

ORDINANCE NO. 21-06

**AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA;
AMENDING § 10-36 OF ARTICLE II OF CHAPTER 10 OF THE
BELLE ISLE CITY CODE OF ORDINANCES PERTAINING TO
CONDITIONS PRECEDENT TO ENFORCEMENT OFFICER'S
ENTRY ONTO PRIVATE PROPERTY FOR INSPECTION OR
COMPLIANCE PURPOSES; PROVIDING FOR SEVERABILITY,
CONFLICTS, CODIFICATION, DIRECTION TO CITY STAFF,
AND THE EFFECTIVE DATE OF THIS ORDINANCE.**

WHEREAS, § 10-36(a) of the City's Code of Ordinances ("Code") presently states that a code enforcement officer has the right to enter onto private property for the purposes of inspecting for code violations and posting notices; and

WHEREAS, the Florida Attorney General has opined that a local government code inspector is not authorized to enter onto any private, commercial, or residential property to assure compliance with or to enforce the various technical codes or to conduct any administrative inspections or searches without the consent of the owner or the operator or occupant of such premises, or without a duly issued search or administrative inspection warrant (see AGO 1984-34; 2002-27); and

WHEREAS, the City desires to amend the Code to better comply with applicable law; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF BELLE ISLE, FLORIDA:

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 Amendment. Section 10-36 of the City of Belle Isle Code of Ordinances is hereby amended as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions; stars * * * * indicate breaks between sections and subsections and do not indicate changes to the City Code).

Sec. 10-36. - Right of entry.

- (a) The enforcement officer may ~~shall have the right to enter~~ upon private property for the purposes of inspecting for code violations as enumerated in sections 10-31(a), 10-31(b), 10-31(c), and 10-32, and for posting code violation notices. Any such inspection or entry will be performed in a lawful manner.
- (b) The enforcement officer shall have appropriate official documentation which identifies the officer as an agent of the city when entering upon private property for the purposes described herein.
- (c) With approval from the city manager, an inspection warrant may be sought from a court to allow a code enforcement officer to access private portions of a property when required by law.

SECTION 3. Codification. This Ordinance shall 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 and the City Code may be freely made.

SECTION 4. 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 shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 5. Conflicts. In the event of a conflict or conflicts between this Ordinance and any other ordinance or provision of law, this Ordinance controls to the extent of any such conflict, as permitted by law.

SECTION 6. Effective date. This ordinance shall become effective immediately upon adoption by the City Council of the City of Belle Isle, Florida.

FIRST READING: _____, 2021

SECOND READING: _____, 2021

ADOPTED this ____ day of _____, 2021, 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

\\\\server\\users\\DL\\Clients\\Belle Isle, City of\\General B900-29001\\Ordinance\\Ordinance 21- Code Enforcement Amendment.docx