

ORDINANCE NO. 22-10

AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA MODIFYING CHAPTER 10 “ENVIRONMENT” BY CREATING ARTICLE VII “DILAPIDATED, DANGEROUS, DECAYED STRUCTURES AND APPURTENCES; AMENDING SECTION 10-153 “GRASS, LANDSCAPING AND LOT MAINTENANCE; AMENDING CHAPTER 18 “PARKS AND RECREATION”; AMENDING SECTION 24-41 “TEMPORARY CONSTRUCTION DUMPSTERS”; AMENDING SECTION 30-32 “NOTICE TO REMOVE” AND SECTION 30-36 “REMOVAL OF VEHICLE BY CITY FROM PROPERTY” OF THE CITY’S CODE OF ORDINANCES; AND PROVIDING FOR ENFORCEMENT, SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City of Belle Isle (the “City”) continues to be a vibrant and well maintained community; and

WHEREAS, this Ordinance furthers the interest of ongoing maintenance and enhancement of standards.

NOW, THEREFORE, be it ordained by the City Council of the City of Belle Isle, Florida, as follows:

SECTION 1. Recitals. The foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance.

SECTION 2. City Code Created. Chapter 10 “Environment”, Article VII “Dilapidated, Dangerous, Decayed Structures and Appurtenances of the Belle Isle Code of Ordinances is hereby created as follows:

CHAPTER 10 – ENVIRONMENT

ARTICLE VII

DILAPIDATED, DANGEROUS, DECAYED STRUCTURES AND APPURTENANCES

Sec. 10-190. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned improvements or structures means any work which has been commenced or completed on a site with a permit which has been expired for more than 180 days.

Approved means approved by the City Manager or other authority having jurisdiction.

Building means any structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind. The term "building" shall be construed as if followed by the words "or part thereof."

Building official means the officer or other designated authority charged with the administration and enforcement of building construction regulations within the city or their duly authorized representatives.

Condemned structure means one or more of the following:

- (1) Any structure which has been declared an unsafe structure by the building official and proper notice has been served by the city as required by law, and the owner has failed to file an appeal within the time provided for by law.
- (2) Any structure which has been declared an unsafe structure by the building official and proper notice has been served by the city as required by law, and an owner has filed appeal within the time provided for by law, and the appeal was denied.
- (3) Any structure which has been declared an unsafe structure by the building official, and proper notice has been served by the city as required by law, and an owner has prevailed in a duly filed appeal, and the owner has failed to take the action(s) required to abate the conditions as set forth by the board or entity who affirmed the appeal.

Owner means any person having a legal or equitable interest in the property.

Structure means that which is built or constructed and shall be construed to include the term "building."

Violation, major, means any violation which, if not corrected, would cause the structure to be condemned.

Violation, minor, means any violation of this Code, the adopted standard codes, or any state or federal law or regulation, specifically including, but not limited to, no water, no electric, or minor fire damage, which is not classed as a major violation.

Sec. 10-191. Enforcement; records.

The provisions of this article shall be enforced by the City Manager. The City Manager shall cause to be kept a record of the enforcement of this article. These records shall be public records.

Sec. 10-192. Standard code adopted.

There is adopted by the city for the purposes of establishing rules and regulations pertaining to or in any way related to any and all buildings, structures, electrical, gas, mechanical or plumbing systems which are unsafe, unsanitary, or do not provide adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use, constitute a hazard to safety or health, are considered unsafe buildings or unsafe service

systems the Standard Unsafe Building Abatement Code as published by SBCCI, and as such may be amended, modified or updated by SBCCI (the "abatement code"). The abatement code is adopted and fully incorporated herein as if fully set out at length in this section, save and except such portions as are deleted, added, modified or amended in this article. One copy of the abatement code is on file in the office of the building official. All such unsafe buildings, structures or service systems are hereby declared illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the provisions of the abatement code, or other provisions of the building and property maintenance regulations of the city. All repairs shall be performed in accordance with the Florida Building Code.

An unsafe structure or premises, or abandoned improvement or structure, shall mean and include any building, structure or property that has any of the following conditions, such that the life, health, property or safety of the general public or the occupants are endangered, specifically including any electrical, mechanical, plumbing, or gas system, in whole or in part, that has not been maintained in a safe and sanitary condition or violates a city code or ordinance or any state or federal law or regulation:

- (1) Any means of egress or portion thereof that is not of adequate size, or is insufficient in quantity or remoteness, or is not arranged or maintained to provide a safe path of travel to a public way or other safe area in case of fire or other emergency as determined by any authority having jurisdiction.
- (2) Any means of egress or portion thereof, such as but not limited to fire doors, closing devices, or fire resistive ratings, that are in disrepair or in a dilapidated, nonworking or compromised condition.
- (3) The stress in any material or member, or portion thereof, that is incapable of sustaining the loads to be imposed upon it.
- (4) A building or structure, or portion thereof, that has been damaged to the extent that the structural integrity of the building or structure is less than it was prior to the damage.
- (5) Any exterior appendage or portion of a building or structure that is not securely fastened, attached or anchored such that it is capable of resisting wind, seismic or similar loads.
- (6) Any building or structure, or portion thereof, that is manifestly unsafe for any reason or is unsanitary for the purpose for which it is, was, or will be intended to be used.
- (7) Any building or structure, or portion thereof, that, as a result of decay, deterioration, dilapidation, or other reason, is likely to fully or partially collapse.
- (8) Any building, structure or property, or portion thereof, that has been constructed or maintained in violation of a specific requirement of the standard code(s).
- (9) Any building, structure or property, or portion thereof, that is in such a condition as to constitute a public nuisance.
- (10) Any building, structure or property, or portion thereof, that is unsafe, unsanitary, or not provided with adequate egress, or which constitutes a fire hazard, or is otherwise dangerous to human life.
- (11) Any building, structure or improvement, or portion thereof, that commenced or was constructed under a permit which has been expired for more than 180 days.

Sec. 10.193. Condemnation—Authority.

The city shall have the authority and power to condemn and remove or cause to be removed all decayed, unsightly, dangerous and unlawful buildings, ruins, awnings, porches or structures within the corporate limits of the city.

Sec. 10-194. Same—Notice.

- (a) When there exists any unsightly, dangerous and unlawful building, structure, appurtenances of a building or when such may be constructed in violation of city ordinances, the building official or such other officer, employee or consultant who may be authorized by the city manager shall condemn the building, structure, appurtenances of a building.
- (b) Such officer shall file with the building official notice of such condemnation, which notice shall contain the following:
 - (1) The description of the building or structure condemned, together with the description by metes and bounds or by lot number of the property upon which such building or structure is located.
 - (2) The names of the occupants of the property and the names, places of residence, legal disabilities, if any, and interest of owners, if known, or if any of these facts are unknown it shall be so stated.
 - (3) The reason for condemning the building or structure.

Sec. 10-195. Same—Service of notice.

