

ORDINANCE 21-01

AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA, AMENDING THE BELLE ISLE LAND
DEVELOPMENT CODE, CHAPTER 6, ARTICLE I, SECTION 6-5 – PENALTY FOR FAILURE TO OBTAIN
PERMIT; ~~PROVIDING FOR AN AFTER THE FACT (ATF) PERMIT AND WORKING WITHOUT A
PERMIT (WWP) PROCEDURES; PROVIDING FOR FEES AND PENALTIES~~PROVIDING FOR THE
ISSUANCE OF AFTER-THE-FACT PERMITS AND RULES AND PROCEDURES REGARDING
REMEDIATION OF WORKING WITHOUT A PERMIT; PROVIDING FOR CODIFICATION,
SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

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

Section. 6-5. - Failure to Obtain Permit.

The penalty for failure to obtain a permit required by any code or ordinance adopted by this chapter shall be set at double the permit fee.

(a) Definitions:

(1) An After-The-Fact (“ATF”) Improvement is defined as an improvement made to a property prior to March 1, 2017, and which improvement has been existing, used, occupied, or otherwise known to the current owner as legal and is not shown, located or identified upon any property record within the permitting department of the city.

(2) Working Without a Permit ("WWP") is defined as commencement of an improvement made or completed to a property after March 1, 2017, and prior to the issuance of a permit, the improvement of which may include building, electrical, gas, mechanical, plumbing, or roofing work, or work identified, observed, or revealed during the course of an investigation or inspection of a valid permit; the work of which was not specifically described on the original permit application for which the permit was issued.

(b) ATF Permits Procedure:

(1) ATF Purpose: ~~(i)~~. The purpose of the ATF permit is not to verify compliance with the current code, but to observe if the current state of the building, structure, or any component is safe to utilize for its intended use. Many unpermitted improvements were built years ago, and as such, they may not be in compliance with the current Florida Building Codes and the BIMC. An ATF permit is not a substitute for a standard building permit and does not grant permission to make alterations, changes, renovations, or any remodeling improvement. Rather, the ATF permit is intended to be a vehicle to document the existing improvement, legitimize existing improvements through inspections, ensure the unpermitted work is safe or otherwise unlikely to cause immediate harm, and inform any current and future interested parties of the ~~existence~~ of previously unpermitted work and the result of ATF inspections.

(ii). The ATF permit program is intended to grandfather unpermitted improvements made prior to March 1, 2017, which improvements have been existing, used, occupied, or otherwise known to the current owner as legal and not shown, located, or identified upon any property record within the city. To assist properties affected by unpermitted improvements, the city establishes this policy to simplify the issuance of permits and simplify the process of inspections for ATF Improvements.

(2) ATF Permits:

(i). Obtaining an ATF permit is similar to the process to obtain a regular permit. Improvements made to existing unpermitted improvements do not qualify as ATF Improvements, and require the issuance of additional permits and filing of a Notice of Commencement. The City will provide the applicant with an application marked "ATF" to effectively communicate to any interested party what type of permit was issued.

(ii). The City hereby determines that ATF permits may be obtained without a contract or direct contract as defined in § 713.01, Florida Statutes, and therefore, the filing of a Notice of Commencement is not required prior to the first inspection. Such improvements, where constructed prior to March 1, 2017, are assumed to have been existing, used, occupied, or otherwise known to the current owner as legal and not requiring any further improvements.

(3) ATF Inspections:

- (i). Once the permit is issued, the permit applicant must obtain their necessary approved final inspections.

(ii). The City will schedule ATF final inspections once the ATF permit is issued. Additional inspections may require the issuance of separate permits.

(iii). Alternative inspections, as described in Section (5), may be granted as determined by the building official or City Manager Upon notifying the building official in writing, an

applicant may opt to have an inspection performed by a third-party as permitted in § 6-5(b)(4) of this Code.

(iv). The building official is authorized to impose current applicable, technical code requirements if his or her inspection reveals the current state of the building, structure, or any component thereof is not safe to utilize for its intended use. Additional work may require the issuance of separate permits.

(v). Inspectors may require the removal of materials (at the applicant's cost) to verify internal components are sufficient for their intended use.

