

1 **ORDINANCE 21-01**

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

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

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

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14 **SECTION 1**

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

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

18 (a) Definitions:

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

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

6 (b) ATF Permits:

7 (1) ATF Purpose:

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

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18 (2) ATF Permits:

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

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

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9 (3) ATF Inspections:

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

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

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16 (iii). An applicant may opt to have an .

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

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

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

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

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12 (4) ATF Alternative Method of Inspection:

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

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

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(c) WWP Procedure.

(1) WWP Purpose. 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.

(2) WWP Generally:

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

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

1           iii.     Properties Located Within Designated Flood Zones: Improvements located within a  
2                     designated flood zone must be in compliance with the federal flood regulations,  
3                     technical bulletins, and any other applicable state and local regulations pertaining to  
4                     construction within such zones. Such improvements must be brought into compliance  
5                     during this process.

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

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

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

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

20    (6)     Inspections:

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

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

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

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

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

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

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17 (d) ATF and WWP Permit Fees/Penalties:

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

20 (2) The fee for a WWP permit is \$500 plus double the cost of the applicable permit fee plus all  
21 costs related to the city's issuance of the permit and inspections. Mere payment of a WWP  
22 fee may not be used as a defense in a Code Enforcement or other similar case for  
23 performing work for which a permit was required without having first obtained a necessary  
24 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  
4 the 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.

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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,  
14 whether for substantive, procedural, or any other reason, such portion shall be deemed a separate,  
15 distinct and independent provision, and such holding shall not affect the validity of the remaining portions of  
16 this Ordinance.

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

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



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First Reading on \_\_\_\_\_, \_\_\_\_\_, 2021.

Second Reading and Adoption this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

YES

NO

ABSENT

Ed Gold \_\_\_\_\_

Anthony Carugno \_\_\_\_\_

Karl Shuck \_\_\_\_\_

Mike Sims \_\_\_\_\_

Harvey Readey \_\_\_\_\_

Jim Partin \_\_\_\_\_

Sue Nielsen \_\_\_\_\_

ATTEST:

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\_\_\_\_\_

Yolanda Quiceno, CMC

Nicholas Fouraker, Mayor

City Clerk

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Approved as to form and legality

For use and reliance by the City

Kurt Ardaman, City Attorney

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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 20-01 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.

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Yolanda Quiceno, CMC-City Clerk