



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

Meeting Date: February 18, 2020

To: Honorable Mayor and City Council Members

From: B. Francis, City Manager

Subject: Ordinance 20-01. Tree Protection Changes

Background: Based on the new state law regarding tree removal, the City Tree Board reviewed the current tree protection article in the BI Municipal Code and is recommending the changes to the code to follow the new state law. The Board also cleaned up some language that was confusing for the removal process

Staff Recommendation: Move to final reading and adoption at the next meeting.

Suggested Motion: I move we read Ordinance 20-01 for the second time and adopt Ordinance 20-01 at the March 4 meeting.

Alternatives: Choose a different date to read and adopt.

Fiscal Impact: TBD

Attachments: Ordinance 20-01

1 Sec. 48-63. - Tree protection.

2 (c) *Exceptions and exemptions.*

3
4 (1) *Exceptions.* The requirements of this section shall apply to all property in the city
5 except those used for the following purposes:

6 a) Commercial plant nursery or tree farm;

7 b) Public right-of-way or easement; and

8 c) A residential property owner who obtains documentation or a report from an
9 arborist certified by the International Society of Arboriculture or a Florida licensed
10 landscape architect that the tree presents a danger to persons or property, provided
11 that the residential property owner provides a copy of the documentation or report to
12 the City within ten (10) days of receipt of the documentation or the report. The City
13 may, at the City's expense, have the City's arborist review the documentation or
14 report and inspect the tree(s) set forth therein for verification purposes.

15 d) A residential property owner that is exempted under subsection ~~(b)~~ (c) is not
16 required to replant a tree that was pruned, trimmed, or removed in accordance with
17 this section, nor is that residential property owner required to contribute to the City's
18 tree fund so long as the documentation or report complies with subsection ~~(b)~~(c).

19
20 (2) *Exemptions.* In the case of an emergency such as a hurricane, flood or other
21 disaster, or agricultural diseases, the city manager or the city manager's designee
22 may waive the requirements of this section so as to not hamper public and/or private work
23 to restore order.

1 (d) *Requirements.*

2
3 (3) In the event the city manager or city manager's designee is unable to determine
4 whether the criteria for removal are met, an additional fee, to be established by city council,
5 shall be required for review by an arborist. In lieu of paying the additional fee, the property
6 owner, at their own expense, may provide an independent arborist's opinion; provided,
7 however, that said arborist shall not be employed by the tree removal service hired by the
8 property owner, if any. Any person denied a permit for removal by the City Manager may
9 within five working days after issuance of the denial by the City Manager file a written
10 request for an appeal of the decision before the Tree Board. Hearing the appeal shall be set at
11 a regular or special meeting of the Tree Board to be held not earlier than seven working days
12 or later than 30 days after the filing of such request. The person appealing the City Manager's
13 decision shall be given at least five working days' written notice of the time and place of the
14 meeting. At the completion of the meeting, the Tree Board shall decide whether or not the
15 permit denial was justified and whether or not the denial should be upheld. In the event the
16 Tree Board overturns the City Manager's decision, the permit shall be issued. The decision of
17 the Tree Board is final.

18
19 (4) *Use of unregistered tree removal service and/or landscape architect prohibited.* No
20 commercial tree removal service shall be used by the owner or occupant of the property
21 unless the service has first registered with the city. A violation of this subsection (d)(4) may
22 be brought before the city code enforcement magistrate pursuant to section 14-31, et al.,
23 as an irreversible violation subject to imposition of a fine not to exceed \$5,000.00 per
24 violation.

1 (5) *Registration requirements for tree removal service and/or landscape architect.* Any
2 commercial tree removal service which desires to provide tree removal services within the
3 city must first register with the city by providing its business name, occupational
4 license number, contact person, address and telephone number. Upon registration, the
5 tree removal service shall be provided information regarding the city's permitting
6 requirements as set out in this section 48-63. A list of those tree services registered with the
7 city will be available in the city clerk's office. The city keeps a list of businesses that are
8 allowed to operate in the city. This list is to assist in providing residents with a variety of
9 choices for a service or product. Any specific commercial product, process, or service by
10 trade name, trademark, manufacturer, or otherwise, is not an endorsement or
11 recommendation by the city or its employees. Further, the city does not endorse or
12 recommend any commercial products, processes, or services. The city will not recommend
13 one tree service over another to residents. In the event any registered tree removal service is
14 determined by the city manager or designee to have violated the city's requirements for tree
15 removal, that service shall be removed from the list of registered services with written
16 notice mailed to the service.

