

ORDINANCE NO. 23-05

AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA, AMENDING THE CITY'S LAND DEVELOPMENT CODE SECTION 50-102 ACCESSORY STRUCTURES TO ALLOW THE INSTALLATION OF FENCES AND WALLS IN FRONT YARDS WITHIN CERTAIN DEFINED OVERLAY AREAS AND CREATING RESTRICTIONS FOR SUCH FENCES AND WALLS: PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City of Belle Isle Land Development Code currently restricts fences in front yards; and

WHEREAS, the City wishes to allow fences in front yards, set height restrictions for such fences, and create rules for the installation of such fences that will enhance the safety of drivers, pedestrians, and property owners; and

WHEREAS, the City further wishes to add additional fence requirements specific to the Hoffner Avenue overlay district and the Daetwyler Drive overlay district due to those districts' unique nature; and

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

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

1 Section 1. Recitals. The foregoing recitals are hereby ratified and  
2 confirmed as being true and correct and are hereby made a part of this Ordinance  
3 as legislative findings.

4 Section 2. City Code Amendment. Section 50-102 in Chapter 50, Article IV of the  
5 City Code of Ordinances is hereby amended, all as follows (words that are stricken  
6 out are deletions; words that are underlined are additions; stars \* \* \* \* \*  
7 indicate breaks between sections, subsections, or paragraphs and do not indicate  
8 changes to the City Code; provisions not included are not being amended):

9 Sec. 50-102. - Accessory structures.

10 \* \* \* \* \*

11 (b) *Fences and walls.*

12 \* \* \* \* \*

13 (5) *Maximum height and permitted locations of fences, walls, and privacy*  
14 *screens.*

15 a. Except as provided in subsection (b) (5)b of this section, fences, and walls  
16 shall be limited to a maximum height of six feet above natural grade in the rear  
17 and side yards. ~~No fences or walls shall be permitted in front yards.~~ The maximum  
18 height for any front yard fence or wall shall be four feet.

19 1. If a driveway gate is installed, then the gate must be setback 25 feet away  
20 from the edge of the road. For purposes of calculating the distance, road means  
21 the improved or paved portion but does not include the entirety of the right-of-  
22 way.

23 b. A maximum fence height of eight feet shall be permitted in the following  
24 situations:

25

1 1. The property line along which the fence will be installed abuts a boat ramp  
2 facility, public park, or commercially zoned property.

3 2. The property owner constructing the fence has obtained the written consent  
4 of all owners of property that either share a property line and property corner  
5 along which the fence or wall will be installed and of any owner of the property  
6 with a property line within 50 feet of the fence or wall to be installed.

7 c. Residential property owners shall not construct an additional fence or wall  
8 that abuts any subdivision or commercial screening wall and can be viewed from the  
9 abutting public right-of-way, street, sidewalk, or abutting other public access  
10 areas.

11 \* \* \* \* \*

12 (7) *Construction of fences or walls near Lake Conway.* No fence or wall located  
13 within 35 feet of the ~~86.9~~ normal high water contour line of Lake Conway shall  
14 exceed four feet in height.

15 (8) *Location along lot lines.* A structural fence or wall shall be erected so  
16 that the entire fence and all supporting structures are entirely on the owner's  
17 property. Fence posts and all other supporting structures, as well as the rough  
18 side of the fence, if any, shall face the owner's property, except when said fence  
19 separates a residential lot from a business or industrial lot. No inspection or  
20 any permit issued by the city shall be any evidence or guarantee that the fence  
21 has been so correctly located on the subject property.

22 \* \* \* \* \*

23 (14) *Existing fences.* Any fence or wall which is erected and in violation of this  
24 chapter at the time of its passage shall be exempt from the requirements of this  
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1 chapter, excluding those requirements of 50-102(b)(11), unless such fence or wall  
2 is deemed a traffic or safety hazard.

3 (15) *Nonconforming fences.* All fences, walls, or privacy screens in violation of  
4 this chapter at the time of its passage shall be governed by the following  
5 conditions: Any fence, wall, or privacy screen that is in violation of the section  
6 and is determined to be a traffic or safety hazard shall be made to conform to  
7 this chapter three months from such determination. No portion of a nonconforming  
8 fence, wall, or privacy screen shall be enlarged, extended, or structurally  
9 altered except to make it conform to this chapter.

10 \* \* \* \* \*

11 (17) *Overlay Districts.*

12 a. *Hoffner Avenue*

13 1. All properties within Belle Isle City Limits adjoining Hoffner Avenue may  
14 install a front or side yard fence or wall with a maximum height of six feet.

15 2. If a driveway gate is installed, the gate shall be at least 20 feet outside  
16 the right-of-way line. A sight triangle of at least 15 feet from the driveway to  
17 the right-of-way shall be provided.

