

ORDINANCE 20-_____

AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA, AMENDING THE BELLE ISLE LAND DEVELOPMENT CODE, CHAPTER 28, ARTICLE IV, SECTION 28-91 – OCCUPATIONAL LICENSE REQUIRED, AND SECTION 28-94 – ISSUANCE; TRANSFERABILITY AND CHAPTER 50, ARTICLE IV – ACCESSORY STRUCTURE; SECTION 28-99 - REVOCATION AND USES, SECTION 50-103 – ACCESSORY USES; PROVIDING CLARIFICATION OF TREE PRESERVATION PROCESSES, PROVIDING FOR AN APPEAL PROCESS AND PROCEDURES; PROVIDING SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

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

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

BE IT ORDAINED by the City Council of the City of Belle Isle, Florida as follows:

SECTION 1.

Sec. 28-91. – Occupational License Required.

An occupational license tax for the privilege of engaging in or managing any business, profession or occupation within the corporate limits of the city is required and shall be levied on:

- (1) Any person who maintains a permanent business location or branch office within the city, for the privilege of engaging in or managing any business within its jurisdiction.
- (2) Any person who maintains a permanent business location or branch office within the city, for the privilege of engaging in or managing any profession or occupation within its jurisdiction.
- (3) Any person who does not qualify under subsection (1) or subsection (2) of this section and who transacts any business or engages in any occupation or profession in interstate commerce, if the license tax is not prohibited by US Const. art. I, § 8.
- (4) Any person engaged in home occupation within the jurisdiction, Home Occupation shall be licensed under Section 50-103(a).

Sec. 28-94. - Issuance; transferability.

- (a) An occupational license is not valid for more than one year and all licenses expire on September 30 of each year, except as otherwise provided by law. No license shall be issued for any fractional portion of any year, however, the rate charged for the initial license issued to a business new to the city after December 31 shall be prorated on a quarterly basis, i.e., a fee of three-quarters the annual rate will be assessed from January 1 through March 31, one-half the annual rate from April 1 through June 30 and one-fourth the annual rate thereafter for the remainder of the license term.
- (b) Any occupational license may be transferred to a new owner, when there is a bona fide sale of the business, upon payment of a transfer fee of \$3.00 or ten percent of the annual license tax, whichever is greater, up to \$25.00, and presentation of the original license and evidence of the sale.

- (c) Upon written request and presentation of the original license, any license may be transferred from one location to another location within the city upon payment of a transfer fee of \$3.00 or ten percent of the annual license tax, whichever is greater, up to \$25.00.
- (d) Home occupation licenses are non-transferable and cannot be used by the applicant for any premises other than that premise for which it was originally granted.. If a home occupation license is to be transferred to a new owner and/or new location, a new license needs to be applied for according to Chapter 50, Section 50-103 of the BIMC.

~~(a) Nonresidential facilities.~~

~~(1) General. Nonresidential businesses may provide amenities for the exclusive use of the employees, clients and/or guest of the primary business on the site.~~

~~(2) Businesses in conjunction with a hotel/motel.~~

~~a. Restaurants. Restaurants shall be permitted in conjunction with a hotel/motel provided that they are located within the primary building; or if they are in another building, then that building must meet the setback requirements for a primary building. The facility shall be treated as a primary use and subject to the requirements of the zoning district in which it is located.~~

~~b. Car rental agencies. Car rental agencies shall be permitted in conjunction with a hotel/motel provided that the car rental agency is located within the primary building and that it meets the parking requirements set forth in this Land Development Code.~~

~~c. *Tourist information centers.* Tourist information centers may be permitted in a hotel/motel provided that they are located entirely within the primary building. No signs outside of the building are permitted.~~

Sec. 28-99. - Revocation.

The city council shall have the right and authority to revoke, after legal notice and public hearing, any occupational license granted under this article whenever it is shown that the business is being conducted in such a manner as to be detrimental to the public health, safety or welfare or to the customers and patrons of the licensee. Home occupation licenses shall be revoked according to Chapter 50, Section 50-103 of the BIMC.

Sec. 50-103. - Accessory uses.

(b) Home occupation.

