuant to the grant of powers set forth in Section 2(b), Art. VIII of the State Constitution, the  
12 legislative body of each municipality has the power to enact legislation concerning any subject matter upon  
13 which the state legislature may act" except for certain very limited matters; and

14 **WHEREAS**, the City of Belle Isle may lawfully designate the use of City facilities and public space for  
15 activities consistent with their purpose, and the City Council seeks to maintain a safe and orderly environment  
16 on City property;

17 **WHEREAS**, the City Council seeks to discourage unlawful, unsafe, destructive, harassing, or otherwise  
18 prohibited activity on City property that interferes with the designated use of such property;

19 **WHEREAS**, the City Council finds that the presence of individuals who have violated City ordinances,  
20 rules, regulations, or State law on public property or on private property for which the City has a public access  
21 easement creates a threat to the safety and welfare of the citizens and visitors of the City, as well as City  
22 property and facilities, and therefore deems this ordinance to promote such public safety, public welfare, and  
23 protection of property; and

1           **WHEREAS**, the City Council desires to provide for a method to allow for the issuance of trespass  
2 warnings for individuals committing violations of City ordinances, rules, regulations, or State law, followed by the  
3 opportunity for a hearing to address the alleged deprivation of any constitutionally protected liberty interest of  
4 such individuals.

5           **WHEREAS**, the Florida Legislature has passed Section 125.0231, Florida Statutes, prohibiting a  
6 municipality from authorizing or allowing any person to camp in public areas except as permitted by statute;

7           **WHEREAS**, the City desires to incorporate into its code provisions consistent with Section 125.0231,  
8 Florida Statutes; and

9           **WHEREAS**, the City Council of the City of Belle Isle, Florida (“City”), has determined that this  
10 Ordinance continues to protect the health, safety, and welfare of the City’s citizens;

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12 **NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Belle Isle, Florida, that:

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

16           **SECTION 2. Amendment of City Code.** Chapter 26 of City of Belle Isle Code of Ordinances is hereby  
17 amended to add a new Article III stating as follows (words that are underlined are additions):

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19 **ARTICLE III. OFFENSES INVOLVING PUBLIC PEACE AND ORDER**

20 **Sec. 26-32. - Urinating or Defecating in Public**

- 21           a. It shall be unlawful for any person to urinate or defecate in a public place other than one set aside and  
22 designated for that particular purpose.
- 23           b. Violations of this section shall be punishable as provided in Belle Isle Code section Sec. 1-12.  
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1 **Sec. 26-33. - Camping Prohibited**

- 2 a. For the purpose of this section, "camp" is defined as sleeping, lodging, or residing overnight or  
3 otherwise being in a temporary shelter outdoors; or sleeping outdoors.
- 4 b. It shall be unlawful for any person to camp or sleep on public property, including, but not limited to,  
5 public buildings or their grounds, public sidewalks, streets, alleyways, city property, parks or green  
6 spaces, on or under public rights-of-way, not designated as a campground by a governmental entity.
- 7 c. (c) Violations of this section shall be punishable as provided in Belle Isle Code section Sec. 1-12.
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9 **Sec. 26-34. – Sitting or Lying on Sidewalks or Bicycle Paths Prohibited**

10 (a) It is unlawful for any person, after having been notified by a law enforcement officer of the prohibition in this  
11 section, to sit or lie down upon a public sidewalk or bicycle path, or upon any blanket, chair, stool, or any other  
12 object placed upon a public sidewalk or bicycle path.

13 (b) Violations of this section shall be punishable as provided in Belle Isle Code section Sec. 1-12.

14 (c) It is an affirmative defense to the prohibition in this section if it is shown that:

15 (1) Sitting or lying down in violation of subsection (a) is due to a medical emergency;

16 (2) The person is sitting while operating or patronizing an event conducted on or within a public  
17 sidewalk or bicycle path pursuant to a City-issued permit; or a person participating in or attending a  
18 parade, festival, performance, rally, demonstration, meeting, or similar event conducted on a public  
19 sidewalk pursuant to a street use or other applicable City-issued permit;

20 (3) The person sitting on a sidewalk is there only temporarily while awaiting transportation on a  
21 particular bus at a bus stop and the person is not obstructing the ability of others to use the sidewalk.

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1 **Sec. 26-35. – Trespass warnings on public property.**

2 (a) City employees or officials, or their designees, having control over a City facility, building, or outdoor area,  
3 including municipal parks, are authorized to issue a trespass warning to any individual who violates any City  
4 ordinance, rule, regulation, State law, or lawful directive of a City employee or official, which violation was  
5 committed while on or within a City facility, building, or outdoor area, including municipal parks, for the specific  
6 property where the violation occurred.

7 (b) When no other City employee or official having control over a City facility, building, or outdoor area, including  
8 municipal parks, is present, a Police Officer is authorized to issue a trespass warning to any individual who  
9 violates any City ordinance or State law which was committed while on or within a City facility, building, or  
10 outdoor area, including municipal parks, for the specific property where the violation occurred. For the first  
11 violation, the individual may be issued a trespass warning for a period not to exceed one (1) year.

12 (c) For a second or subsequent violation, the individual may be issued a trespass warning for a period not to  
13 exceed two (2) years.

14 (d) A copy of the trespass warning shall be provided by mail or hand delivery to the individual and to the City  
15 employee or official having control over the City park, facility, building, or outdoor area. The written trespass  
16 warning shall advise of the right to appeal and the location for filing the appeal.