- (a) A copy of the notice shall be served upon the occupant of any unsightly and unlawful building or other structure and on the owner thereof, if known and residing in the city, together with a summons to appear before the city commission in not less than five or more than 30 days. The notice shall be served by the chief of police or any city police officer or by any other officer or employee who may be authorized by the city manager. However, if such persons reside in the state and beyond the limits of the city, such notice and summons shall be served by the sheriff of the county in which the person resides, in accordance with the rules governing service of process in the circuit court.
- (b) If the owners reside beyond the limits of the state, upon application by the city attorney, the building official shall make an order of publication of notice to all persons having any interest or right, whether as owners, lienholders, or otherwise, in such real estate, which notice shall be addressed to all whom it may concern, requiring them on a day certain, to be fixed in such order, not less than 30 or more than 50 days from the date of the first publication, to appear before the city commission to show cause, if any, why the order of condemnation made by the city building inspector should not be confirmed in all respects. Such notice shall be published for four consecutive weeks prior to the date fixed for such hearing, and a copy of the notice shall likewise be posted in a conspicuous place on the premises during the time of the advertisement of notice. If such order of publication shall be made and no appearance entered or protest is made to the confirmation of the order of condemnation, the owners of the property shall be forever foreclosed and barred of claiming any damage because of the destruction of the property described in the condemnation order.

Sec. 10-196. Conditions constituting hazards—Notice.

When there may be found to exist any condition of any building, land or premises or any condition in, upon or about any building, land or premises which constitutes or is likely to constitute a fire hazard or a hazard to the health, safety or welfare of the occupants or the public, (i.e., a public nuisance) the building official or such other authorized city officer, employee or consultant authorized and empowered shall file with the building official a notice which shall contain:

- (1) A description of the land, building, structure or premises in connection with which any such condition has been found to exist, which shall include, to the extent practicable, a description by metes and bounds or by lot number of such land.
- (2) The names of the occupants of the property, if any, and the names, places of residence, legal disabilities, if any, and interest of owners, if known, or if any of such facts are unknown it shall be so stated.
- (3) The condition found to exist, which constitutes a fire hazard or a hazard to the health, safety or welfare of the occupants or the public.
- (4) The matters and things required to be done to effect the removal or correction of such condition or structure; the removal of any weeds, debris, waste, rubbish, or flammable material; or the accomplishment of other corrective procedures.

Sec. 10-197. Same—Service of notice.

- (a) A copy of the notice shall be served upon the occupant of such land, building or premises and upon the owner thereof, if known and residing in the city, together with a summons to appear before the city commission at any regular or special meeting thereof not less than five or more than 30 days from the date of service of the notice. The notice and summons shall be served by the chief of police or any city police officer or by any other officer, employee or consultant who may be authorized by the city manager. However, if such person resides in the state and beyond the limits of the city, such notice and summons shall be served by the sheriff of the county in which the person resides, in accordance with the rules governing service of process in the circuit court. If the occupant of such building cannot be found in the city, it shall be sufficient service upon such occupant to post a copy of such notice and summons in some conspicuous place upon such building or other structure.
- (b) If the place of residence of the owner of such property cannot be determined or is found to be beyond the limits of the state, the city clerk shall make an order of publication of notice to all persons having any interest or right, whether as owners, lienholders, or otherwise, in such real estate. The notice shall be addressed to the owner by name, if known, and to all whom it may concern, requiring them on a day certain, to be fixed in such order, not less than 30 or more than 50 days from the date of the first publication of such notice, to appear before the city commission to show cause, if any, why the notice made and filed with the city clerk by the officer, employee or consultant making and filing the notice with respect to a hazardous condition found to exist and the matters and things set forth in the notice as being required to be done to remove or remedy such condition should not be confirmed in

all respects. The notice shall be published once a week for four consecutive weeks prior to the date fixed for such hearing. A copy of the notice shall be likewise posted in a conspicuous place on the premises during the time of the publication of the notice.

- (c) If such order or publication shall be made and no appearance is entered or protest made to the confirmation of the notice filed with the city clerk with respect to such hazardous condition, the owner of the property and all persons having any interest or right therein, whether as lienholders or otherwise, shall be forever foreclosed and barred from claiming any damage because of the destruction or other disposition of the property described in the notice.

Sec. 10-198. Hearing; decision.

At the time fixed for the hearing required under this division, either in the summons or the order of publication, as the case may be, the city commission shall hear the cause and may sustain, reject or modify the action and recommendations of the officer, employee or consultant making and filing the notice with respect to the hazardous condition and shall order the removal, destruction, other disposition or repair of any such building or shall order such other matters or things to be done as may be necessary to remove or correct such hazardous condition, and shall order that such be done within such time as the city commission may determine.

Sec. 10-199. Enforcement of decision; costs.

Under this division, if any building or other structure is not removed or repaired as required in the order of the city commission or in the other matters and things required in the order for the removal or correction of such hazardous condition, the work may be done and performed by the city, and the costs and expenses thereof shall be a lien upon the property, which lien may be enforced by suit at law or proceeding in chancery.

Sec. 10-200. Public nuisances.

When nuisance conditions or hazards degenerate or cumulatively impact on structures, dwellings, or other buildings regulated by this Code, to the extent that repair, removal, securing or demolition is necessary for the public health, safety and welfare, then the building official or his designee is authorized to order the property owner or city agents to repair, remove, secure, vacate or demolish such structures according to procedures outlined in the abatement code or as otherwise provided for in the Code. These powers are hereby declared to be remedial and essential for the public interest, and it is intended that such powers be liberally construed to effectuate the purposes stated herein.

Sec. 10-201. Vacant buildings.

No vacant building may be boarded up for a period of time exceeding 60 days unless granted a waiver by the building official. "Exterior walls", and all boards used to enclose the building must be neatly fitted within window and door openings and must be painted to blend in with the rest of the building.

Sec. 10.202. Requirements not covered by code.

Any requirements necessary for the strength, stability or proper operation of an existing or proposed building, structure, electrical, gas, mechanical or plumbing system, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the building official.

SECTION 3. City Code Amended. Section 10-153 “Grass, Landscaping and Lot Maintenance” of the Belle Isle Code of Ordinances is hereby amended as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions not included are not amended):

Sec. 10-153. Grass, landscaping and lot maintenance.

- (a) The following conditions are prohibited on any property zoned or used for residential purposes:
- (1) The accumulation of rank growth of weeds, grass, invasive species, trees, plants or undergrowth in the condition that may serve to communicate fire or serve as a breeding place or harbor insects, rodents, snakes, vermin or other pests;
 - (2) Any property upon which ~~over one-third of the vegetative~~ areas exceeds 12 inches in height above the ground. The height of vegetative matter shall be measured with a ruler or tape measure from grade level; and
 - (3) Any real property within the city with an area greater than 25 acres which is currently agriculture exempt at the tax assessor's office or platted conservation areas are not required to comply with vegetation height limits contained herein.
 - (4) This section does not apply to any property developed using “Florida Friendly Landscaping” as defined in F.S. 1373.185.