(vi). At the inspectors' reasonable discretion, approval may be granted if the building, structure, or any component has withstood the test of time; there's no evidence of hazard, rot, or decay; the building system components are sufficiently operating without interruption, and the building or structure is structurally sound.

(vii). Appliances and equipment may be considered approved if they are installed in a manner substantially consistent with the code, meaning that the installation of such appliances or equipment meets the intent of the code for life safety and fire resistance purposes.

(4) ATF Alternative Method of Inspection:

(i). LICENSED PROFESSIONAL AFFIDAVIT - Once the ATF permit is issued the property owner may select to have an outside inspection service, architect, or professional engineer visit the site to conduct and provide third party inspections. Such third-party inspector must be qualified as a building code inspector licensed in the appropriate category pursuant to Part XII of Chapter 468, Florida Statutes.

(ii). THIRD PARTY INSPECTION - The third party inspector shall submit a ~~a~~ sworn affidavit to the building official, which must ~~including~~ include -copies of relevant inspection reports and a final certificate certifying ~~that~~ the ATF improvement(s), including the structure, electrical, gas, mechanical, or plumbing system, has/have been erected in accordance with the ~~requirements of the technical codes~~ inspection criteria established in Section 6-5(b)(3) of this code.

(iii). The building official must require verification that any person conducting inspections pursuant to this ordinance is qualified as a building code inspector licensed in the appropriate category pursuant to Part XII of Chapter 468, Florida Statutes.

(iv). The third party inspection service, architect, or professional engineer must assume full responsibility for compliance with all provisions of the technical codes and other pertinent laws or ordinances.

(v). The building official may consider granting administrative variations of this policy/procedure; however, any such variation from this policy or procedure will not be interpreted as setting precedent or waiving the city's rights pursuant to this ordinance.

(5) ATF Fines/Penalties:

i. ATF fine is the cost of the permit plus any inspection costs related to the permit.

(c) WWP Procedure.

(1) WWP Purpose and Definition. Working without a permit (WWP) requires retroactive remediation of the failure to obtain a permit, including the filing of a Notice of Commencement, before a WWP permit may be issued. Working without a permit (WWP) is defined as the commencement of an improvement made or completed to a property after March 1, 2010 and prior to the issuance of a permit; the improvement of which may include building, electrical, gas, mechanical, plumbing, or roofing work or work identified, observed, or revealed during the course of an investigation or inspection of a valid permit; the work of which was not specifically described on the original permit application for which the permit was issued. In this instance, the permit applicant will be required to stop their current improvement and obtain approval of their revisions from the building official prior to recommencing their project. This may also require the permit applicant to get another permit for any improvement not included with the original description of work.

(2) WWP Permit Fee. In all cases where work for which a permit is required is started, proceeded with, or completed before the permit is obtained, except where specific permission is granted to proceed by the City Manager or the City Manager's designee, the permit fee due the city shall be as follows:

1 i. \$500 and double the cost of the permit fee plus all costs related to the issuance of the permit
2 and inspections.

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4 ii. Payment of the after-the-fact permit fee shall not be a defense in a prosecution for doing the
5 work for which a permit was required without having first obtained the necessary permit.

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7 (3)(2) WWP Generally:

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9 i. The process of obtaining a permit for work started prior to the issuance of a permit is
10 the same process used to obtain a regular permit. The applicant is required to create 2-
11 sets of construction documents, which includes at a minimum a site plan, floor plan,
12 exterior elevations, and structural connection details. All such information is required
13 in order to obtain a permit.

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15 ii. Improvements made to buildings, structures, or properties must be in compliance with
16 the Florida Building Code. The Florida Building Code (FBC) applies to the construction,
17 erection, alteration, modification, repair, equipment, use and occupancy, location,
18 maintenance, removal, and demolition of every public and private building, structure
19 or facility, or any appurtenances connected or attached to such buildings, structures or
20 facilities. Additions, alterations, repairs and changes of use or occupancy in all buildings
21 and structures must comply with the applicable provisions provided in the FBC.

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23 iii. Properties Located Within Designated Flood Zones: Improvements located within a
24 designated flood zone must be in compliance with the federal flood regulations,

1 technical bulletins, and applicable Flood Damage Prevention ordinance found in
2 Chapter 48, Article IV, of the City's Municipal Codeany other applicable state and local
3 regulations pertaining to construction within such zones. Such improvements must be
4 brought into compliance during this process.

