

EMERGENCY ORDINANCE NO. 20-07

AN EMERGENCY ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA DECLARING A STATE OF EMERGENCY WITHIN THE CITY OF BELLE ISLE IN ACCORDANCE WITH THE DECLARATION OF EMERGENCY BY THE GOVERNOR; ADOPTING EMERGENCY REGULATIONS TO ADDRESS MITIGATION OF COVID-19; REPLACING EMERGENCY ORDINANCE 20-02; RATIFYING EXECUTIVE ORDERS; PROVIDING FOR SEVERABILITY, NON-CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS a respiratory illness due to a novel coronavirus (a disease now known as COVID-19), was first identified in Wuhan City, Hubei Province, China, and has spread outside of China, impacting many countries, including the United States; and

WHEREAS the State of Florida has been working in close collaboration with the national Centers for Disease Control and Prevention (CDC), with the United States Health and Human Services Agency, and with local health departments since December 2019 to monitor and plan for the potential spread of COVID-19 to the United States; and

WHEREAS on January 23, 2020, the CDC activated its Emergency Response System to provide ongoing support for the response to COVID- 19 across the country; and

WHEREAS on March 1, 2020, Governor Ron DeSantis of the State of Florida issued Executive Order No. 20-51 directing the Florida Department of Health to issue a Public Health Emergency; and

WHEREAS on March 1, 2020, the State Surgeon General and State Health Officer declared a Public Health Emergency exists in the State of Florida as a result of COVID-19; and

WHEREAS on March 9, 2020, Governor Ron DeSantis of the State of Florida issued Executive Order No. 20-52 declaring a state of emergency within the State of Florida in response to the COVID-19 Public Health Emergency; and

WHEREAS Governor DeSantis has extended Executive Order No. 20-52 another sixty (60) days through July 7, 2020, via Executive Order 20-114.

WHEREAS in accordance with § 252.38, Florida Statutes, Executive Order No. 20-52 authorizes the City to waive the procedures and formalities otherwise required of the City by law pertaining to (1) Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community; (2) Entering into contracts (however, the City is cautioned against entering into time and materials contracts without ceiling as defined

in 2 CFR 200.318(j) or cost plus percentage contracts as defined by 2 CFR 200.323(d)); (3) Incurring obligations; (4) Employment of permanent and temporary workers; (5) Utilization of volunteer workers; (6) Rental of equipment; (7) Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and (8) Appropriation and expenditure of public funds; and

WHEREAS on March 20, 2020, the Governor issued Executive Order No. 20-69 suspending any statutes that require a quorum to be present in person or requires a local government body to meet at a specific place and authorizing local government boards to utilize communications media technology such as telephonic and video conferencing as provided in § 120.54(5)(b)2., Florida Statutes; and

WHEREAS on April 29, 2020, the Governor extended Executive Order No. 20-69 via Executive Order No. 20-112 providing for local governing boards to meet remotely via communications technology; and

WHEREAS Executive Order No. 20-112 further declared that data collected by the Florida Department of Health indicated that the state had achieved several critical benchmarks in flattening the curve of COVID-19 infections, including a downward trajectory of hospital visits for influenza-like illness and COVID-19-like syndromic cases, a decrease in the percentage of positive test results, and a significant increase in hospital capacity since March 1, 2020; and

WHEREAS Executive Order 20-112 also implemented Phase 1 of the Governor's Safe. Smart. Step-by-Step plan to reopen the State of Florida for business and other activities; and

WHEREAS the Governor issued a FAQ in connection with Executive Order No. 20-112, which states that local authorities may adopt requirements directly on businesses, operations or venues, including buildings, beaches, and parks, that are stricter than the Governor's Executive Order; and

WHEREAS it is imperative to continue to be vigilant regarding the spread of COVID-19 cases in the City of Belle Isle, and implement measures and rules supplemental to the Governor's Safe. Smart. Step-by-Step Plan that are tailored toward the localized needs and interests of the City of Belle Isle; and

