



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

**Meeting Date:** March 5, 2019

**To:** Honorable Mayor and City Council Members

**From:** B. Francis, City Manager

**Subject:** Land Development Code Change for Commercial Planned Developments

**Background:** At April 24, 2018 P&Z meeting, the P&Z Board discussed changing the Land Development Code (LDC) to allow for Planned Development (PD) in the commercial zones and recommended that these changes be made to the LDC.

At the present, the code only addresses residential plan developments. If the City seeks to make a change with a commercial development the City is restricted to changes except in the variance process. It is common to have PD regulations for residential developments as well as commercial. The City cannot condition straight zoning but the City can condition Planned Development's which are tied to a development order.

The amendments provide the mechanism to do this and remove language regarding residential densities that is part of the City's Comprehensive Plan and do not belong in the LDC. Having comprehensive plan language also in the LDC could create internal conflicts between the documents if the text of the Comprehensive Plan, or LDC, is amended. These standards also appear elsewhere in the LDC.

At the November 18, 2018 Council meeting, the Council accepted the recommendations of the P&Z Board and directed the ordinance be moved to a first reading. At the first reading the Council had concerns about deleting the table that showed residential density and height, and tabled the reading until this could be resolved.

**Staff Recommendation:** Move to read the ordinance to a second reading.

**Suggested Motion:** I move that we move Ordinance 18-05 to a second reading and adoption at the March 19, 2019 Council Meeting.

**Alternatives:** Keep the current language which does not allow for Commercial PDs

**Fiscal Impact:** None

**Attachments:** City Planner Memo  
Excerpts from BI LDC showing max. heights  
Excerpt from Comprehensive Plan (highlighted)  
Draft Ordinance 18-05



April Fisher, AICP  
[fisherpds@outlook.com](mailto:fisherpds@outlook.com)  
407-494-8789

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February 28, 2019

To: Mayor and City Council

From: April Fisher, City Planner

Re: **Amendments to the Land Development Code to create commercial planned development zoning standards and remove antiquated and conflicting language regarding density standards**

The City of Belle Isle Land Development Code currently has standards for residential planned development but not for commercial. It is in the best interest of the City to have development flexibility with both residential and commercial projects when deemed appropriate. These amendments provide the mechanism to allow this, should there be a commercial development proposal not conforming to standard commercial zoning district requirements. City Council may utilize the contractual planned development district to benefit the City.

These amendments also remove language regarding residential densities inconsistent with the City's Comprehensive Plan. The Comprehensive Plan is the City's Policy document that, among other policies regarding land use, infrastructure and facilities, establishes Future Land Use designations with density ranges allowed. The Land Development Code effectuates these through the zoning districts that correspond to the Future Land Use designations such as low density residential (LDR) or medium density residential (MDR).

Future Land Use designations and densities must be established in the Future Land Use Element of the Comprehensive Plan as required by Section 163.3177, Florida Statutes. Any changes regarding these must go through the "State Coordinated Review Process" with the Florida Department of Economic Opportunity (DEO).

Having comprehensive plan language in a land development code may create internal conflicts between the documents if the text of the Comprehensive Plan is subsequently amended. This is the case currently in the City's Documents. Sections of the Land Development Code regarding densities have not been updated since 1992 and 2005. The Comprehensive Plan was updated in 2010. Additional clean-up of Chapter 54 will be forthcoming to make it consistent with the Comprehensive Plan.

As an example, the Land Development Code provides a high density residential (HDR) category of 10.01-12 dwelling units per acre. This future land use and its density range do not exist in the Comprehensive Plan and therefore are not permitted. An excerpt from the Comprehensive Plan that lists the residential densities in Future Land Use Policy 1.2.2 is attached here for your review.

It is not recommended for a jurisdiction to have future land use and density language in its land development code due to this internal inconsistency scenario. Doing so may lead to land use entitlement legal challenges.

**Staff Recommendation**

Staff recommends approval of the proposed Planned Development District standards amendments and Ordinance 2018-05.