- (1) It is the purpose of this section to provide for the orderly conduct of a limited commercial activity on property otherwise zoned for residential purposes. Such activity shall not be of a nature that would impose any disruption to the quality of life, safety, character, health, welfare or appearance of a residential neighborhood.
- (2) Any use conducted entirely within a dwelling unit including the garage area, only if the garage door remains closed and carried on by an occupant thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. ~~; and provided that all of the following requirements are met.~~

~~a. Letter from the city manager or the city manager's designee approving a business as a home occupation.~~

~~b. County occupational license.~~

(3) All business occupations, trades or professions qualifying as home occupations under this chapter shall exist and operate subject to the following provisions, conditions and restrictions: ~~The city manager or the city manager's designee may issue a letter approving a business as a home occupations provided that the applicant agrees to the following conditions:~~

- a. Only such commodities made on the premises may be sold on the premises. All such sales of home occupation work or products shall be conducted within a dwelling unit including the garage area, only if the garage door remains closed. Home occupations that market commodities via the internet, telephone or other off-site advertising may sell commodities produced off premises so long as said commodities are delivered to the client/customer. Shipment and delivery of products, merchandise, or supplies to home occupation shall be limited to the hours of 7:00am and 7:00pm in single rear axle vehicles.
- b. There shall be no outdoor display, or storage of merchandise or products, unless behind a 6 foot privacy fence, nor shall there be any display visible from the outside of the dwelling unit including the garage area, only if the garage door remains closed.
- c. No person shall be engaged in any such home occupation other than members of the immediate family residing on the premises. Written consent by the owner of the property

- is required to engage in any form of home occupation by a tenant at the time of application.
- d. No ~~mechanical~~ equipment or machinery shall be used or stored on the premises in connection with the home occupation, except such that is normally used for purely domestic or household purposes. Examples include, but not limited to, cement mixers, tractors, welding or those that create excessive noise, smoke, fumes, odor, or vibration.
 - e. No more than 25 percent of the floor area of the first floor shall be used for home occupation purposes.
 - f. No signage allowed.
 - g. Activities conducted and equipment or material used shall not change the fire safety or occupancy classifications of the dwelling or accessory building or use utility services in amounts greater than normally provided for the residential use. Electrical service to the dwelling including the garage area may not exceed 240 amps.
 - h. By way of example and not by way of limitation, the following shall be allowed as home occupations:
 - a. Office/Studio - Accountant, planner, architect, surveyor, artist, attorney, author, ceramist, clergyman, engineer, interior designer, landscape architect, musician, insurance office, photographer, dentist, physician or other licensed medical practitioner, teacher (not to exceed 2 pupils), real estate office, or other practitioners in similar services. Instruction based home occupations may not exceed two (2) students/customers at a time.

- b. Services - dressmaking, handicrafts, tailoring, millinery, nameplate making, home cooking, baking or preserving, telephone/mail services, barbershops/beauty parlors with no more than 2 chairs, and other similar service-based businesses
- i. No home occupation shall be permitted for plant nurseries, tearooms, food processing, restaurants, sale of antiques, commercial kennels, or pain management clinics, or shall not be allowed as home occupations. Activities regulated by the Federal Bureau of Alcohol, Tobacco and Firearms; Activities that produce hazardous wastes regulated by the United States Environmental Protection Agency of the Florida Department of Environmental Protection are prohibited as home occupations.
- j. No home occupation shall be permitted for outdoor repair shops, sales of food or drink to the public on the premises, or sales, service or repair of motorized vehicles.
- k. No alteration of the residential character of the premises be made, and the home occupations shall not be allowed to create a nuisance or to create any undue disturbance. Interior alterations are allowed as long as alterations do not result in the eliminations of the kitchen, dining area, bathrooms, living room or the bedrooms in the residence.
- l. No business, trade, profession or occupation shall qualify as a home occupation if it will generate noise which is audible beyond the property lines of the property upon which the premise is located.
- m. No more than 10 visits per day from customers, clients, or home deliveries are permitted, with no more than three visitors present at any given time.

