



**CITY OF BELLE ISLE, FLORIDA
CITY COUNCIL AGENDA ITEM COVER SHEET**

Meeting Date: August 15, 2017

To: Honorable Mayor and City Council Members

From: B. Francis, City Manager

Subject: Bird Sanctuary Ordinance

Background: The Council directed that the City Manager complete the appropriate documents in order for the city to apply to the Fish and Wildlife Commission to become a bird sanctuary. Under Florida Administrative Law 68a-19.002, there are certain requirements in order for the FWC to consider this request. The City's current code does not include these criteria and therefore a new ordinance needs to be adopted. Additionally, last year, SB130, was signed in to law. It pertains to the discharge of firearms on public or residential property. Although hunters do not hunt from the shore, the lake could be considered public property. The City Manager is also seeking support of a bird sanctuary from the Orange County Audubon Society and Cornerstone Charter Academy.

Staff Recommendation: Seek City Attorney opinion on SB130 and air rights. Also review the draft ordinance, make any necessary changes, then direct the staff to advertise for the first reading.

Suggested Motion: I move that we advertise ordinance 17-07 (as amended, if necessary) for a first reading on September 5, 2017

Alternatives: Do not move the ordinance forward

Fiscal Impact: TBD (signage)

Attachments: FL 68a-19.002, BIMC Sec. 4-1, Draft Ordinance 17-07, SB130

68A-19.002 Establishment of Restricted Hunting Areas, and Bird Sanctuaries, Procedure.

(1) The Commission may establish bird sanctuaries for the protection of all birds and other wildlife and restricted hunting areas within any developed area upon the written request of the local governmental body having jurisdiction over such areas. In requesting establishment of such restricted hunting areas or bird sanctuaries, the governing body shall, by proper resolution or ordinance, officially agree to assume the responsibility for enforcement of regulations of the Commission which apply to such areas, including posting the area boundary with signs bearing the words "RESTRICTED HUNTING AREA, Hunting by Special Permit Only" or "BIRD SANCTUARY, No Hunting" established by Rule 68A-19.002, F.A.C., which shall be placed at intervals of no more than 500 feet, be easily visible from any point of ingress or egress and provide other necessary notice of such area to the public. Said governing body shall agree to instruct its duly authorized law enforcement personnel to enforce said regulations within the area.

(2) Following receipt of the request of the governing body the Commission shall, through its staff, investigate to ensure that the tract under consideration is sufficiently developed as to preclude recreational hunting in the interest of safety and that its closure will not result in a denial of reasonable and lawful hunting opportunity.

(3) Action by the Commission for the establishment of restricted hunting areas or bird sanctuaries as recommended by its staff shall be taken at its July and January meetings.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 8-1-79, Amended 6-21-82, Formerly 39-19.02, Amended 5-10-87, 11-23-97, Formerly 39-19.002.

68A-19.004 Regulations in Bird Sanctuaries.

No person shall take any wildlife in any bird sanctuary using a gun unless such taking is authorized by specific rule relating to such sanctuary.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 120.53 FS. History--New 8-1-79, Formerly 39-19.04, Amended 4-14-92, 9-7-97, 11-23-97, Formerly 39-19.004.

Sec. 4-1. - Bird sanctuary.

(a)

City designated. The entire area embraced within the corporate limits of the city is hereby designated as a bird sanctuary.

(b)

Signs. The city council may from time to time, as it deems necessary, provide for the erection of signs within the city proclaiming, "This Community Is a Bird Sanctuary."

(c)

Acts prohibited. No person shall hunt, kill, maim, trap or attempt in any manner to molest any birds or wild fowl, or to rob or otherwise molest the nest of any bird within the city.

(d)

Exceptions. The sanctuary established by this section shall not include protection of (Columbia livia) feral pigeon populations or other invasive and/or non-native species such as Starlings, House Wrens, which are not protected by state or federal law and which may threaten native bird species.

(Code 1980, § 7-2; Code 1991, § 8-2; Ord. No. 98-5, 11-17-1998)

ORDINANCE 17-07

AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA. DESIGNATING THE CITY OF BELLE ISLE AS A BIRD SANCTUARY: SPECIFYING UNLAWFUL ACTS: AMENDING CHAPTER 4, SECTION 4-1 OF THE BELLE ISLE MUNICIPAL CODE PROVIDING FOR PRESERVATION OF WETLANDS AND THE CONWAY CHAIN OF LAKES WITHIN THE CITY; ESTABLISHING RESPONSIBILITIES OF CERTAIN CITY DEPARTMENTS; PROHIBITIVE ACTIVITY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Belle Isle is an environmentally concerned city, sensitive and dedicated to the preservation of birds and wildlife; and