**Sec. 54-32. - Low-density residential.**

The low-density residential land use allows for residential development at less than five and five-tenths (5.5) units per acre. The most appropriate type of residential development in this land use classification is single-family detached dwellings. The zoning categories that are most consistent with this land use classification are R-1-AAA, R-1-AA, R-1-A, and R-1. One of the most important functions of this land use is to preserve existing and future neighborhoods from the encroachment of nonresidential uses and the stress of over-development on the city's roads, parks, and other services.

(Ord. No. 92-6, ch. II, art. A, § 1, 12-15-1992; Ord. No. 05-09, § 1, 5-7-2005)

**Sec. 54-33. - Medium-density residential.**

The medium-density residential land use allows for residential development at 5.5 to ten units per acre. The most appropriate types of residential development for the medium-density residential land use are detached and attached single-family dwellings, such as duplexes, and mobile homes. Townhouses, apartments and multiplexes are also appropriate uses. The two zoning categories consistent with the medium-density residential land use are R-2 and R-3. One function of this land use classification is to provide a transition between more intense uses, such as a shopping center, and less intense uses, such as single-family dwellings.

(Ord. No. 92-6, ch. II, art. A, § 2, 12-15-1992)

**Sec. 54-76. - Multiple-family dwelling districts R-2, R-3.**

(a) *Intent and purpose of district.* The multiple-family dwelling districts are composed of certain limited areas where it is desirable, because of an established trend, to recognize a more intensive form of residential use than in the single-family districts. Provision is made for the erection of duplex dwelling structures in the R-2 district. Residential uses are permitted at high population densities in the R-3 district. Certain structures and uses required to serve public, educational, religious, utilities, and noncommercial recreational needs of such areas are permitted as special exceptions.

(2) Only the following uses shall be permitted within any R-3 district:

- a. Any use permitted in the R-2 district.
- b. Multiple-family dwellings.
- c. Boardinghouses and lodging houses.

(c) *Special exceptions.* These uses shall be permitted as special exceptions provided that any review and hearing of an application for a special exception shall consider the character of the neighborhood in which the proposed use is to be located and its effect on the value of surrounding lands, and further, the area of the site as it relates particularly to the required open spaces and off-street parking facilities. The following uses may be permitted as a special exception:

- (9) Buildings in excess of 30 feet in height. (R-3 district only.)

Sec. 50-73. - Site and building requirements.

(a) *Basic requirements.* The basic site and building requirements for each zoning district are established as follows:

Zoning	Building Setback			Minimum Lot		Minimum	Maximum	
	Front	Rear*	Side	Width	Size**	Floor Area**	Building Height	
A-1	35'	50'	10'	100'	21,780	425	none	
A-2	35'	50'	10'	100'	21,780	425	none	
R-1-AAA	30'	35'	10'***	100'	32,670	2,000	35'	
R-1-AA	30'	35'	7.5'***	85'	10,000	1,500	35'	
R-1-A	25'	30'	7.5'***	75'	7,500	1,200	35'	
R-1	25'	25'	6'	60'	6,000	900	35'	
R-2	25'	25'	6'	60'	7,500	600	35'	
R-3:								
1—4 units	25'	30'	6'	60'	6,000	600	35'	
5+ units	25'	30'	10'##	85'	10,000##	500	35'	
PD	To be determined as part of the PD process.							

P-O	25'	30'	10'#	85'	10,000	500	35'
C-1	25'	20'	5'###	80'	6,000	500	30'
C-2	25'	20'	5'###	100'	6,000	500	50'
C-3	25'	20'	5'###	100'	6,000	500	50'
PUB	25'	25'	6'	60'	6,000	500	35'

*Notes:*

\*

The setback from Lake Conway shall be 50 feet from normal high-water elevation (86.9 contour line).

\*\*

In square feet

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Any lot of record less than 60 feet shall require a side setback of six feet.

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For one-story and two-story buildings, plus two feet for each additional story.

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Plus 2,000 square feet for each additional unit over four.

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Side setback of 15 feet when abutting residential district.

(b) *Location of dwellings in residential districts.*

- (1) There shall be a minimum of 20 feet between any two dwelling structures on the same lot.
- (2) No dwelling shall be erected on a lot which does not abut on a street for a distance of at least 15 feet.