SECTION 4. City Code Amended. Chapter 18 “Parks and Recreation” of the Belle Isle Code of Ordinances is hereby amended as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions not included are not amended):

CHAPTER 18 – PARKS AND RECREATION

Sec. 18-4. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcoholic beverages means all beverages containing more than one percent of alcohol by weight as determined by measuring in accordance with F.S. § 561.01(4)(b).

Animals means cats, dogs, horses, any fowl or birds, or any living creatures within the jurisdiction of the park or recreation area.

Crossing means any crossing whether marked by a pavement or otherwise; the extension of any sidewalk space across any intersecting drive, street, highway.

Curb means any boundary of any street, road, avenue, boulevard, or drive, whether or not marked by a curbstone.

Park means and includes any area of public ground dedicated as a park or park land or held for the enjoyment of the public and managed, maintained, or under the jurisdiction of the City within or without the limits of the city which is under the city ownership or control. Boat Ramps are not considered parks.

Park attendant means any person employed by the city as a parks attendant to perform duties or tasks within the park and recreation areas.

Path means any footpath, walk, or any path maintained for pedestrians.

Pedestrian means a person afoot.

Permit means any written license issued by or under the authority of the city council permitting a special event or activity on park facilities.

Soliciting means persons selling goods or services by sample or taking orders for future delivery with or without accepting advance payment for the goods, and also means persons seeking any form of contributions.

Stopping or *standing*, when prohibited, means any cessation of movement of a vehicle occupied or not, except when necessary to avoid conflict with other traffic.

Traffic means pedestrians, vehicles, either singly or together, while in the confines of a park's jurisdiction.

Vehicle means any conveyance (except ~~baby carriages and wheelchairs~~) including motor vehicles (except motorized wheelchairs), trailers of all types, campers, ~~tricycles, bicycles, pushcarts,~~ boats and boat trailers, recreational vehicles, or vehicles propelled by other than muscular power.

Vending means to sell, to dispose of by sale or trade.

~~Sec. 18-6. Animals and vehicles.~~

~~No person in a public park or recreation area shall:~~

~~(1) Cause or permit to run loose any animal.~~

~~(2) Tie or hitch an animal to any tree or plant.~~

~~(3) Bring or permit to be brought any pet or other animal except guide or personal care animals, as permitted by F.S. § 413.08.~~

~~(4) No person shall drive or operate any vehicle in any park except in designated parking areas.~~

- ~~(5) Park a vehicle on other than an established or designated parking area, and such shall be in accordance with posted directions thereof and with the instruction of any attendant who may be present.~~
- ~~(6) Leave a vehicle standing or parked in established parking areas or elsewhere in the park and recreation areas during hours when the park and recreation area is closed.~~
- ~~(7) Leave a bicycle in a place other than a bicycle rack when such is provided and there is space available.~~
- ~~(8) Ride a bicycle without reasonable regard to the safety of others.~~
- ~~(9) Leave a bicycle lying on the ground or paving or set against trees, or in any place or position where other persons may trip over or be injured by them.~~
- ~~(10) Wash any vehicle.~~

Sec. 18-6. - Domestic animals in parks and recreation areas.

(a) No animals, other than dogs or cats, are permitted on park property unless a permit is applied for and obtained from the city manager to expressly authorize such animal(s). Dogs must be kept at all times on leashes no longer than eight feet, unless in an area specifically designated for off-leash activities (i.e. a dog park). All animal excrement must be properly cleaned up and properly disposed of by the owner or keeper of the animal.

(b) No person shall bring into any park any animal that constitutes a safety hazard or detriment to the enjoyment of the area by the public.

(c) No person having in charge or custody any dog or cat shall permit, allow or suffer such dog or cat to enter upon or remain within any playground or park area reserved for children or to enter any sandbox or play apparatus area.

Sec. 18-7. – Vehicles in parks and recreation areas.

(a) No person shall drive or operate any vehicle in any park except in designated parking areas.

(b) Park a vehicle on other than an established or designated parking area, and such shall be in accordance with posted directions thereof and with the instruction of any attendant who may be present.

(c) Leave a vehicle standing or parked in established parking areas or elsewhere in the park and recreation areas during hours when the park and recreation area is closed.

(d) Leave a bicycle in a place other than a bicycle rack when such is provided and there is space available.

(e) Ride a bicycle without reasonable regard to the safety of others.

(f) Leave a bicycle lying on the ground or paving or set against trees, or in any place or position where other persons may trip over or be injured by them.

(g) Wash any vehicle.

(h) Special Exceptions:

(1) Golf Carts may be operated in Trimble Park on the designated pathway.

(2) Use of the parks for the purpose of demonstrating any vehicles (i.e., car shows) any person, association, organization, entity or group acting pursuant to a contract with the city or under a special event permit granted by the city.

Sec. 18-8. – Permits. General provisions.

(a) Application for permits.

(1) Applicants may be required to provide liability insurance if, in the sole discretion of the city manager, the requested use of the facility represents a significant risk of loss to the city.

(2) Parks and facility use permits will not be issued to persons under 18 years of age; youth groups must have an adult sponsor.

(3) The permittee listed on the park or facility use permit shall be considered the person or entity responsible for the conduct of the activities occurring during the event and shall be responsible for the condition of the park or facility after its use. All other conditions listed on the park or facility use permit shall apply.

(b) Permit fees for reserved use.

(1) The city is authorized to establish fees for reserved use of park, recreation and community facilities and to offset the cost to the public for additional services provided by the city in connection with such use.

(2) A fee will not be charged for use of a facility for city sponsored or co-sponsored programs or events.

(c) Standards for review of permit applications.

(1) The city manager shall approve an application for permit unless the city manager finds that any one or more of the following basis for denying a permit application exists:

(i) if the applicant or the person on whose behalf the application for permit was made has on prior occasions made material misrepresentations regarding the nature or scope of an event or activity previously permitted or has violated the terms of prior permits issued to or on behalf of the applicant;

(ii) the application for permit (including any required attachments and submissions) is not fully completed and executed;

(iii) the applicant has not paid the required application fee with the application or has not paid the required user fee, indemnification agreement, insurance certificate, or security deposit within the times prescribed by the city;

(iv) the application for permit contains a material falsehood or misrepresentation;

(v) the applicant is legally incompetent to contract or to sue and be sued;

(vi) the applicant or the person on whose behalf the application for permit was made has on prior occasions damaged city property and has not paid in full for such damage, or has other outstanding and unpaid debts to the city;

(vii) a fully executed application for permit with priority for the same time and place has been received, and a permit has been or will be granted to another applicant authorizing uses or activities which do not reasonably permit multiple occupancy of the particular park or part hereof;

(viii) the use or activity intended by the applicant would conflict with previously planned programs organized and conducted by the city and previously scheduled for the same time and place;

(ix) the application is in conflict with the facility reservation frequency restrictions under this chapter;

(x) the applicant has exhibited an inability or unwillingness to satisfy conditions of a permit;

(xi) the proposed use or activity is prohibited by or inconsistent with the classifications and uses of the park or part thereof designated pursuant to this chapter;

(xii) the use or activity intended by the applicant would present an unreasonable danger to the health or safety of the applicant, or other users of the park, of city employees or of the public;

(xiii) the use or activity intended by the applicant would reasonably be calculated to incite violence, crime or disorderly conduct on the part of the participants;

(xiv) the use or activity intended by the applicant would reasonably be calculated to entail unusual, extraordinary or burdensome expense for supervision, maintenance, cleanup or police protection by the city; or

(xv) the use or activity intended by the applicant is prohibited by law, by this chapter or the Code of Ordinances.