WHEREAS City is granted the authority under § 2(b), Art. VIII of the Florida Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS this Emergency Ordinance is authorized by § 3.13 of the City of Belle Isle's Charter, Chapter 166, Florida Statutes, Section 252.38, Florida Statutes, and other applicable provisions of law; and

WHEREAS, pursuant to § 3.13 of the City Charter, this emergency ordinance must be

enacted by a 2/3 vote of the City Council; and

WHEREAS, the City finds that this Ordinance is in the interests of the public health, safety, and welfare.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Belle Isle, Florida, pursuant to § 3.13 of the Belle Isle City Charter, §§ 870.043 and 870.047, Florida Statutes, and the Florida Governor's Executive Order No. 20-52, that:

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

SECTION 2. **DECLARATION OF GENERAL STATE OF EMERGENCY.** A state of General Emergency is declared to exist by the City Council of the City of Belle Isle, Florida, effective upon adoption of this Ordinance and until 60 days thereafter as provided under § 3.13 of the City Charter.

SECTION 3. **DESIGNATION OF LOCAL AUTHORITY.** For the purposes of § 870.042, Florida Statutes, the City hereby designates the City Manager as the Designated City Official authorized to exercise the powers conferred in §§ 870.041-870.047, Florida Statutes. In the case of the unavailability, incapacity, or absence of the City Manager or as may be delegated by the City Manager, the Chief of Police or his/her designee will serve as the designated city official. In the case of the unavailability, incapacity, or absence of both the City Manager and Chief of Police, the Mayor, followed by each successive council member in order of seat numbers 1 through 5 in the event of a prior official's unavailability, incapacity, or absence, will serve as the designated city official. For the purposes of this ordinance, the term "City Manager" refers to the Designated City Official if the City Manager is unavailable, incapacitated, or absent.

SECTION 4. **EMERGENCY POWERS & WAIVER.** As authorized by the Florida Governor's Executive Orders No. 20-52 and 20-114, the City hereby continues to waive all procedures and formalities otherwise required of the City by law, which procedures and formalities pertain to the following:

- a. Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
- b. Entering into contracts;
- c. Incurring obligations;
- d. Employment of permanent and temporary workers;
- e. Utilization of volunteer workers;
- f. Rental of equipment;
- g. Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
- h. Appropriation and expenditure of public funds.

SECTION 5. AUTHORITY TO ISSUE ADDITIONAL RULES AND REGULATIONS PERTAINING TO MITIGATION OF COVID-19. The City Manager or his/her designee is hereby empowered, authorized, and directed to exercise on behalf of the City Council, such emergency powers necessary to carry out the applicable provisions of Chapter 252, Florida Statutes, §§ 870.041 – 870.047, Florida Statutes, and any current or further Executive Orders of the Office of the Governor pertaining to COVID-19, including, but not limited to, the powers to direct and compel evacuation, sequester, or quarantine of all or part of the population if such action is deemed necessary to reduce the vulnerability of people in communities of the City of Belle Isle to damage, injury, illness, and loss of life or property resulting from the imminent threat, as well as any other powers expressly or implicitly conferred pursuant to Chapters 166 and 252, Florida Statutes, §§ 870.041 – 870.047, Florida Statutes, and any other provision of applicable state or federal law or City ordinance. The City Manager or his/her designee are further provided, to the extent permitted by law or any applicable executive or emergency order, the authority to close public spaces or otherwise cancel, rescind, close, or postpone any special events, assemblies, or gatherings, scheduled or unscheduled, within the City where COVID-19 may be spread or otherwise transmitted to others. The City Manager may further close any public offices, facilities, parks, or buildings of the City or otherwise limit access thereto to further assist in any quarantine or isolation efforts. To assist in maintaining safe and sanitary living and functioning conditions and protect property from immediate threat, the City Manager shall have the power, but not the obligation, to authorize and issue sanitary processes and supplies to reduce or otherwise mitigate potential sources of contagion. The City Manager is further authorized to enter into temporary lease or license agreements for real property which is necessary for creating and operating temporary medical staging areas to process, quarantine, and/or otherwise treat any persons diagnosed with or suspected of being infected by COVID-19.