POLICY 1.2.1:

The City of Belle Isle shall continue to adopt LDC's that contain specific ways to implement the Comprehensive Plan, including but not limited to:

- a) Update the City's Subdivision Regulations;
- b) Regulate areas subject to seasonal or periodic flooding;
- c) Regulate use of land and lakes consistent with the Comprehensive Plan;
- d) Ensure compatibility of adjacent land uses;
- e) Maintain the level of service standard for recreation areas and open space;
- f) Regulate signage;
- g) Ensure safe and convenient ingress/egress via interlocal agreements, and parking for all developments;
- h) Protect identified historical sites;
- i) Ensure that development orders and permits shall not be issued which lower the level of service for public facilities and service below the standards adopted in this Comprehensive Plan;
- j) Develop a landscape ordinance, including an arbor section, which requires the use of Xeriscaping.

POLICY 1.2.2:

The Residential land use categories shown on the Future Land Use Map shall have the following maximum densities for both development and redevelopment:

- a) Low Density Residential: 0 to 5.5 units per acre;
- b) Medium Density Residential: 5.6 to 10 units per acre;

\* Density shall be defined as the total number of units divided by the number of acres suitable for development (not including wetlands, lakes, muck, etc).

POLICY 1.2.3:

In January 1992, the City of Belle Isle established an Interim Wellhead Protection Program in conjunction with Orange County and St. John's River Water





1 Comprehensive Plan and recommended that the City Council adopt the revised planned development district  
2 regulations; and

3  
4 **WHEREAS**, the City Council held two (2) public hearings on \_\_\_\_\_, and \_\_\_\_\_, to receive public  
5 comments, and considered the recommendation of the Planning and Zoning Board and the proposed planned  
6 development district regulations; and

7  
8 **WHEREAS**, the Board has found and determined that the adoption of the proposed revised planned  
9 development district regulations will foster and preserve the public health, safety and welfare and aid in the  
10 harmonious, orderly and progressive development of the City, and thus serve a valid public purpose.

11  
12 **NOW, THEREFORE BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF BELLE ISLE, FLORIDA, AS FOLLOWS,**

13 **Section 1. Recitals**

14 The foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a part  
15 of this ordinance.

16  
17 **Section 2. Land Development Code Amendment**

18 Chapter 54, Article III of the City Land Development Code Section 54-77 is hereby amended, as follows:

19 **Sec. 54-77. - Planned development district PD.**

20 (a) *Intent and purpose of district.* The intent and purposes of the planned development district are  
21 as follows:

22 (1) To provide for planned residential or commercial development communities, compatible with  
23 surrounding areas, consistent with the density or intensity permitted under the comprehensive plan,  
24 containing a variety of ~~residential~~ structures and diversity of building arrangements. Under no  
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1 circumstances does this district permit residential densities or intensities greater than that available  
2 under the land use classification for that property.

3 (2) To allow diversification of uses, structures and open spaces in a manner compatible with existing  
4 and permitted uses on abutting properties.

5 (3) To reduce improvement costs through a more efficient use of land and smaller networks of  
6 utilities and streets than is possible through application of conventional zoning districts.

7 (4) To ensure that development will occur according to limitations of use, design, density, coverage  
8 and phasing as set forth on an approved final development plan.

9 (5) To preserve the natural amenities and environmental assets of the land by encouraging the  
10 preservation and improvement of scenic and functional open areas.

11 (6) To encourage an increase in the amount of usability of open space areas by permitting a more  
12 economical and concentrated use of building areas than would be possible through conventional  
13 subdivision development practices.

14 (7) To provide maximum opportunity for application of innovative concepts of site planning in the  
15 creation of aesthetically pleasing living environments on properties of adequate size, shape and  
16 location.

17 (b) *Definitions.* For the purposes of the planned development district, the following definitions shall  
18 apply:

19 (1) *Open space* means the gross acreage exclusive of buildings, vehicular accessways and parking  
20 areas.

21 (2) *Recreation space* means any open space having a minimum size of 10,000 square feet, a  
22 minimum average dimension of 100 feet and a minimum dimension of 50 feet, and improved for  
23 recreational use. Improved trails and paths may also qualify as recreation space.