17 (e) This section shall not be construed to limit the authority of any City employee or official to issue a trespass  
18 warning to any person for any lawful reason for any City property, including rights-of-way when closed to  
19 general vehicular or pedestrian use, when necessary or appropriate in the sole discretion of the City employee  
20 or official.

21 (f) Appeal of trespass warning. A person to whom a trespass warning is issued under this section shall have the  
22 right to appeal as follows:

1           (1) An appeal of the trespass warning must be filed, in writing, within ten (10) days of the issuance of  
2 the warning, and shall include the appellant's name, address, and phone number, if any. No fee shall be  
3 charged for filing the appeal.

4           (2) The appeal shall be filed at the location specified in the trespass warning.

5           (3) The city shall contract with a special magistrate and/or the contracted Local Hearing Officer to hear  
6 all trespass appeals.

7           (4) Within thirty (30) days following the filing of the appeal, the special magistrate or Local Hearing  
8 Officer shall schedule a hearing. Notice of the hearing will be provided to the appellant by:

9                   a. Posting the notice at City Hall located at 1600 Nela Avenue, Belle Isle, Florida; and

10                   b. Mailing a copy of the notice if an address is provided. In the event of non-delivery, the notice  
11 posted at City Hall shall suffice.

12           (5) The special magistrate or Local Hearing Officer shall hold the hearing as soon as possible. In no  
13 event shall the hearing be held sooner than seven (7) days following the filing of the appeal and no later than  
14 sixty (60) days from the filing of the appeal.

15           (6) Copies of documents in the city's control which are intended to be used at the hearing, and which  
16 directly relate to the issuance of the trespass warning to the appellant, shall be made available upon request to  
17 the appellant at no cost.

18           (7) The appellant and the city shall have the right to attend with an attorney, the right to testify, to call  
19 witnesses, to cross-examine witnesses, and to present evidence. Any attorney appearing on behalf of the  
20 appellant shall file a notice of appearance with the office of the city attorney at least three (3) days prior to the  
21 hearing. The appellant shall have the right to bring a court reporter, at his or her own expense.

22           (8) The special magistrate or Local Hearing Officer shall consider the testimony, reports, or other  
23 documentary evidence, and any other evidence presented at the hearing. Formal rules of evidence shall not  
24 apply, but fundamental due process shall govern the proceedings.

1           (9) The city shall bear the burden of proof by clear and convincing evidence that the trespass warning  
2 was issued pursuant to the criteria of this section.

3           (10) If the appellant fails to attend a scheduled hearing, the special magistrate or Local Hearing Officer  
4 shall review the evidence presented and determine if the trespass warning was properly issued pursuant to the  
5 criteria of this section.

6           (11) Within five (5) days of the hearing, the special magistrate or Local Hearing Officer shall issue a  
7 written decision on the appeal which shall be mailed to the appellant at the address provided. If no address is  
8 provided, a copy of the decision shall be posted at City Hall.

9           (12) The decision of the special magistrate or Local Hearing Officer shall be final and the appellant shall  
10 be deemed to have exhausted all administrative remedies. Such decision may be subject to judicial review in  
11 the manner provided by law by the appellant. The city may not appeal the decision of the special magistrate.

12           (13) The trespass warning shall remain in effect during the appeal and review process, including any  
13 judicial review.

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

19 **SECTION 4. Conflicts.** In the event of a conflict or conflicts between this Ordinance and any other ordinance  
20 or provision of law, this Ordinance controls to the extent of the conflict, as allowable under the law.

21 **SECTION 5. Codification.** Section 2 of this Ordinance shall be incorporated into the Belle Isle City Code. Any  
22 section, paragraph number, subsection number, letter and/or any heading may be changed or modified as  
23 necessary to effectuate the foregoing. Grammatical, typographical and similar or like errors may be corrected,

1 and additions, alterations, and omissions not affecting the construction or meaning of this ordinance or City  
2 Code may be freely made.

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

5 **FIRST READING:** February 4, 2025

6 **SECOND READING:** March 4, 2025

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8 **ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2025, by the City Council of the City of Belle Isle, Florida.

9	YES	NO	ABSENT
10 Frank Vertolli	_____	_____	_____
11 Holly Bobrowski	_____	_____	_____
12 Danny Otterbacher	_____	_____	_____
13 Jason Caron	_____	_____	_____
14 Beth Lowell	_____	_____	_____
15 Stanley Smith	_____	_____	_____
16 Jim Partin	_____	_____	_____

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18 **ATTEST:**

**CITY OF BELLE ISLE**

19 \_\_\_\_\_  
20 Yolanda Quiceno, City Clerk

\_\_\_\_\_  
Nicholas Fouraker, Mayor

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22 \_\_\_\_\_  
23 Approved as to form and legality

24 Dan Langley, City Attorney

1 STATE OF FLORIDA

2 COUNTY OF ORANGE

3 I, Yolanda Quiceno, City Clerk of the City of Belle Isle do hereby certify that the above and foregoing document

4 ORDINANCE 25-02 was duly and legally passed by the Belle Isle City Council, in session assembled on the

5 \_\_\_\_\_ day of \_\_\_\_\_, 2025, at which session a quorum of its members were present.

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8 Yolanda Quiceno, CMC-City Clerk

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