

**ORDINANCE 06-06**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELLE ISLE, FLORIDA, AMENDING CHAPTER 48, ARTICLE III SECTION 48-63 OF THE BELLE ISLE CODE OF ORDINANCES TO PROVIDE REGULATIONS FOR THE REMOVAL OF TREES FROM DEVELOPED PROPERTIES, PROVIDING FOR SEVERIBILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council recognizes that trees benefit the city by decreasing noise and air pollution, conserving energy and soil, minimizing flooding, providing food and cover for urban wildlife, and providing value and stability to business and residential neighborhoods, and recognizing that most species of trees require at least two decades of growth to begin to exhibit such beneficial qualities; and

**WHEREAS**, the City Council has determined that it is in the public interest of the citizens of Belle Isle to minimize the removal of established trees from developed properties within in the City;

**NOW THEREFORE BE IT ORDAINED** by the city council of the City of Belle Isle, Florida, as follows:

**SECTION 1.** Chapter 48, Article III, Sec. 48-63 of the Belle Isle Code of Ordinances is hereby amended, as follows:

Sec. 48-63 Tree protection.

(a) *Intent and purpose.* The purpose and intent of this article is to establish protective regulations for trees in the city and the planting of an acceptable tree in another place on the same property or in a public place. This article also encourages the protection of trees which the city has recognized, and which the city stands to lose unless protective measures are taken. It shall be unlawful to cut down, remove, damage, poison, detrimentally alter or in any other manner destroy or cause to be destroyed any trees covered by this article, except in accordance with the provisions of this article.

(b) *Definitions.* The following words, terms, and phrases when used in this article shall be defined as follows:

*Clearing* means the removal of a tree by digging, pushing, or cutting, or the effective removal through damage.

*Diameter breast height (DBH)* means the diameter, in inches, of a tree measured at 4.5 feet above the existing grade.

*Dripline* means an imaginary line on the ground defined by vertical lines which extend from the outermost tips of the tree branches to the ground.

*Tree* means any living, woody, self-supporting perennial plant which normally grows to a minimum height of 15 feet.

*Tree, stand of,* means a naturally occurring grouping of five or more trees forming a canopy of vegetation which results in a single unified dripline.

(c) *Exceptions and exemptions.*

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

- a. Commercial plant nursery or tree farm.
- b. Public right-of-way or easement.
- c. Citrus groves cleared for replanting.

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

(d) *Permit requirements.* No recommended tree (as defined by subsection paragraph (3)a. of this subsection (d)) shall be removed from any developed property and ~~No~~ land clearing for development shall occur in the city without the owner first obtaining a permit from the city, except where noted. The city manager or the city manager's designee may issue a tree removal permit for the removal of specific trees.

(1) *Review fee; survey information.* The owner of the property shall submit a \$25.00 review fee, a tree removal permit application, and a tree survey consisting of the following information:

- a. A scaled aerial photograph or drawing (minimum one inch equals 300 feet).
- b. Property boundaries.
- c. Identify location, names and height of all stands of trees.
- d. Identify location, DBH, names and height of all individual trees, which are six inches DBH or greater.
- e. Indicate which trees are proposed for removal.
- f. Reason for removal.

(2) *Criteria for removal.* Tree removal may be approved where design modifications are not feasible or reasonable and one or more of the following circumstances exist:

- a. The location of the tree restricts the opening of a street or road right-of-way.
- b. The location of the tree restricts the construction of utility lines or drainage facilities.
- c. The location of the tree restricts access to the property.

- d. The location of the tree restricts a use of the property consistent with all other city regulations.
- e. The tree constitutes a hazard to life or property which cannot be mitigated without removing the tree.
- f. The tree is dying or dead such that its restoration to sound condition is not practical or it has a disease which can be expected to be transmitted to other trees and endanger their health.
- g. The selective removal of up to 25 percent of existing trees, with a DBH of six inches or less, to provide increased light and air circulation.

(3) *Replacement of trees.* Recommended trees with a DBH of six inches or less and/or restricted trees, regardless of DBH, that are approved for removal shall not require replacement. Recommended trees with a DBH of six inches to 24 inches shall be replaced at a 1:1 ratio with trees from the recommended list. Recommended trees with a DBH of 24 inches or greater shall be replaced at a 2:1 ratio with trees from the recommended list.

- a. *Recommended trees.* The following tree replacement species are suggested, and may be used as replacement stock without prior approval. Other replacement trees may be used but must be native to Florida and be approved by the city manager. *Selecting and Planting Trees for the Central Florida Urban Forest*, by the Florida Urban Forestry Council, shall be used as a guide.