1 (c) *Uses permitted.* The following uses shall be permitted in the planned development district if  
2 designated on an approved final development plan:

- 3 (1) Attached and detached single-family dwelling units.  
4 (2) Attached multifamily dwelling units.  
5 (3) Public areas ~~compatible to residential uses and limited to the use only, of the residences of the~~  
6 ~~proposed district.~~  
7 (4) Communication towers and antennas.  
8 (5) Commercial uses consistent with the C-1 or C-2 zoning district.

9 (d) *Site development standards.* Site development standards in the planned development district  
10 shall be as follows:

11 ~~(1) The criteria for establishing the densities and height of structures based upon land use~~  
12 ~~classification are as follows:~~

13 Maximum Units per Net Acre

14 Net Density 15 (units/acre)	Maximum Height 16 (feet)	Land-Use Classification
17 3.5 or less	35	Low-Density Residential
18 3.6 to 5.5	35	Low-Density Residential
19 5.6 to 10.0	30	Medium-Density Residential
20 10.0 or more	30	High-Density Residential

21 -  
22 (2) The following site development standards shall apply, unless specifically waived by finding of the  
23 board and the council that the unique characteristics of the development in question make  
24

1 unnecessary the application of one or more of these provisions in order to carry out the intent and  
2 purposes of the planned development district:

3 a. The natural topography, soils and vegetation should be preserved and utilized, where possible,  
4 through the careful location and design of circulation ways, buildings and structures, parking areas,  
5 recreation areas, open space and drainage facilities. Removal of mature trees shall be compensated  
6 through regulations in the tree section.

7 b. All planned development districts shall conform to chapter 50, article III, for landscaping, parking  
8 and other development standards.

9 c. In residential planned developments, a A minimum of 25 percent of the gross area of the project  
10 shall be designated for recreation and open space. Recreation areas shall include, by way of example  
11 not by way of limitation, swimming pools, tennis courts, playgrounds and fitness courses. Open space  
12 shall include, by way of example not by way of limitation, lakes, wetlands, fields, and picnic areas.  
13 Open space shall not include areas required to meet setbacks, retention ponds and parking areas. All  
14 recreation and open space areas used to meet the 25 percent shall be located in areas retained in  
15 common ownership. Adequate provisions shall be made to eliminate problems of noise and lights to  
16 adjacent property.

17 d. The proposed lighting, access points or activities resulting in high noise levels, and location or  
18 arrangement of structures should not be detrimental to existing or future adjacent land uses or to the  
19 existing or future development of the neighborhood.

20 e. Streets to be dedicated to the public shall be designed and built in accordance with the  
21 appropriate sections of the subdivision regulations. Streets and driveways shall be constructed in  
22 accordance with adopted road construction specifications and designed to provide for the free  
23 movement and safety of vehicular traffic, and to provide safe, efficient and convenient access to land  
24 uses within the development and to roadways adjacent to the development. The local, collector and  
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1 arterial street system must provide adequate access to the development, and properly accommodate  
2 traffic generated by the development. Local streets shall provide access within the planned  
3 development district in a manner that will discourage through traffic and provide for convenient  
4 accessibility to parking areas serving each group of units.

5 f. Wherever practicable, vehicular and pedestrian passageways shall be separated. A system of  
6 walkways and bicycle paths between buildings, common open spaces, recreation areas, community  
7 facilities and parking areas shall be distinctively designed and adequately lighted where appropriate  
8 for nighttime use.

9 g. Central water, sewage, and stormwater management systems, and utility lines and/or easements  
10 shall be provided in accordance with the appropriate sections of the subdivision regulations.

11 h. All land shown on the final development plan as common open space, private parks and  
12 recreation facilities shall be subject to deed restrictions which ensure the payment of future taxes and  
13 the maintenance of areas and facilities for a safe, healthful and attractive living environment.

14 i. In order to protect the lakes and canals from destructive activities, no roadways, buildings or other  
15 permanent structures shall be permitted within 50 feet of the normal high-water elevation (~~86.9~~) of  
16 the lakes or canals. Nature walkways, benches and tables are not considered permanent for these  
17 purposes.