SECTION 6. MEETING PROCEDURES. During this declared state of emergency and in the interest of minimizing exposure to COVID-19, the City Council is hereby permitted to meet via videoconferencing or telephonic means as long as permitted by the Governor's relevant Executive Orders, provided that such meetings are noticed pursuant to the appropriate notice requirements, whether such meeting is a regular, special, or emergency meeting. A quorum for any such meetings will be three (3) or more City Council members, whether physically or virtually present. The City Council is authorized to vote at such meetings on any measures the City Council deems necessary for the continued orderly operation and administration of the City and the management and mitigation of conditions arising from the declared emergency. The City Council hereby ratifies the procedures for conducting public meetings of the City Council and other city boards or committees during the COVID-19 emergency adopted on April 7, 2020 pursuant to Resolution 20-03. This provision within this Ordinance does not require the City to repeal, amend or extend Resolution 20-03 by ordinance.

SECTION 7. DURATION. The authority granted pursuant to this emergency ordinance extends only for the period established in § 3.13 of the City's Charter or until otherwise terminated by the

City Council or the City's Designated City Official pursuant to Section 3 of this Ordinance *supra*. For the purposes of §§ 870.041 – 870.047, Florida Statutes, this Ordinance serves as the Designated City Official's request for an extension of the 72 hour time limit imposed pursuant to § 870.047, Florida Statutes, and, upon approval by the City Council, the council's concurrence as to the extension of such 72 hour period through the sixty (60) day duration of this Ordinance as set forth in § 3.13 of the City's Charter.

SECTION 8. REPLACEMENT OF EMERGENCY ORDINANCE 20-02. Emergency Ordinance 20-02 expires immediately upon the effectiveness of this Ordinance, and this Ordinance will replace and supersede Ordinance 20-02.

SECTION 9. EXECUTIVE ORDERS. The executive orders of the City Manager issued pursuant to the authority of Emergency Ordinance 20-02 are hereby ratified and the provisions of such executive orders will carry forward with full legal authority during the term of this Ordinance. Violations of the City Manager's executive orders issued pursuant to Emergency Ordinance 20-02 and this Ordinance shall be considered a violation of this Ordinance.

SECTION 10. ENFORCEMENT. Generally, any rules or directives issued by the Designated City Official pursuant to this Ordinance may be enforced as a Class III violation pursuant to the City's Supplemental Code Citation Process set forth in Article III of Chapter 14 of the City's Code of Ordinances. Regardless of the foregoing, nothing herein precludes the City from enforcing any rules or directives issued pursuant to the City's authority under this Ordinance and Chapter 252, Florida Statutes, via those mechanisms and penalties set forth in §§ 252.47-252.50, Florida Statutes, nor may anything herein preclude the City from imposing penalties pursuant to § 870.048, Florida Statutes, for the violation of any emergency measures promulgated pursuant to this Ordinance and §§ 870.041-870.047, Florida Statutes.

SECTION 11. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this Ordinance invalid or unconstitutional.

SECTION 12. NON-CODIFICATION. Given the temporary nature and effect of this Ordinance, it is the intent of the City Council that this Ordinance will not be codified.

SECTION 13. EFFECTIVE DATE. This Ordinance shall become effective upon adoption by the City Council of the City of Belle Isle, Florida, and remain in effect for sixty days thereafter as further specified in Section 7 of this Ordinance *supra* and authorized by § 3.13 of the City's Charter. The City Council may terminate this Ordinance early by vote at a public meeting.

Read and adopted on May 19, 2020.

City of Belle Isle, Florida

Nicholas Fouraker

Attest:

Yolanda Quiceno, CMC, City Clerk

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