(2) Under no circumstances shall the sex, age, race, religion, political views, or national origin of applicants, event coordinators or participants be used as a basis for denying a permit.

(3) Upon receipt of a fully executed and complete permit application, the city manager shall have 21 days to approve, approve with conditions or deny the permit application. If the 21-day application review period expires on a Saturday, Sunday or city observed holiday, the city manager shall be given until the following business day to take action on the applicable permit application. If a permit application is denied, the city manager shall explain to the applicant the city manager's reasons for denial.

(4) Applications for permits shall be processed in the order received; provided however, in the event more than one application is received for reservation of the same park or park facility during the review of a pending application(s), the city may give priority preference, first to an applicant that is a city resident or entity maintaining an office within the city's municipal boundaries, and second to an applicant with the fewest reservations of park facilities within the previous twelve-month period. The use of a particular park facility or part thereof shall be allocated based on the receipt of fully executed and complete application. Any amendment or revision of an application or permit shall for purposes of determining the priority of the application for permit, relate back to the original filing thereof; but the time in which the city manager shall approve, approve with conditions or deny the application for permit and serve notice of such denial shall be computed from the date of the amendment or revision.

(d) Conditions of permits.

(1) Permits will be issued under this article subject to such special regulations and instructions as may be prescribed by the city manager including, but not limited to:

a. Restrictions on the number and other designations of persons who may participate in such permitted activities.

b. Restrictions on the days of the week and the time of day that the particular facility may be used by the permittee.

c. Provisions for maintenance by the permittee of the sanitation, cleanliness, and appearance of the facility. At times, portable restrooms may be required for special events.

d. Provisions for security and the maintenance of law and order, including compliance with noise, parking, safety and other appropriate regulations. It is at the city's discretion to require security on the premises to enforce the policies of facility use. If security is deemed necessary, it is the responsibility of the user group or individual to reimburse the city for costs incurred in providing such security.

e. Restrictions on the installation of apparatus or modification in any manner, either temporary or permanent, by the permittee to a sports field or adjacent structures.

f. Requirements that all applicable fees shall be paid prior to use, unless other payment arrangements have been authorized.

g. Requirements that a certificate of insurance in accordance with subsection 18-8(e), naming the city as the additional insured, must be on file at the city prior to any permit being approved.

(2) By applying for and obtaining a permit, permittees agree to indemnify and hold the city and the city's officials, employees, and agents harmless from any and all claims for loss, injury or damage to any persons (including death or illness) and property whatsoever caused, in whole or part by the negligence of permittees and permittees' officers, directors, employees, members, participants, invitees, spectators and agents (or any combination thereof) in the exercise or use of such permit. Without limitation to the protections afforded to the city by foregoing sentence, the city may require a permittee to execute an indemnity and hold harmless agreement in a form acceptable to the city as a condition to a permit. Nothing in or required by this chapter is intended as or shall be construed as a waiver of the city's sovereign immunity protections.

(e) Liability insurance required for certain uses of city parks and facilities.

(1) The city shall require each large organized activity taking place at any city facility to have insurance for said activity. Permittee shall procure and maintain for the term of the permit insurance against claims for injuries to persons or damages to property which may arise from or in connection with the activities described hereunder performed by the permittee, his agents, representatives, or employees. Except where otherwise specified in this article, insurance shall be provided in an amount to be determined by the city manager, provided that such amount reflects a reasonable expectation of potential liability. Insurance is to be placed with insurers authorized to do business in the state and acceptable to the city. This may not apply for infrequent use; however, a one-time special event shall be subject to this requirement. For the purpose of this subsection (e)(1), the term "large organized activity" shall apply to sporting events and competitions, special events, exhibitions, shows, speaking engagements, celebrations, concerts, performances, camps, fairs, programs and other such activities involving the assembly of 100 or more participants, spectators or other persons at any city park or facility for a common purpose under the direction and control of a person or group of persons. The city manager is authorized to waive the requirement for liability insurance when the applicant for a use permit is a regular user of the facility or an established not-for-profit group and such user or group has no history of misusing the city's parks or facilities. The city manager is also authorized to require liability insurance for an activity when not specifically required above if, in his/her opinion, the proposed activity represents a significant risk to bystanders,

equipment or facilities, wildlife, or wildlife habitat. Nothing in or required by this chapter is intended as or shall be construed as a waiver of the city's sovereign immunity protections.

(2) The certificate of insurance, naming the city as the additional insured along with an endorsement, is to be submitted prior to permit authorization or execution of a negotiated use agreement. A 30-day written notice of cancellation clause is required.

(f) Challenge of permit decisions.

(1) City manager decisions. Any applicant or other aggrieved party in connection with a permit decision by the city manager or his/her designee made pursuant to this chapter may challenge such decision to the city council. A challenge to the city council of a city manager's or his/her designee's decision shall be valid only if such is submitted in writing to the city manager no later than 5:00 p.m. on the seventh day after the decision being challenged was rendered. Failure to timely submit a written challenge shall constitute a waiver of the right to challenge the decision. Upon receipt of a timely challenge, a hearing before the city council shall be scheduled to be conducted within 30 days. The time, date and location of the city council hearing on the challenge shall be noticed in the same manner as the city notices regular city council meetings. The city council shall conduct a hearing de novo and hear the testimony of witnesses and other evidence offered by the appealing party, city staff and other aggrieved persons and interested parties to the appeal. The city council may, in conformity with the city Code of Ordinances, reverse, or affirm, wholly or partly, or modify the decision of the city manager or his/her designee. The city council's determination on the challenge shall constitute the city's final determination of the matter.

(2) City council decisions. Any party aggrieved or adversely affected by the city council's decision on a challenge conducted pursuant to subsection (f)(1), may challenge such decision by filing a petition for writ of certiorari as provided by the Florida Rules of Appellate Procedure in the Circuit Court of Orange County. The petition for writ of certiorari shall be filed within 30 days of the rendition of the city council's decision, or the right to challenge the decision is waived. The court shall not conduct a trial de novo, but shall be limited to reviewing whether the decision was supported by competent substantial evidence in the record, the essential elements of the law were followed and due process was afforded. The proceedings before the city council, including applicable city ordinances, rules and regulations, testimony of witnesses, and any exhibits and documents filed before it, shall be the subject of review by the circuit court. The person filing the petition for certiorari shall be responsible for filing with the circuit court a true and correct transcript and the complete testimony of the witnesses from the city council hearing or meeting in which the decision was rendered. Any aggrieved person may intervene as a respondent in the certiorari proceeding authorized by this section.