18 (e) *Approval procedure.* The review and approval procedure for a planned development district shall  
19 be as follows:

20 (1) *Preapplication conference.* The applicant shall confer with a panel of appropriate city  
21 departments prior to submitting an application for a zoning change to the PD district. The conference  
22 is intended to give the applicant an opportunity to discuss the proposed development and to benefit  
23 from comment by city officials before undertaking the required work program. The panel shall include  
24 the following: planning and development, city manager, mayor and administrative services personnel.  
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1 The city engineer and city attorney shall also be included on the panel. Other local governments  
2 and/or state agencies may also be asked to serve on the panel on an as-needed basis. The planning  
3 and development department shall coordinate the conference, and ensure all other departments and  
4 the applicant are notified of the time and place of the conference.

5 (2) *Preliminary concept plan.* Applications for PD districts shall be accompanied by a preliminary  
6 concept plan and supporting documents that properly present necessary basic data:

- 7 a. Location and size of entire proposed development.
- 8 b. Existing topographic character of the land.
- 9 c. Existing and proposed land use classifications.
- 10 d. Table showing existing and proposed use by type, density and building sizes.
- 11 e. Location of existing and proposed streets and roadways.
- 12 f. Identification of areas to be dedicated to the public.
- 13 g. Identification of areas for recreation and open space.
- 14 h. Typical examples of each building type proposed.
- 15 i. Location of proposed buildings.
- 16 j. Surrounding zoning.
- 17 k. Other information from the preapplication conference.

18 The applicant shall also identify the present ownership of all land included in the development, the  
19 expected sequence of development, and define the objectives and intent of the PD district. The  
20 concept plan should provide enough detail to enable all reviewers to understand the way in which the  
21 proposed development will function.

22 Since the review of the concept plan is conducted in a similar manner as proposed subdivision plats,  
23 the concept plan may serve as the preliminary plat when platting is required, so the review can be  
24 done simultaneously.

1 (3) *Approval of preliminary concept plan and PD district.* The board and the council shall review the  
2 PD district concept plan the same as a rezoning. Specifically, the notice requirement for a concept plan  
3 shall adhere to the same public hearing requirements as a zoning change. If a PD district concept plan  
4 is approved by the council, the city manager shall change the zoning map to designate the property as  
5 PD district, and indicate the date of approval.

6 (4) *Development plan.* Within nine months after preliminary concept plan approval, the applicant  
7 shall submit a development plan and supporting documents. The review is conducted in the same  
8 manner as proposed subdivision plats. If platting is required, the final plat shall be submitted  
9 simultaneously with the development plan. Development plans shall include the following  
10 information:

11 a. Provisions for necessary improvements such as water, sewer, and drainage facilities as well as  
12 systems for firefighting and street lighting.

13 b. The location and dimensions of all rights-of-way or easements for streets, pedestrian ways,  
14 utilities, watercourses, and greenways, as well as proposed subdivision of land.

15 c. The relationship of building locations, arrangements, uses and heights to open areas, streets,  
16 pedestrian ways, landscaping, property lines and adjacent uses.

17 d. Areas proposed to be conveyed, dedicated, or reserved for recreation and open space, and/or  
18 public uses.

19 e. Covenants/restrictions, conditions, agreements, and grants which govern the use, maintenance,  
20 and continued protection of the PD district and common areas.

21 f. Specified design standards applicable to various portions of the PD district as approved by the  
22 council.

23 If the applicant fails to obtain approval of the development plan within one year after approval of the  
24 concept plan, the zoning classification shall revert to its previous zoning classification. However, if the  
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1 previous zoning classification is not compatible with the existing and/or future land use classification  
2 for that property, the city shall administratively rezone the property to an appropriate zoning  
3 classification. The applicant may apply to the council once for an extension of this deadline for a time  
4 period not to exceed one year.

5 (5) *Approval of the development plan.* The council shall review the development plan for substantial  
6 compliance with the concept plan and other designated requirements. Upon approval by the council  
7 at a public hearing, the city manager shall designate said approval and date on the official zoning map  
8 for the PD district included in the approved development plan. After the effective date of such  
9 approval, the use of land and the construction, modifications, or alterations of any buildings,  
10 structures or other improvements within the planned development will be governed by the approved  
11 development plan rather than other standards.

