



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

Meeting Date: November 4, 2020

To: Honorable Mayor and City Council Members

From: B. Francis, City Manager

Subject: "After the Fact" (ATF) Permits

Background: As a result of the October 20, 2020 meeting on the above subject, the City Council directed that the City staff research what other municipalities provide in the way of penalties associated with "after-the-fact" permits.

First, I did check with the FLC on this issue, and they do not have this information. Also, just so the Council is aware that one of my first resources is to reach out to the FLC whenever I research a topic. We are members, and we pay dues for FLC to research a wide variety of issues. Since the FLC did not have this information, I contacted a few of my counterparts to see what they could tell me. Most municipalities do not have a large problem or issue with ATF permits. They cite the same reasons that the City Staff has experienced with ATF permits and why people do not choose to get permits or inquire about them. The following municipalities have ATF permit fees:

Orange County	Double the permit fee or \$103, whichever is greater
Orlando	Double the permit fee
Winter Park	Double the variance fee plus triple the permit fee
Maitland	Double the permit fee or \$100, whichever is greater
Apopka	Double the permit fee or \$100, whichever is greater
Winter Garden	Triple the permit fee
Ocoee	100% of the application fee plus double the permit fee
Eatonville	Double the application fee plus triple the permit fee
Altamonte Springs	Depending on the project, double or triple the permit fee.

Currently, Belle Isle is double the permit fee, but it is not much of a deterrent. However, if the Council wants to continue with this fee, there is no need to change the BIMC. For my reasons stated in my previous two memos, I believe that this could be an issue for property owners and staff at some time.

To reiterate, permits are essential because they provide a permanent record of the work performed and inspections conducted on the project. It is important to meet code standards to ensure safety for current and future owners. Codes are not only written for safety reasons but also environmental and energy-saving considerations. For the property owner, home or business is an investment. If a construction project does not comply with the codes, the investment value could be reduced. Also, property insurers may not cover work or damages

caused by work done without permits and inspections. Lastly, the City could make the owner take down the unpermitted work, and therefore the project is more expensive.

Section 6-5 of the BIMC states: The penalty for failure to obtain a permit required by any code or ordinance adopted by this chapter shall be set at the double the permit fee.

The Council also discussed many different fees but did not come to a consensus on a single idea. The Council also did not formally agree to the March 1, 2010 date for ATF permits versus WWP permits, or even if they agree, there should be two permits or one permit.

Therefore the staff requests the Council provide direction on these questions:

1. Does the Council want to have a date of March 1, 2010, as discussed below?
2. Does the Council want to have both the ATF permit and WWP permit or just an ATF permit? The discussion for both is continued below.
3. What is considered a fair penalty but strong enough to dissuade residents from applying for a permit?

DATE

The Council was concerned that many properties currently exist with improvements completed that have been done so without the issuance of a permit and the approval of inspections. Such improvements may affect property insurance, flood insurance, and attempts to transfer title or refinance mortgages. Property improvements completed without the issuance of a permit, and the approval of inspections, are subject to enforcement and current building code regulation. Based on this discussion, the Council was also directed to add language that would provide for properties that fall into this category. However, I would request that the Council consider passing a new motion to make that date March 1, 2010. The reason for this date is this is the approximate date that the City started its own permitting process and is no longer permitted under Orange County. I am also concerned that if the date is set for January 2021, that it could tempt some residents to ignore getting a permit and just build with the intent of getting an after-the-fact permit later.

AFT or AFT/WWP

Based on the Council's above concern, it might be better to separate both issues and handle them differently: **"After-The-Fact" (ATF)** and **"Working Without a Permit" (WWP)**. Categorizing ATF permits separate from WWP is important for the permit applicant and the City staff to understand.

Work done without a permit prior to March 1, 2010, will be considered **"After-The-Fact."** Work done after March 1, 2010, will be considered **"Working Without a Permit."**

"After-The-Fact" is defined as "an improvement made to a property prior to March 1, 2010. The improvement has been existing, used, occupied, or otherwise known to the current owner as legal and is not shown, located or identified upon any property record within the permitting department of the City."

"Working Without a Permit" will be defined as "commencement of an improvement made or completed to a property after March 1, 2010, and prior to the issuance of a permit; the improvement of which may include building, electrical, gas, mechanical, plumbing, or roofing work."

After-The-Fact Permit

The ATF permit's purpose is not to verify compliance with the current code but to observe if the current state of the building, structure, or any component is safe to utilize for its' intended use. Many un-permitted improvements were built years ago, and as such, they may not be in compliance with the current Florida Building Codes and the BIMC.

An ATF permit does not grant permission to make alterations, changes, renovations, or any remodeling improvement, which is the function of a regular building permit. The ATF permit is intended to be a vehicle to document the existing improvement, legitimize existing improvements through inspections, ensure the un-permitted work is safe, and inform any current and future interested parties of the result of ATF inspections.

ATF permits can be considered as the grand-fathering of un-permitted improvements. The improvements of which have been existing, used, occupied, or otherwise known to the current owner as legal and not shown, located, or identified upon any property record within the City.

To assist properties affected by un-permitted improvements, the City would establish a policy to simplify the issuance of permits and simplify the process of inspections for ATF work.

Working Without a Permit

Working without a permit (WWP) is defined as the commencement of an improvement made or completed to a property after March 1, 2010, and prior to the issuance of a permit; the improvement of which may include building, electrical, gas, mechanical, plumbing, or roofing work or work identified, observed, or revealed during the course of an investigation or inspection of a valid permit; the work of which was not specifically described on the original permit application for which the permit was issued. In this instance, the permit applicant will be required to stop their current improvement and obtain approval of their revisions from the building official prior to recommencing their project. This may also require the permit applicant to get another permit for any improvement not included with the original description of work.

FEES

1. **ATF fee would be the cost of a permit plus any inspection costs related to inspections.**
2. **WWP fee: \$500 and double the cost of the permit fee plus all costs related to the issuance of the permit and inspections.**

Staff Recommendation: Direct the staff to prepare the ordinance. If the Council feels the maximum fine is too excessive, then the Council should agree on what the maximum fine should be.

Suggested Motion: **I move that we accept the staff recommendation to increase the after the fact permit penalty and direct that the appropriate ordinance be drafted for a first reading.**

Alternatives: Do not change the current code

Fiscal Impact: TBD

Attachments: None at this time.