18 3. *Lake Conway Estates Sub-overlay*

19 i. For all properties that are part of Lake Conway Estates adjoining Hoffner  
20 Avenue's right-of-way, a masonry wall up to eight feet high may be constructed in  
21 the vicinity of the Hoffner Avenue right-of-way line, provided that wall conforms  
22 to the Belle Isle approved wall materials and design requirements. <sup>Payment for such</sup> The property  
23 owner must pay for such wall, but ownership and maintenance shall be transferred  
wall may be by any legal means

24 **It is possible the property owner may get cost participation of neighbors, donors, grants and such. The key**  
25 **provision is that the wall reverts to ownership by LCERA.**

It may not be necessary to have a 15' easement on the subject property if the wall is 10' out in the right of way. That is why it is specified from the centerline of the wall.

1 to Lake Conway Estates Homeowner's Association along with a 15-foot maintenance  
2 from the centerline of the wall on any private property  
3 easement, at the completion of construction.

3 ii. In order to preserve as many trees as possible and avoid interfering with  
4 existing utility lines, the alignment of the masonry wall may be allowed to  
5 encroach into the Hoffner Avenue right-of-way by a maximum of ten feet in wall  
6 The ordinances have specific rules so making it in "accord with" will prompt reading those easements.  
7 easements granted to Lake Conway Estates Residents' Association by the City of  
8 Belle Isle's Ordinances 98-4 and 99-1. Such encroachment is available but  
9 discouraged and is subject to prior approval by the City to determine if  
10 reasonably necessary to achieve the above objectives.

10 iii. If a property owner wishes to maintain ownership of the masonry wall on the  
11 property owner's property, the entire wall must be located on such property and  
12 must not stray into the Hoffner Avenue right-of-way. Under this condition, it is  
13 not necessary for the wall to be built using the Belle Isle-approved wall  
14 and will have a  
15 materials and design. If the wall is not built according to the Belle Isle-  
16 approved wall materials and design, then the maximum height of the wall is limited to  
17 six  
18 feet.

I believe this is clearer and more concise. The original wording implies any wall not meeting the design requirement is limited to 6'. It is possible someone could build a wall according to the approved design and wish to maintain ownership. In that case they should also be limited to the 6' height. Ownership is the issue, not the design.

17 b. Daetwyler Drive  
18 1. Due to continuing increases in traffic on Daetwyler Drive, property owners  
19 may build an opaque fence or wall to a height of up to six feet in the front or  
20 side yard that adjoins the Daetwyler Drive right-of-way.

21 2. If a gate is installed, there must be a gate recess of 20 feet behind the  
22 right-of-way. Include site triangle language from pg, 40 lines 16 and 17 for consistency.

23 Section 3. Codification. Section 2 of this Ordinance will be incorporated into  
24 the Belle Isle City Code. Any section, paragraph number, letter and/or any

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1 heading may be changed or modified as necessary to effectuate the foregoing.  
2 Grammatical, typographical, and similar or like errors may be corrected, and  
3 additions, alterations, and omissions not affecting the construction or meaning  
4 of this Ordinance and the City Code may be freely made.

5  
6 Section 4. Severability. If any section, subsection, sentence, clause, phrase,  
7 word, or provision of this Ordinance is for any reason held invalid or  
8 unconstitutional by any court of competent jurisdiction, whether for substantive,  
9 procedural, or any other reason, such portion shall be deemed a separate,  
10 distinct, and independent provision, and such holding shall not affect the  
11 validity of the remaining portions of this Ordinance.

12  
13 Section 5. Conflicts. In the event of a conflict or conflicts between this  
14 Ordinance and any other Ordinance or provision of law, this Ordinance governs and  
15 controls to the extent of any such conflict.

16  
17 Section 6. Effective Dates. This Ordinance shall become effective immediately  
18 upon adoption by the City Commission of the City of Belle Isle, Florida (the  
19 "Effective Date") and shall apply to all applications for permits received on or  
20 after the Effective Date.

21  
22 First Reading held on \_\_\_\_\_.  
23 Second Reading held on \_\_\_\_\_.

24  
25

1 ADOPTED at a regular meeting of the City Commission of the City of Belle Isle,  
2 Florida, held in City Hall, Belle Isle, on this \_\_\_\_\_ day of \_\_\_\_\_,  
3 2023.

4	5 YES	NO	ABSENT	
6	Ed Gold	_____	_____	_____
7	Anthony Carugno	_____	_____	_____
8	Karl Shuck	_____	_____	_____
9	Randy Holihan	_____	_____	_____
10	Beth Lowell	_____	_____	_____
11	Stanley Smith	_____	_____	_____
12	Jim Partin	_____	_____	_____

13  
14 ATTEST: \_\_\_\_\_

CITY OF BELLE ISLE

15 Yolanda Quiceno, CMC-City Clerk

16 \_\_\_\_\_

17 Nicholas Fouraker, Mayor

18 \_\_\_\_\_

19 Approved as to form and legality

20 For use and reliance by

21 Giffin Chumley, City Attorney

22

23 STATE OF FLORIDA

24 COUNTY OF ORANGE

25

1 I, Yolanda Quiceno, CITY CLERK of the City of Belle Isle, do hereby certify that  
2 the above and foregoing document ORDINANCE 23-05 was duly and legally passed by  
3 the Belle Isle City Council, in session assembled on the \_\_\_\_\_ day of  
4 \_\_\_\_\_2023. At this session, a quorum of its members was present.

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7 Yolanda Quiceno, CMC-City Clerk

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