Sec. 18-9. - Use permits—Recreation facilities. {Unclear what they wish to do with the existing 18-9}

(a) Negotiated agreements for recurring use. Regardless of any restrictions to the contrary, nothing in this article shall prohibit the city from entering into a negotiated agreement with any

person or organization for recurring use of a city recreation facility in return for renovation or maintenance of the facility, provision of a particular recreation program, or similar consideration. Such agreements shall require the approval of the city council.

(b) Permit required for reserved use. Except as provided in subsection 18-9(a), reserved use of recreation facilities shall require obtaining a use permit in accordance with section 18-8 of this chapter. Applications for recreation facility use permits shall be submitted no less than two weeks in advance of the date of the activity and no more than two months in advance.

(c) Prohibited activities.

(1) No act prohibited by section 18-13 of this article shall be permitted in city recreation facilities, including the sale or consumption of alcoholic beverages.

(2) No person shall conduct or participate in any sport or in any organized athletic activities within any recreation area other than in such areas as may be designated for such sports, games or athletic activities, or in any areas where the city has posted signs prohibiting such activities.

(d) Sales and commercial uses. Authorized user groups which desire to use concession stands or other facilities for fund raising purposes shall be allowed to do so subject to policies and fee requirements contained herein. Proposed uses which are determined by the city to be solely a commercial undertaking and without educational, recreational or cultural benefit to the community shall not be allowed on the premises of recreational facilities.

(e) Denial of facility use. The city shall have the authority, based on cause, to deny use of all or any portion of a recreational facility to any group or individual who has abused the privilege of facility use, including failure to comply with the general policies and rules governing the use of city parks and recreation facilities.

~~Sec. 18-12. -- Alcoholic beverages, controlled dangerous substances, alms, gambling.
While in a public park or recreation area, all persons shall conduct themselves in a proper and orderly manner, and in particular, no person shall:~~

~~(1) — Bring alcoholic beverages in unsealed containers or controlled dangerous substances, drink or use same at any time nor shall any person be under the influence of a controlled dangerous substance in a park or recreation area.~~

~~(2) — Solicit alms or contributions for any purpose, whether public or private.~~

~~(3) — Play, engage or take part in any game or competitive sport for money, or other valuable thing.~~

~~Sec. 18-13. Miscellaneous conduct.~~

~~No person in a park or recreation area shall:~~

- ~~(1) Set up tents, shacks, or any other temporary shelter for the purpose of overnight camping, nor shall any person leave in a park after closing hours any movable structure or special vehicle to be used or that could be used for such purpose, such as house trailer, camp trailer, camp wagon, or the like except in areas designated for those purposes.~~
- ~~(2) Take part in or abet the playing of any games involving thrown or otherwise propelled objects such as balls, stones, arrows, javelins, horseshoes, quoits, or model airplanes except in those areas designated for such forms of recreation. The playing of rough or comparatively dangerous games such as football, baseball and lacrosse is prohibited except on the field and courts or areas provided therefor. Rollerskating and skateboards shall be confined to those areas specifically designed for such pastimes.~~
- ~~(3) Enter an area posted as "closed to the public" nor shall any person use, or abet in the use of any area in violation of posted notices.~~
- ~~(4) Fail to produce and exhibit any permit such person claims to have upon request of any authorized person who shall decide to inspect the same for the purpose of enforcing compliance with any ordinance or rule.~~
- ~~(5) Disturb or interfere unreasonably with any person or party occupying any area or participating in any activity under the authority of a permit.~~
- ~~(6) Erect or occupy any tent, stand or other structure in any park or playground, or sell or give away from any such tent, stand or other structure any food, drink or other thing, without written permission.~~

Sec. 18-13 - Prohibited acts in city parks and facilities.

It shall be unlawful for any person using city parks and facilities to either perform or allow the performance of any of the following acts, unless such activity is authorized, permitted or supervised by the city:

(a) *Damaging property.* No person shall willfully mark, deface, damage, displace, remove or tamper with any park or facility buildings, tables, benches, fireplaces, railing, paving or paving materials, water lines or other utilities, permanent or temporary signs, placards or notices, monuments, stakes, posts, boundary markers or other structures, equipment or parks or recreation property.

(b) *Improperly using park structures, equipment and furniture.*

(1) No person over the age of 14 years shall trespass upon or play upon or use the playground equipment at any city park other than equipment designated for adult use; however, parents, guardians, and other bona fide caretakers over the age of 14 shall have limited access to playground equipment for the purposes of supervising the use of such equipment by children under their care.

(2) No person shall lie or otherwise be in a horizontal position on a table or bench intended for use by the general public.

(3) No person may erect signs or affix signs to any tree, post, or park facility or grounds, except for city representatives or other individuals authorized by the city to do so.

(4) No person may drive, putt, or otherwise hit a golf ball or throw javelins or other missile type objects except in areas specifically designated for such purposes by the city manager.

(5) No person shall sleep, loiter or prowl in bushes, shrubs, or other foliage located within the parks.

(6) The city manager may develop and post additional safety rules and regulations particular to each facility.

(c) *Polluting waters.* No person shall throw, discharge or otherwise place or cause to be placed in the waters of any fountain, canal, pond or lake or any storm sewer or drain flowing into such waters any substance, matter or things, liquid or solid, which will or may result in the pollution of such waters.

(d) *Damaging plants.* No person shall damage, cut, carve, transplant or remove any tree or plant, or grass area, or injure the bark or pick the flowers or seeds of any tree or plant, nor shall any person attach any rope, wire, sign or other contrivance to any tree or plant.

(e) *Harming or molesting animal life.* No person shall molest, harm, frighten, kill, trap, hunt, chase, capture, shoot or throw missiles at any mammal, bird, reptile or amphibian; nor shall any person remove or in any way harm the eggs, nest or young of any mammal, bird, reptile or amphibian. Fishing shall be permitted in accordance with [section 18-16](#) of this article.

(f) *Littering.* No person shall bring in or dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, refuse or other litter, or place refuse or litter in any waters in or contiguous to any park or facility, or anywhere on the grounds thereof, except for within those receptacles provided by the city and designated for such purposes.

(g) *Igniting fires.* No person shall ignite or attempt to ignite any fire against or on any vegetation or park or facility structure, except in city provided fireplaces or grills when used for cooking. Persons are permitted to use a personal grill of type approved by the city manager or his/her designee in a designated area; provided that such persons accept responsibility for proper off-site disposal of all charcoal, wood chips or other cooking materials after such use.

(h) *Operation of vehicles.* Operation of vehicles shall be according to [section 18-7](#) of this article.

(i) Possessing or consuming alcoholic beverages. No person shall sell, possess or consume alcoholic beverages, including beer or wine; provided, however, the city council may approve the sale or consumption of alcoholic beverages in a city park or facility in conjunction with the issuance of a special event permit when possession and consumption is specifically authorized by permit or license of the state division of alcoholic beverages and tobacco.