1. Live Oak.
2. Sweet Gum.
3. Sycamore.
4. Bald Cypress.
5. Southern Magnolia.
6. Dahoon Holly.
7. Southern Red Cedar.
8. Flowering Dogwood.
9. Chickasaw Plum.
10. Fringe Tree.
11. Wax Myrtle.
12. Winged Elm/Corked Elm.
13. Chinese Elm.
14. Magnolia, "Little Gem."
15. River Birch.
16. Shumard Oak.
17. Slash Pine.
18. Swamp Chestnut Oak.
19. Sweetbay Magnolia.
20. Tulip Poplar.
21. Crape Myrtle.
22. East Palatka Holly.
23. Golden Trumpet.

24. Japanese Privet.
25. Loquat.
26. Redbud.
27. Canary Island Date Palm.
28. Chinese Fan Palm.
29. Sabal Palm.
30. Washingtonia Palm.

b. *Restricted trees.* The following trees shall not be used as replacement stock within the city:

1. Silk Oak (*Grivellea robusta*).
2. Chinaberry (*Nebia azedarch*).
3. Jacaranda (*Jacaranda acutifolia*).
4. Cajeput or Punk Tree (*Melaluca leucadendra*).
5. Australian Pine (*Casuarina* species).
6. Florida Holly or Brazilian Pepper (*Schinus terebinfolius*).
7. Cama Eucalyptus (*Eucalyptus camaldulensis*).
8. Chinese Tallow Tree (*Sapium sebiferum*).
9. Ear Tree (*Enterlobium cyclocarpum*).
10. Mimosa (*Albizzia julibraissin*).
11. Paper Mulberry (*Broussonetia papyrifera*).
12. Laurel Oak.
13. Water Oak.

(4) *New developments.*

a. *Subdivisions.* The information required in subsection (d)(1) of this section shall be submitted as part of the preliminary plat for all new residential and nonresidential subdivisions. The final plat approval shall constitute a tree removal permit for the purposes of this section.

b. *Site plans.* The information required in subsection (d)(1) of this section shall be submitted as part of the site plan for all new commercial, professional-office, industrial and multifamily residential developments. The building permit shall constitute a tree removal permit for the purposes of this section.

c. *Tree protection during construction.*

1. Following development approval, it shall be unlawful for any person, during the construction of any structures or other improvements, to place solvents, material, construction machinery or temporary soil deposits within the dripline of any tree designated to remain.

2. It shall be the responsibility of the developer or applicant to ensure that any tree designated to remain be protected. The property owner shall guarantee survival of retained or replacement trees for one year from the acceptance of the subdivision improvements by the city or the issuance of a certificate of occupancy for site plans.
3. If posts are used as protective barriers, they shall be placed at points not closer than one-half the radius of the dripline of the protected tree. Each section of the barrier shall be clearly visible (flagged with brightly colored plastic tapes or other markers). No attachments or wires other than those of a protective or nondamaging nature shall be attached to any tree.
4. The city may conduct periodic inspections of the site. It is the responsibility of the applicant to ensure that all provisions of this section are met.

(5) A tree removal permit issued to the owner of a developed property shall remain in effect for one year from the date of issuance. If the action applied for is not completed within the permit's effective date, a new tree removal permit must be obtained.

(e) *Variances and penalties.*

(1) *Variances.* Variances to this section may be applied for in accordance with the variance section of this Land Development Code (chapter 42, article III).

(2) *Penalties.* Violations of this section shall be subject to the following:

- a. Where violations of this section have occurred, remedial action shall be taken to restore the property consistent with a restoration plan approved by the city manager or the city manager's designee. The restoration plan shall require tree replacement from the recommended list at not less than 2:1 and not more than 4:1 and;
- b. No certificate of occupancy or certificate of completion shall be issued for any development or project until all applicable permit or restoration plan conditions have been accomplished. For developed properties, failure to take the remedial action required by the restoration plan shall constitute a continuing violation of this section, and shall be referred to the Code Enforcement Board for enforcement as provided by Chapter 14, Article II of this Code, and

- c. The city shall fine the applicant \$250.00 per tree which was removed in violation of this section.

**SECTION 2. SEVERABILITY.** If any word, phrase, sentence, clause or other portion of this Ordinance is determined to be invalid, void, or unconstitutional, the remainder of this Ordinance shall remain in effect.

**SECTION 3. EFFECTIVE DATE.** This ordinance shall become effective upon adoption.

FIRST READING: held this \_\_\_\_ day of \_\_\_\_\_, 2006

SECOND READING: held this \_\_\_\_ day of \_\_\_\_\_, 2006

	<b>YES</b>	<b>NO</b>	<b>ABSENT</b>
David L. Jacquot	_____	_____	_____
Trudy Prince	_____	_____	_____
Charles Scott	_____	_____	_____
Larry Ady	_____	_____	_____
Bill Ravenel	_____	_____	_____
Sarah G. Goodwin	_____	_____	_____
Eric Spaulding	_____	_____	_____

ATTEST:

\_\_\_\_\_  
William G. Brooks, Mayor

\_\_\_\_\_  
Belinda Bateman, MMC, City Clerk

\_\_\_\_\_  
Approved as to form and legality  
John F. Bennett, City Attorney