

ORDINANCE 17-06

AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA; AMENDING CHAPTER 10, "ENVIRONMENT", ARTICLE II "PUBLIC NUISANCE" OF THE CODE OF THE CITY OF BELLE ISLE BY THE ADDITIONS OF SECTIONS 10-37, "PROHIBITION": 10-38, EXEMPTIONS"; 10-39, "DELIVERY TO PRIVATE RESIDENCES AFTER NOTICE OF OBJECTION";AND 10-40, "VARIANCES", ALL REGARDING THE PLACING OF PAPER, MERCHANDISE OR DISCARDED MATERIAL ON RESIDENTIAL LAWNS AND DRIVEWAYS, MOTOR VEHICLES OR ON PUBLIC STREETS AND SIDEWALKS.

WHEREAS, the Council of the City of Belle Isle does find, determine and declare that the practice of casting, throwing and otherwise placing of written papers consisting of circulars, handbills, newspapers, magazines, memos, flyers, handouts, newspapers, ads, promotions, coupons and other commercial advertisements which are placed, thrown, distributed discarded on private residential lawns or driveways without the consent of the owner or occupant of said property or on public streets or sidewalks, or on motor vehicles located on public property, creates a nuisance causes litter and other pollution that goes into the city lakes and city stormwater system that are a threat to the public health, safety and welfare as such material is blown about and accumulates as trash and creates fire and environmental hazards and an unsightly condition and requires extra expense to remove, and

WHEREAS, the accumulation of such material on private property inadvertently advertises absence of the owner to the persons of dissolute or criminal propensities and increases the probability of criminal activities on such property, and

WHEREAS, the City Council desires to enact provisions to alleviate such conditions which pose a threat to the public health, safety and welfare.

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

1 **SECTION ONE:** Chapter 43, "Miscellaneous Offenses", of the Code of the City of Belle Isle, and the same is
2 hereby amended by the addition of Sections 43.66 through 43.69 to read as follows:

3 **Sec. 10-37. Prohibitions.**

- 4 1) It shall be unlawful for any person to cast, throw, scatter, distribute, discard or otherwise place on
5 private residential lawns or driveways without the consent of the owner or occupant of said property
6 any written papers, circulars, handbills, newspapers, magazines, memos, flyers, handouts,
7 newspapers, ads, promotions, coupons and other commercial advertisements.
- 8 2) It is unlawful for any person to cast, throw, scatter, distribute, discard or otherwise place on any public
9 streets or sidewalks, or on motor vehicles located on public or private property or on any parking lot
10 open to the use of the public any written papers, circulars, handbills, newspapers, magazines, memos,
11 flyers, handouts, newspapers, ads, promotions, coupons and other commercial advertisements, in any
12 manner, other than by the delivery in person to a person who is immediately present and accepts the
13 same or has given his express consent to the receipt thereof.

14 **Sec. 10-38. Exemptions.**

15 The provisions of this Chapter shall not apply to:

- 16 1) the regular delivery of newspapers or magazines which have been subscribed to by the persons
17 receiving them or by occupants of the residence to which they are delivered or by the distribution of
18 mail by the United States Government or by the service of any lien foreclosure, governmental notices
19 of process; or,
- 20 2) Civic or religious organizations who operate and are registered with the State of Florida and the
21 federal government as a not-for-profit organization and whom are located and have a place of
22 business within the city limits of Belle Isle prior to the distribution.
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1 Section 10-39. Delivery to private residence after notice of objection.

2 It is separately and additionally unlawful for any person to continue to cast, throw, scatter, distribute,
3 discard or otherwise place written papers, circulars, handbills, newspapers, magazines, memos, flyers,
4 handouts, newspapers, ads, promotions, coupons and other commercial advertisements in any manner on
5 private residential property, after receiving notification by the owner or occupant of a private residence that
6 said owner or occupant does not wish to receive the item being distributed to said residence.

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8 Section 10-40. Variances.

9 The Council may, by written resolution, grant variances from the provisions of this Chapter to permit
10 the distribution of papers or merchandise as otherwise prohibited, upon such terms and conditions as City
11 Council may impose, after due consideration of the following:

- 12 1) The nature, scope, purpose, method, and time of distribution.
- 13 2) The extent of the distribution, both as to time required therefore and area to be covered.
- 14 3) The identity of the person or persons who will be responsible for the conduct of the distribution.
- 15 4) The date or dates on or between which the distribution is to be accomplished.
- 16 5) The approximate number of individuals who will be engaged in the distribution.
- 17 6) The provision for removal, by the individual or organization proposing the distribution, of items
18 not removed by the property owner within a reasonable period of time following the distribution.
- 19 7) The likelihood, or lack thereof, of the distribution constituting a real and present danger to the
20 public health, welfare and safety.

1 Sec. 10-41. - Enforcement/penalty.

- 2 1) It shall be unlawful for any person to violate any provisions of this article, or any provisions of any
3 resolution enacted pursuant to this article. Any person who violates this chapter, or any provisions
4 of any resolution enacted pursuant to the authority of this article, may be prosecuted in
5 accordance with chapter 14, article II of this Code.
- 6 2) If any code enforcement officer or police officer determines that activities regulated under this
7 article have occurred without the issuance of the appropriate variance, or not in accordance with
8 these regulations, the officer shall promptly issue a written notice of violation. The notice of
9 violation shall include a description of the site where the violation has occurred, cite the
10 provisions of this article and other applicable laws that have been violated, and set forth the
11 required remedial action or actions to be taken as deemed reasonable and necessary by the city.
12 Such remedial action may include:
- 13 a. Modification of the structure or business causing the violation in order to comply with
 - 14 applicable local, state or federal laws or regulations;
 - 15 b. Any other actions consistent with the intent of these regulations or other applicable laws in
 - 16 order to ameliorate the adverse impacts of the violation; and
 - 17 c. Administrative and civil penalties.
- 18 3) Any person violating this article shall be liable for all costs incurred by the city in connection with
19 enforcing this article or any provisions of any resolution enacted pursuant to this article, including,
20 without limitation, attorneys' fees and investigative and court costs.
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1 **SECTION TWO: Severability:** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is
2 for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be
3 deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the
4 remaining portion hereto.

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6 **SECTION THREE: Effective Date:** This Ordinance shall take effect upon its passage and as provided by law.

7 First Reading held this 1st day of August, 2017

8 Second Reading held this 15th day of August, 2017

9 Advertised for Second Reading on the 5th day of August, 2017.

	YES	NO	ABSENT
12 Ed Gold	_____	_____	_____
13 Anthony Carugno	_____	_____	_____
14 Jeremy Weinsier	_____	_____	_____
15 Bobby Lance	_____	_____	_____
16 Harvey Readey	_____	_____	_____
17 Lenny Mosse	_____	_____	_____
18 Sue Nielsen	_____	_____	_____

19
20 _____
21 LYDIA PISANO, MAYOR

22 ATTEST: _____

23 Yolanda Quiceno, CMC-City Clerk

24 _____
25 Approved as to form and legality City Attorney

1 STATE OF FLORIDA

2 COUNTY OF ORANGE

3 I, Yolanda Quiceno, City Clerk of the City of Belle Isle do hereby certify that the above and foregoing document
4 ORDINANCE 17-06 was duly and legally passed by the Belle Isle City Council, in session assembled on the
5 _____ day of _____, 2017, at which session a quorum of its members were present.

6 _____

7 Yolanda Quiceno, CMC-City Clerk

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