(j) Fireworks. No person shall possess, carry or ignite fireworks or sparklers in any city park or facility, unless authorized as part of a city sponsored or authorized event such as a Fourth of July celebration or similar community celebration. The terms "fireworks" and "sparklers" shall have the same meaning as such terms are defined by F.S. § 791.01.

(k) Gambling. No person shall conduct in any city park or facility any card game for money or any other game for money or participate in any form of betting or gambling as defined in Florida Statutes. A drawing for chance conducted by a charitable or non-profit organization may be conducted only in accordance with F.S. § 849.0935.

(l) Vending, soliciting, advertising, etc. No person shall practice, carry on, conduct or solicit for any occupation, business, or profession in any city park or facility; or sell or offer for sale any food, beverage, merchandise, article, or anything whatsoever in any park or facility. No person shall beg or solicit contributions. This paragraph shall not apply to any person, association, organization, entity or group acting pursuant to a contract with the city or under a special event permit granted by the city.

(m) Operating amplified sound equipment. No person shall install, use, and operate within a park amplified sound equipment for the purposes of giving instructions, directions, talks, addresses, or lectures, or for transmitting music to any persons or groups of persons in any park, or in the vicinity thereof, except when installed, used, or operated in compliance with a special event permit issued by the city and when operated in accordance with terms of the permit. This paragraph shall not apply to the use of a loudspeaker or other amplified sound equipment that might be used on an athletic field during an athletic competition or other event sponsored by a school or community organization or when amplified sound equipment is authorized by a negotiated agreement with the city.

(n) Launching or operating aircraft, radio-controlled model airplanes, etc. No person shall launch or operate any aircraft, including but not limited to, drones, hot air balloons, airplanes, ultralights, helicopters and gliders except in areas or at times specifically designated for this purpose by special permit issued by the city manager.

(o) Camping. No person shall camp in a city park or recreation area except at such times and places as may be designated by the city manager and except pursuant to a special permit issued by the city.

(p) Erecting structures. No person shall construct or erect any tent, building, shed, shelter or structure of whatever kind, whether permanent or temporary in character, or run or string

any public service utility into, upon, or across a city park or recreation area except as authorized by the city manager or his/her designee.

(q) *Endangering the public.* No person shall endanger the safety of any person or group by any conduct or act or by any failure to observe the rules established by this article.

(r) *Interfering with use of the park by others.* No person or group shall prevent any other person or group from using any park or any of its facilities, or interfere with such use in compliance with this article and with the rules applicable to such use. Conducting activities authorized by a reserved use or special event permit issued pursuant to this article shall not constitute a violation of this section.

(s) *Lewd or lascivious acts and sexual activity.* No person shall engage in a lewd or lascivious act or sexual activity in a city park or facility.

(t) *Sanitation.* No person shall discharge or otherwise deposit human wastes in a city park or facility, except in appropriate toilet facilities provided by the city for such purposes. Furthermore, no person shall shave or shower in any city park or facility except in appropriate bathing facilities provided by the city for such purposes.

Sec. 18-20. Perkins Boat Ramp.

(a) *Rules and regulations.*

- (1) The city shall issue city residents an annual parking decal for a fee, to be established and modified as deemed necessary by the city council, to be affixed to vehicles attached to watercraft trailers, for parking at the Perkins Boat Ramp. Only vehicles with current parking decals will be permitted to park at the ramp facility.
- (2) The city council shall have the authority to revoke a permit upon a finding of violation of any rule or ordinance or upon good cause shown.
- (3) Rules and regulations specific to the use of the Perkins Boat Ramp shall be posted at the facility and may be modified, as deemed necessary, by the city council.
- (4) Fines for violations of the posted rules shall be assessed. Such fines may be modified, as deemed necessary, by the city council.
- (5) The specific rules and regulations adopted for the Perkins Boat Ramp shall be in addition to any and all other applicable provisions of this chapter and the entire Code.

(b) *Fines and penalties.* In addition to any and all other applicable provisions of this chapter and the entire Code, the following fines and penalties are hereby imposed for violations of rules as stated below. The city council may modify the fines and penalties as they deem necessary by resolution of Council. Any fine adopted or updated by a Council resolution shall supersede any fine posted at the ramp or listed below.

- (1) Vehicles without valid decals affixed will be ticketed: Fine ~~\$100.00~~ \$250.00.
- (2) No glass containers: Fine \$25.00.

- (3) No fueling of watercraft: Fine \$250.00.
- (4) No operation of engines when not in water: Fine \$25.00.
- (5) Trailers without winches prohibited: Fine \$50.00.
- (6) Not using a winch to load vessels onto trailers (power loading): Fine \$50.00.
- (7) Any use of ramp area for base of watercraft operations is strictly prohibited: Fine \$25.00.
- (8) Parking restricted to vehicles with trailers: Fine \$150.00.

Sec. 18-21. Venetian Boat Ramp.

(a) Rules and regulations.

- (1) Rules and regulations specific to the use of the Venetian Boat Ramp shall be posted at the facility and may be modified, as deemed necessary, by the city council.
- (2) Fines for violations of the posted rules shall be assessed. Such fines may be modified, as deemed necessary, by the city council.
- (3) The specific rules and regulations adopted for the Venetian Boat Ramp shall be in addition to any and all other applicable provisions of this chapter and the entire Code.

(b) Fines and penalties. In addition to any and all other applicable provisions of this chapter and the entire Code, the following fines and penalties are hereby imposed for violations of rules as stated below. The City Council may modify the fines and penalties as they deem necessary by resolution of Council. Any fine adopted or updated by a Council resolution shall supersede any fine posted at the ramp or listed below.

- (1) No glass containers: Fine \$25.00.
- (2) No fueling of watercraft: Fine \$250.00.
- (3) No operation of engines when not in water: Fine \$25.00.
- (4) Trailers without winches prohibited: Fine \$50.00.
- (5) Winch Vessels onto trailers: Fine \$50.00.
- (6) Any use of ramp area for base of watercraft operations is strictly prohibited: Fine \$25.00.

Sec. 18-2122. Violations and penalties. (Changes from 18-21 to 18-22 if above is added)

Any person violating any of the provisions of this chapter or any rule or regulation promulgated pursuant hereto shall, upon conviction, be subject to the replacement, repair or restoration of any damaged park property or recreation area property, and shall be subject to the penalties of section 1-12.

SECTION 5. City Code Amended. Section 24-41 “Temporary Construction Dumpsters” of the Belle Isle Code of Ordinances is hereby amended as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions not included are not amended):

Sec. 24-41. Temporary construction dumpsters.