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6 (4)(3) WWP Notice of Commencement: Permits for projects classified as WWP will not be issued
7 without filing a Notice of Commencement.

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9 (5)(4) WWP Permits: The following procedures must be followed to obtain permits and inspections
10 for work begun and/or completed without first obtaining any required permits as indicated
11 herein:

12 i. If plans are required, they will be received and logged-in for plan review by the city. City
13 staff will determine if plans must be formally submitted or reviewed over the counter.
14 The plans submitted will be required to meet requirements for new construction.

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16 ii. The City will provide permit applicants a job placard marked "WWP" to effectively
17 communicate to any interested party what type of permit was issued.

18 (6) Inspections:

19 i. Upon issuance of the permit(s), the permit applicant must schedule the most
20 appropriate type of inspection(s), based on the scope of work, within 30 days from the
21 issuance of a permit.

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23 ii. The applicant will be responsible to open and expose areas for inspection. All affected
24 areas must be readily accessible for inspections.

- iii. WWP inspections may require the removal of materials to sufficiently conduct any inspection. The inspector may require removal of sufficient materials to expose the major elements.

iv. Any work found in noncompliance will be rejected and the applicant will be asked to complete or rework the deficiencies.

v. The applicant will be responsible for the costs of the inspection.

(7) Authority of the Building Official. The building official may consider granting variations of this policy/procedure yet, variation from this policy/procedure will not be interpreted as setting a precedent or constituting a waiver of the requirements of this ordinance.

(d) ATF and WWP Permit Fees/Penalties:

(1) The fee for an ATF permit is the cost of the permit plus any inspection costs related to inspections conducted by the city in accordance therewith.

(2) The fee for a WWP permit is \$500 plus double the cost of the applicable permit fee plus all costs related to the city's issuance of the permit and inspections. Mere payment of a WWP fee may not be used as a defense in a Code Enforcement or other similar case for performing work for which a permit was required without having first obtained a necessary permit. Full and timely compliance with this code is required.

1 (e) Additional Procedures and Regulations: The City Council may, by Resolution, provide for further
2 clarification of or additional procedures for this section 6.5 – Failure to Obtain Permit as may be
3 necessary, so long as such clarifications or procedures are not inconsistent with this section 6.5 or the
4 City's code.

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6 SECTION 2. Codification. This Ordinance shall be incorporated into and codified within the Municipal Code of
7 the City of Belle Isle, Florida. Any section, paragraph number, letter and/or any heading may be changed or
8 modified as necessary to effectuate the foregoing. Grammatical, typographical, and similar or like errors may
9 be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this
10 ordinance or the Land Development Code may be freely made.

11

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

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17 SECTION 4. Conflicts. In the event of a conflict or conflicts between this Ordinance and any other ordinance or
18 provision of law, this Ordinance will govern and control to the extent of the conflict, as allowable under the law.

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

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23 First Reading on _____, _____, 2021.

24 Second Reading and Adoption this _____ day of _____, 2021.

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4	YES	NO	ABSENT
5	Ed Gold	_____	_____
6	Anthony Carugno	_____	_____
7	Karl Shuck	_____	_____
8	Mike Sims	_____	_____
9	Harvey Readey	_____	_____
10	Jim Partin	_____	_____
11	Sue Nielsen	_____	_____
12			
13	ATTEST:		
14	_____	_____	
15	Yolanda Quiceno, CMC		Nicholas Fouraker, Mayor
16	City Clerk		
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18	_____		
19	Approved as to form and legality		
20	For use and reliance by the City		
21	Kurt Ardamon, City Attorney		
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4 STATE OF FLORIDA

5 COUNTY OF ORANGE

6 I, Yolanda Quiceno, City Clerk of the City of Belle Isle do hereby certify that the above and foregoing
7 document ORDINANCE 20-01 was duly and legally passed by the Belle Isle City Council, in session
8 assembled on the _____ day of _____, 20____, at which session a quorum of its members
9 were present.

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11 _____
12 Yolanda Quiceno, CMC-City Clerk
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