WHEREAS, habitat destruction is the greatest threat to birds and wildlife, and the City of Belle Isle is dedicated and committed to the protection of such habitat wherever reasonably possible; and

WHEREAS, the Orange County Audubon Society recognizes and accredits the City of Belle Isle's efforts to preserve and enhance bird and wildlife sanctuary programs, and the Society is prepared to assist in making the program successful; and

WHEREAS, the Cornerstone Charter Academy School believes that the key to understanding environmental concerns is education. Cornerstone Charter Academy commits to providing learning experiences for students to enhance their awareness of the environment and the role played by birds and wildlife in that environment.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLE ISLE, FLORIDA:

SECTION 1. That all the land and airway area embraced within the city limits of Belle Isle, Florida is hereby declared to be and shall hereafter be designated as a "Bird Sanctuary".

SECTION 2. That all City owned property shall be managed in such a manner as to promote both human enjoyment and the development of bird and wildlife habitat.

SECTION 3. That wherever possible the City will leave the environment in its natural state. The City, through its Public Works Department, will attempt to mitigate the effect of development of roads, parking facilities, utilities and other necessary improvements through seasonal plantings and feeding stations. Enhancement programs, such as bird houses for birds and private preserves will be encouraged. The City will also provide relief from drought stress. The City Public Works Department and private property owners will post the area boundary with signs bearing the words "RESTRICTED HUNTING AREA, Hunting by Special Permit Only" or "BIRD SANCTUARY, No Hunting" established by Rule 68A-19.002, F.A.C., which shall be placed at intervals of no more than 500 feet,

be easily visible from any point of ingress or egress and provide other necessary notice of such area to the public. In addition, the City may protect "wetlands" as they exist in the City. Wetlands which are prime habitat of birds and other wildlife, may not be drained, filled, or destroyed in such a manner as to render them unacceptable to birds and wildlife as temporary or permanent habitat.

The Belle Isle Police Department, including the Marine Patrol, shall be responsible for enforcement of regulations of the Florida Fish and Wildlife Conservation Commission and this ordinance.

SECTION 4. That it shall be unlawful to trap, hunt, shoot, or attempt to shoot or molest in any manner any bird or wild fowl, or to rob bird nests or wild fowl nests within the City. No person shall take any wildlife in any bird sanctuary using a gun unless such taking is authorized by specific rule relating to such sanctuary. Provided; the sanctuary established by this section shall not include protection of (Columbia livia) feral pigeon populations or other invasive and/or non-native species such as Starlings, House Wrens, which are not protected by state or federal law and which may threaten native bird species. In the event that other invasive and/or non-native species are found congregating in numbers in a particular locality within the city limits, as to constitute a public nuisance or menace to the public health or to private or public property, then in that event or any of them, the congregated birds or wild fowl may be destroyed as is deemed advisable by and under the supervision and control of the Police Department of the city.

SECTION 5. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional the remaining provisions of this ordinance shall remain in full force and effect.

SECTION 6. That any person, firm, or corporation violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Misdemeanor of the First Degree and upon conviction in the District Court shall be punished by a fine not to exceed One Thousand (\$1,000.00) Dollars for each offense.

SECTION 7. That the present ordinances of the City of Belle Isle are inadequate to properly protect birds, wildlife and their habitat within the City of Belle Isle, creates an urgency and an emergency for the preservation of the public health, safety, and welfare and requires that this ordinance shall take effect immediately from and after its passage and publication of said ordinance, as the law in such cases provides.

DULY PASSED AND APPROVED by the City Council of the City of Belle Isle, Florida, on the ____ day of _____, 2017.

CHAPTER 2016-12

Committee Substitute for
Committee Substitute for Senate Bill No. 130

An act relating to discharging a firearm; amending s. 790.15, F.S.; prohibiting the recreational discharge of a firearm in certain residential areas; providing criminal penalties; providing exceptions; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (4) is added to section 790.15, Florida Statutes, to read:

790.15 Discharging firearm in public or on residential property.—

(4) Any person who recreationally discharges a firearm outdoors, including target shooting, in an area that the person knows or reasonably should know is primarily residential in nature and that has a residential density of one or more dwelling units per acre, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. This subsection does not apply:

(a) To a person lawfully defending life or property or performing official duties requiring the discharge of a firearm;

(b) If, under the circumstances, the discharge does not pose a reasonably foreseeable risk to life, safety, or property; or

(c) To a person who accidentally discharges a firearm.

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor February 24, 2016.

Filed in Office Secretary of State February 24, 2016.