- n. No vehicles which display advertising relating to the business on the premises may be utilized so as to avoid the restriction or signs contained above.
- o. No more than three (3) passenger vehicles may be parked on or about the premises at any one time. Off street parking must be provided on a hard surface as provided in Section 30-73 and 30-133. The home occupation shall not generate excessive vehicular traffic or parking.
- p. As a condition for granting of the home occupation license. The licensee agrees the City is authorized to conduct an inspection during normal business hours, with sufficient notice to the licensee, for the purpose of determining whether or not the provisions of this Code section are being complied with.
- q. Use of the garage or any activity associated with the home occupation shall not displace and required parking in currently useable garage.

(4) Approval of Application; Administrative Procedures. All applications for home occupation permits shall be reviewed by the City Manager or City Manager's designee for compliance with the provisions set forth herein.

- a. All applicants must provide two proofs of residence; a Florida Driver's License and a utility bill, and a copy of the applicant's lease, if renting the premises.
- b. Submitted applications which fail to comply with the provisions of the Code shall be denied, and the applicant notified, in writing, of the denial and the reasons for the denial.

- c. Applications compliant with all the provisions of this Code shall be approved upon the posting requirement in Section 50-103(5) below and issued a permit, provided that all written objectives to the application, if any, have been reviewed and found to be without merit and unsupported by fact.
- (5) Posting Required For Posting Application. All applicants for a home occupation permit shall be required to place a notice on the premises, to inform the public that a home occupation permit has been applied for. This notice shall be posted on the premises for ten(1) days prior to the disposition of the permit applications. 24 hours from when the application is submitted to the City, a placard will be given to the applicant for posting. It is the applicant's responsibility to post the placard on the premises so it can be seen by the public, take a photograph of the posting and email it to the City Manager or the City Manager's designee.
- (6) Appeals and Hearing on Application. Applications which are denied by the City Manager or the City Manager's designee shall have the right to appeal to the Planning & Zoning Board. Such appeal shall be in writing and delivered to the City Clerk no less than ten (10) days after the denial of the application. The appeal will be placed on the next available Planning & Zoning Board agenda for action. The Planning & Zoning Board shall have the right to overturn, modify or affirm the decision made by the City Manager, or the City Manager's designee. The Board's decision shall be final.
- (7) Revocation of Home Occupation Permit; Procedure; Conditions.
- a. Any person may seek revocation of a home occupation permit by making written application to the City Manager or City Manager's designee. An investigation will be made

- to determine whether the permit holder is conducting a home occupation in a lawful manner prescribed in this section.
- b. If the City Manager or City Manager's designee determines that the permit holder is in violation of the provisions of this section, the City Manager may revoke, suspend, or revise the permit.
 - c. The decision of the City Manager shall be subject to appeal to the Planning & Zoning Board as in Section 50-103(6). The decision of the Board is final.
 - d. The following shall be considered as grounds for revoking a home occupational permit.
 - i. Any change in the use or any change in extent or nature of the use or area of the dwelling unit being used, including the garage area that is different from that specified in the approved home occupation application, this not first approved by the City Manager. The operator of the home occupation must apply for a new home occupation permit prior to any such changes.
 - ii.
 - iii. Any change in use, extent of use, area of the dwelling being used. Or mechanical or electrical equipment being used that results in conditions not in accordance with the provisions of the required conditions shall result in immediate revocation of the permit.
- (8) The following conditions shall apply for home occupation permits which have been revoked;
- a. Initial revocation. Reapplication may only occur when the condition(s) causing the revocation has been corrected.

- b. Second Revocation. Reapplications may only occur after one (1) year and when the condition(s) has been corrected.
- c. Third Revocation. No permit shall be reissued.

SECTION 2. Codification. This Ordinance shall be incorporated into and codified within the Land Development Code of the City of Belle Isle, Florida. 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 or the Land Development Code may be freely made.

SECTION 3. 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 4. 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 5. Effective Date. This Ordinance shall become effective immediately upon adoption by the City Council of the City of Belle Isle, Florida.

First Reading on _____, ____, 2020.

Second Reading and Adoption this _____ day of _____, 2020.

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

ATTEST:

Yolanda Quiceno, CMC

City Clerk

Nicholas Fouraker, Mayor

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 20-11 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