17 (7) *Replacement of trees.* Trees with a DBH of up to ~~four six~~ inches and/or restricted trees,
18 regardless of DBH, that are approved for removal shall not require replacement. ~~Trees with~~
19 ~~a DBH of six inches up to but not including 24 inches shall be replaced at a 1:1 ratio. Trees~~
20 ~~with a DBH of 24 inches or greater shall be replaced at a 2:1 ratio.~~ All replacement trees
21 should have a minimum DBH of four inches.

| <u>DBH—Removal tree</u> | <u>Number of Replacement Trees</u> |
|---|------------------------------------|
| <u>4"–6" up to but not including 12" less than 12"</u> | <u>1 tree</u> |
| <u>12" up to but not including 18"</u> | <u>2 trees</u> |
| <u>18" or greater</u> | <u>3 trees</u> |

~~(8) Suggested and Restricted Trees Recommended trees with a DBH of six inches up to 24 inches shall be replaced at a 1:1 ratio with trees from the recommended list. Suggested Recommended trees with a DBH of 24 inches or greater shall be replaced at a 2:1 ratio with trees from the suggested recommended list and having a minimum DBH of four inches.~~

a) ~~Suggested Recommended trees.~~ The city council, by resolution, will adopt a list of trees for planting, ~~as stated in "Selecting and Planting Trees for the Central Florida Urban Forest," by the Florida Urban Forestry Council. . This resolution and The recommended suggested~~ tree list will be on file in the city clerk's office and on the back of the Tree Removal Permit.

b) *Restricted trees.* The city council will adopt, by resolution, a list of restricted trees which will be kept on file in the city clerk's office and on the back of the Tree Removal Permit.

(e) *Penalties.*

(1) Violations of this section shall be subject to the following:

a) Where violations of this section have occurred, remedial action shall be taken to restore the property consistent with a restoration plan approved by the city

1 manager or the city manager's designee. The restoration plan shall require tree
2 replacement according to the following:

| DBH—Removal Tree | Number of Replacement Trees |
|---|-----------------------------|
| 4" 6" up to but not including 12" less than 12" | 1 tree |
| 12" up to but not including 18" | 2 trees |
| 18" up to but not including 24" or greater | 3 trees |
| 24" and above | 4 trees |

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

17
18 SECTION 3. Severability. If any section, subsection, sentence, clause, phrase, word or provision of
19 this Ordinance is for any reason held invalid or unconstitutional by any court of competent
20 jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be
21 deemed a separate, distinct and independent provision, and such holding shall not affect the validity
22 of the remaining portions of this Ordinance.

1 SECTION 4. Conflicts. In the event of a conflict or conflicts between this Ordinance and any other
2 ordinance or provision of law, this Ordinance controls to the extent of the conflict, as allowable under
3 the law.
4

5 SECTION 5. Effective Date. This Ordinance shall become effective immediately upon adoption by
6 the City Council of the City of Belle Isle, Florida.
7

8 First Reading on March ____, 2020.

9 Second Reading and Adoption this _____ day of _____, 2020.

| | YES | NO | ABSENT |
|--------------------|-------|-------|--------|
| 12 Ed Gold | _____ | _____ | _____ |
| 13 Anthony Carugno | _____ | _____ | _____ |
| 14 Karl Shuck | _____ | _____ | _____ |
| 15 Mike Sims | _____ | _____ | _____ |
| 16 Harvey Readey | _____ | _____ | _____ |
| 17 Jim Partin | _____ | _____ | _____ |
| 18 Sue Nielsen | _____ | _____ | _____ |

19
20 ATTEST:

21 _____

22 Yolanda Quiceno, CMC

23 City Clerk

21 _____

22 Nicholas Fouraker, Mayor

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Approved as to form and legality
For use and reliance by the City
Kurt Ardaman, City Attorney

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.

Yolanda Quiceno, CMC-City Clerk