- (a) No person shall place or service a dumpster or roll-off container on residential property for the collection and removal of demolition, construction, or remodeling refuse within the city unless granted the authority and exclusive franchise by the city. All solid waste companies (franchisees) must register with the City clerk's office and execute a franchise agreement prior to leasing dumpsters in the City.
- (b) The franchisee shall be subject to the following operating requirements:
 - (1) No temporary construction dumpster or roll-off container shall be placed on a residential property unless the property owner has first obtained a building or city permit and the dumpster shall remain on the property only so long as the building permit is current.
 - (2) The franchisee shall be responsible for promptly responding to any and all complaints which involve actions that create a nuisance or have the potential to create a nuisance.
 - (3) The franchisee shall handle all collection and removal of debris and refuse from dumpsters and roll-off containers with reasonable care and shall clean up all materials that are spilled during its collection operations.
 - (4) The franchisee shall place the dumpster or roll-off container so as not to obstruct any right-of-way, and shall be set back a minimum of five feet from any property line.
 - (5) The franchisee shall provide only dumpsters and roll-off containers that are good repair so as to prevent leakage of materials ~~and shall remove the collected debris and refuse as necessary to prevent overflow of material from the dumpster or roll-off container.~~
 - (6) The franchisee shall make a cover available to prevent weather from scattering debris, from accumulating water in the dumpster, and to prevent animals or humans from climbing in the dumpster.
 - (7) The franchisee shall remove the collected debris and refuse as necessary to prevent overflow of material from the dumpster or roll-off container.
 - (8) The franchisee shall provide to the city, each month, all locations where it has placed or is servicing any dumpsters within the city and the name of the property owner.
 - (9) The franchisee shall have sole responsibility for the billing and collection of service fees and shall, on a quarterly basis, pay to the city a franchise fee in an amount to be determined by the franchise agreement.
 - (10) Failure by the franchisee to comply with any of these operating requirements may result in the rescission of the franchise by the city.

SECTION 6. City Code Amended. Section 30-32 "Notice to Remove" and Section 30-36 "Removal of Vehicle by City from Property" of the Belle Isle Code of Ordinances are hereby amended as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions not included are not amended):

Sec. 30-32. Notice to remove.

- (a) Public Property: The police department is hereby authorized to remove or cause to be removed, by any towing service authorized by the city, any vehicle from any street, road right-of-way, parkway, or other public parking area to a safe place of storage at the cost of the owner under the following circumstances.
- (1) When any vehicle is parked in violation of any provision of this chapter which prohibits the parking of vehicles at the place where or at the time when the vehicle is found.
 - (2) When any vehicle, the continued presence of which, because of the physical location or condition of the vehicles, poses a danger to the public safety or to the motor vehicle.
 - (3) When any vehicle is left unattended upon any street for any period of time longer (48) hours in any residential district or commercial district. The words "unattended vehicle" as used in this subsection shall mean a vehicle not owned by or in possession of the owner or legal occupant of the property adjacent to the right-of-way upon which the vehicle is parked.
 - (4) When a vehicle upon a street or right-of-way is so disabled as to constitute an obstruction to traffic, or the person in charge of the vehicle is, by reasons of physical injury or condition, incapacitated to such extent as to be unable to provide for its custody or removal.
 - (5) When any vehicle is a stolen vehicle or is subject to seizure and forfeiture under the laws of this state, or of the United States, or is subject to being held for use as evidence in a criminal trial.
 - (6) When any vehicle is parked on any city owned or leased parking facility or area designated for use in connection with the City Hall or other municipal property in violation of the posted signs and time permitted uses.
 - (7) When any vehicle, on at least two (2) prior occasions occurring within any twelve-month period, has been found stopped, standing, or parked in any place within the city limits in violation of this article and whose registered owner has failed or refused to respond to prior parking violation notices for such offenses, and shall be again found parked in any place within the city limits in violation of any provisions of this article. Release of the vehicle shall only be permitted upon payment of outstanding civil penalties, fees, and other related costs.
 - (8) When any vehicle is parked in a location which interferes with the passage of public safety vehicles.

Whenever a wrecked, junked or abandoned vehicle is parked, stored, or left upon public property in violation of this section, the enforcement officer shall post, in a conspicuous place, upon the vehicle the following form:

"NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED PROPERTY:

"THIS PROPERTY, TO-WIT: (SETTING FORTH BRIEF DESCRIPTION) IS UNLAWFULLY UPON PUBLIC PROPERTY KNOWN AS (SETTING FORTH BRIEF DESCRIPTION OF LOCATION) AND MUST BE REMOVED WITHIN ~~TEN-DAYS~~ (48) HOURS FROM THE DATE OF THIS NOTICE; OTHERWISE IT SHALL BE PRESUMED TO BE ABANDONED PROPERTY AND WILL BE REMOVED AND DESTROYED BY ORDER OF THE CITY OF BELLE ISLE WITH THE COST OF REMOVAL ASSESSED AGAINST THE VEHICLE OWNER. FAILURE TO COMPLY WILL RESULT IN A CRIMINAL CHARGE AGAINST THE VEHICLE OWNER. IF YOU DESIRE A HEARING UPON THIS MATTER, YOU MUST REQUEST ONE BY NOTIFYING THE ENFORCEMENT OFFICER, EITHER ORALLY OR IN WRITING, WITHIN THE TEN-DAY PERIOD OF COMPLIANCE PRESCRIBED HEREIN. BY ORDER OF THE CITY OF BELLE ISLE, BELL ISLE CITY CODE, CHAPTER 30, ARTICLE II, DATED THIS _____ DAY OF _____, 20____ (SETTING FORTH THE DATE OF POSTING OF NOTICE)

SIGNED: (SETTING FORTH NAME, TITLE, ADDRESS AND TELEPHONE NUMBER OF ENFORCEMENT OFFICER)"

Such notice shall be not less than eight by ten inches and shall be sufficiently weatherproof to withstand normal exposure to the elements.

- (b) *Private property.* Whenever the enforcement officer shall find any wrecked, junked or abandoned vehicle placed, parked, or stored in violation of this article on private property within the city, the enforcement officer shall give written notice to the owner, tenant, occupant, or lessee of the property upon which such vehicle is located of the intention of the city to impound and dispose of such vehicle as provided in this section. The written notice required by this section shall be deemed to have been served if:
- (1) A copy thereof is personally delivered to the party to be notified;
 - (2) A copy is left at the party's usual place of abode with some person of the family above 15 years of age and informing such person of the contents thereof;
 - (3) A copy is mailed by either registered or certified United States mail with return receipt requested; or
 - (4) A copy is attached to the vehicle if the whereabouts of the party to be notified is unknown.