12 (6) *Amendments to concept or development plans.* Substantial proposed changes in requested uses,  
13 densities, development sequences or other specifications of the concept or development plan may be  
14 allowed only after a public hearing and an approval from the council based upon a recommendation of  
15 the board. Any changes shall be noted on the official zoning map. Minor proposed changes,  
16 alterations, or modifications that do not change the requested uses, densities, or development  
17 sequences shall be reviewed and approved by the mayor based upon a recommendation of the  
18 director of planning and development.

19 (7) *Construction requirements.* Approved development plans shall remain in full force and effect for  
20 as long as the applicant carries on substantial, continuous development. The term "substantial" shall  
21 mean that physical improvements are visible and continuous shall mean that the developer  
22 commences construction in accordance with approved plans within 12 months of approval, and does  
23 not cease development for a period longer than 60 days. The council shall have the authority to grant  
24 an extension of this time period for up to 12 months, provided a written request is filed with the  
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1 mayor at least 30 days prior to the expiration of the time period. If the applicant either fails to carry on  
2 substantial, continuous development or obtain an extension from the council within one year after  
3 approval of the development plan, the zoning classification shall revert to its previous zoning  
4 classification. If the previous zoning classification is not compatible with the existing and/or future  
5 land use classification for that property, the department shall administratively rezone the property to  
6 an appropriate zoning classification.

7 (8) *Breach of agreement.* An unapproved deviation from the accepted development plan shall in  
8 addition to all other violations under the Land Development Code and Code of Ordinances constitute a  
9 breach of agreement between the applicant and the city. Such deviation may cause the city to  
10 suspend construction until such time as the deviations are corrected or the development plan is  
11 appropriately modified by the applicant and approved by the council. Failure to correct unauthorized  
12 deviations shall be cause for the development plans to be revoked. Construction shall cease and no  
13 certificate of occupancy shall be issued until a modified development plan is approved or the  
14 deviation is corrected.

15  
16 **SECTION 3. Severability**

17 If any section, subsection, sentence, clause, phrase, word, provision or portion of this Ordinance is held by a  
18 court of competent jurisdiction to be invalid, unlawful or unconstitutional, such shall not invalidate or impair  
19 the validity, force or effect of any other section or portion of a section or subsection of this Ordinance.

20  
21 **SECTION 4. Conflicts**

22 In the event of a conflict or conflicts between this Ordinance and any other ordinance or provision of law, this  
23 Ordinance controls to the extent of the conflict, as allowable under the law.

24 **SECTION 5. Codification**  
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1 This Ordinance shall be incorporated into the Land Development Code of the City of Belle Isle, Florida. Any  
2 section, paragraph number, letter and/or any heading may be changed or modified as necessary to effectuate  
3 the foregoing. Grammatical, typographical and similar or like errors may be corrected, and additions,  
4 alterations, and omissions not affecting the construction or meaning of this ordinance or the Land  
5 Development Code may be freely made.

6  
7 **SECTION 6. Effective date**

8 This Ordinance shall take effect immediately upon its final passage and adoption by the City Council of the City  
9 of Belle Isle, Florida.

10  
11 First Reading held this \_\_\_\_\_ day of \_\_\_\_\_, 2018

12 Second Reading held this \_\_\_\_\_ day of \_\_\_\_\_, 2019

13 Advertised for Second Reading on the \_\_\_\_\_ day of \_\_\_\_\_ 2019.

	<b>YES</b>	<b>NO</b>	<b>ABSENT</b>
16 Ed Gold	_____	_____	_____
17 Anthony Carugno	_____	_____	_____
18 Jeremy Weinsier	_____	_____	_____
19 Mike Sims	_____	_____	_____
20 Harvey Readey	_____	_____	_____
21 Jim Partin	_____	_____	_____
22 Sue Nielsen	_____	_____	_____

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**LYDIA PISANO, MAYOR**

**ATTEST:**

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**Yolanda Quiceno, CMC-City Clerk**

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**Approved as to form and legality**

**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 18-05 was duly and legally passed by the Belle Isle City Council, in session assembled on the \_\_\_\_\_ day of \_\_\_\_\_ 2018, at which session a quorum of its members were present.

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Yolanda Quiceno, CMC-City Clerk