The clerk of the city shall serve, or cause to be served, such written notice of removal, as required by this section, upon the owner, tenant, occupant, or lessee of the private property where the vehicle is located at least ten days prior to the time of compliance. If the name of such party or such person's place of residence or post office address cannot be ascertained after diligent search and inquiry, or in the event a notice sent by either registered or certified mail shall be returned undelivered, it shall constitute sufficient notice when a copy of the same is posted in a conspicuous place either upon the private property on which the vehicle is located, or upon the vehicle itself, advising the owner and all persons interested in the vehicle of the intention of the city to impound and dispose of such vehicle. Such notice shall not be less than eight inches by ten inches and shall be sufficiently weatherproof to withstand normal exposure to the elements. The notice shall contain a demand for removal

within the time specified by this article, and the notice shall advise that upon failure to comply with the notice to remove, the city or its designee shall undertake such removal with the cost of removal to be levied against the owner or occupant of the property and/or vehicle owner, and that the city or its designee shall cause to have filed a criminal charge against such owner or occupant. Such notice shall be substantially in the following form:

"NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED PROPERTY:

"THIS PROPERTY, TO-WIT: (SETTING FORTH BRIEF DESCRIPTION) LOCATED AT (SETTING FORTH BRIEF DESCRIPTION OF LOCATION) IS UNLAWFULLY STORED AND IN VIOLATION OF BELLE ISLE CITY CODE CHAPTER 30, ARTICLE II, AND MUST BE REMOVED WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE; OTHERWISE, IT SHALL BE PRESUMED TO BE ABANDONED PROPERTY AND WILL BE REMOVED AND DESTROYED BY ORDER OF THE CITY OF BELLE ISLE WITH THE COST OF REMOVAL ASSESSED AGAINST THE VEHICLE OWNER, AND/OR OCCUPANT OR OWNER OF THE PROPERTY UPON WHICH SAID VEHICLE IS LOCATED. FAILURE TO COMPLY WITH THIS NOTICE OF REMOVAL WILL RESULT IN A CRIMINAL CHARGE AGAINST THE VEHICLE OWNER, AND/OR OCCUPANT OR OWNER OF THE PROPERTY UPON WHICH SAID VEHICLE IS LOCATED. IF YOU DESIRE A HEARING UPON THIS MATTER, YOU MUST REQUEST ONE BY NOTIFYING THE ENFORCEMENT OFFICER, EITHER ORALLY OR IN WRITING, WITHIN THE TEN-DAY PERIOD OF COMPLIANCE PRESCRIBED HEREIN. BY ORDER OF THE CITY OF BELLE ISLE, BELLE ISLE CITY CODE, CHAPTER 30, ARTICLE II, DATED THIS _____ DAY OF _____, 20__ (SETTING FORTH DATE OF POSTING OF NOTICE)

"SIGNED: (SETTING FORTH NAME, TITLE, ADDRESS AND TELEPHONE NUMBER OF ENFORCEMENT OFFICER)"

(c) Release of any vehicle shall only be permitted after verification of payment by the Belle Isle Police Department was made for all outstanding civil penalties, fees, tickets, and other related costs.

Sec. 30-36. Removal of vehicle by city from property.

Members of the police department of the city are hereby authorized, but are not required, to have immediately removed any vehicle from any street or alley or other public place within the city by the city's authorized towing service under the following circumstances:

- (a) When such vehicle is in violation of any portion of this chapter.
- (b) When a vehicle upon a street or alley is:
 - (1) Disabled or when the person in charge of the vehicle is by reason of physical injury or condition incapacitated to such an extent as to be unable to provide for its custody or removal and the vehicle is obstructing traffic or otherwise creating a safety hazard.
 - (2) Disabled, abandoned, or otherwise left in a manner obstructing traffic or otherwise creating a safety hazard.

- (3) Stolen, subject to forfeiture, being held as evidence or contains evidence in a criminal investigation, or the driver is being arrested and the arresting officer decides to remove the vehicle from the location to protect the vehicle from potential damage.
- (c) When any vehicle is parked on any municipal parking facility or area designated or used in connection with city hall, the police station or other municipal property of the city in violation of the posted signs and the permitted uses.
- (d) When any motor vehicle remains stopped or parked on any property owned or controlled by the city not designated for parking; longer than allowable posted times; overnight; or in a manner endangering the safety and security of any property owned or controlled by the city. If the towing is due to a security concern, and such concern is ultimately determined to be unfounded, the chief of police reserves the right to waive any tow fee.
- (e) Storage, cost and removal of impounded vehicles.
- (1) When a vehicle is removed under this chapter, notice of storage and costs shall be sent to the vehicle owner within seven days via certified mail, return receipt requested, pursuant to the provisions of F.S. § 713.78.
- (2) Owner responsibility. The cost of towing, or removing a vehicle impounded or immobilized under this section and the cost of storing the same or removing the immobilization device, shall be chargeable against the vehicle owner and a lien shall be placed upon the vehicle. Before the release of the vehicle, the owner of the vehicle shall pay these charges and any outstanding parking tickets, administrative delinquency or collection fees owed. The vehicle shall be stored in a private place and the towing and/or storage charges shall be set by the private towing company. All of such charges shall be the responsibility of the vehicle owner.
- (f) Notice to vehicle owner.
- (1) Upon taking possession of any vehicle, as provided in this section, the towing company shall follow guidelines set forth in F.S. § 715.05 regarding notification of owner, upon towing or removing a motor vehicle.
- (2) Notification shall be by certified mail, return receipt requested, and shall notify the owner and all lien holders of the location of the vehicle and the fact that it is unclaimed. Notice shall be given within seven days excluding Saturdays and Sundays, from the date of storage and shall be complete upon mailing.
- ~~(a) If at the end of ten days after posting the notice provided for in this article, the owner or any person interested in the abandoned, wrecked or junked vehicle described in such notice has not removed the vehicle from the property at the location described in such notice, or has failed to show reasonable cause for failure to do so, the enforcement officer may cause the vehicle to be removed and disposed of or destroyed, and the salvage value, if any, of such vehicle shall be retained by the city clerk of the city to be applied against the cost of removal and disposition or destruction thereof. Additionally, the clerk of the city shall notify the county sheriff's department of the violation for the purpose of obtaining service on the owner of a notice to appear in court pursuant to Rule 3.125, Florida Rules of Criminal Procedure. It shall be unlawful for any person to interfere with, hinder, or refuse to~~

~~allow such person authorized by the enforcement officer to enter upon private property for the purpose of removing a vehicle under the provisions of this article.~~

~~(b) When an abandoned, junked, or wrecked vehicle is creating a traffic hazard because of its position in relation to the highway or its physical appearance is causing the impeding of traffic, its immediate removal from the highway by a towing service may be authorized by order of the enforcement officer.~~

SECTION 7. Codification. Sections 2-6 of this Ordinance will be incorporated into the Belle Isle City Code. Any section, paragraph number, letter, and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical, and similar or like errors may be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this ordinance or the City Code may be freely made.

SECTION 8. Severability. If any section, subsection, sentence, clause, phrase, word, or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion will be deemed a separate, distinct, and independent provision, and such holding will not affect the validity of the remaining portions of this Ordinance.

SECTION 9. Conflicts. If a conflict arises between this Ordinance and any other ordinance or provision of law, this Ordinance controls to the extent of such conflict, as permitted under the law.

SECTION 10. Effective date. This Ordinance will become effective immediately upon adoption by the City Council of the City of Belle Isle, Florida.

FIRST READING: _____, 2022

SECOND READING: _____, 2022

ADOPTED this ____ day of _____, 2022, by the City Council of the City of Belle Isle, Florida.

CITY COUNCIL
CITY OF BELLE ISLE

Nick Fouraker, Mayor

ATTEST:

Yolanda Quiceno, City Clerk

Date