



CITY OF BELLE ISLE, FL
CITY COUNCIL SPECIAL CALLED SESSION
Held in City Hall Chambers 1600 Nela Avenue

Wednesday, September 28, 2022 * 10:00 AM

AGENDA

City Council Commissioners

Nicholas Fouraker, Mayor
Vice-Mayor – Jim Partin, District 7

District 1 Commissioner – Ed Gold | District 2 Commissioner – Anthony Carugno | District 3 Commissioner – Karl Shuck | District 4 Commissioner – Randy Holihan | District 5 Commissioner – Beth Lowell | District 6 Commissioner – Stan Smith

1. Call to Order and Confirmation of Quorum

2. Approval of Ordinances 22-08 and 22-09

- a.** ORDINANCE NO. 22-08 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELLE ISLE, FLORIDA, ESTABLISHING AN IDLE SPEED AND NO WAKE ZONE TO REGULATE THE WAKE CREATED BY BOATS, VESSELS, AND WATERCRAFT PROPELLED OR POWERED BY MACHINERY ON THE CONWAY CHAIN OF LAKES; PROVIDING FINDINGS; PROVIDING DEFINITIONS; PROVIDING FOR AN OPERATION STANDARD FOR THE BOATS, VESSELS, AND WATERCRAFT IN THE IDLE SPEED, NO WAKE ZONE; PROVIDING FOR EXEMPTIONS; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.
- b.** EMERGENCY ORDINANCE NO. 22-09 - AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELLE ISLE, FLORIDA, DECLARING A STATE OF EMERGENCY WITHIN THE CITY OF BELLE ISLE WITH THE DECLARATION OF EMERGENCY BY THE GOVERNOR; ADOPTING EMERGENCY REGULATIONS TO ADDRESS PREPARATION FOR AND THE AFTERMATH OF HURRICANE IAN; PROVIDING FOR NON-CODIFICATION, SEVERABILITY, AN EFFECTIVE DATE AND SEVEN DAYS EXPIRATION UNLESS TERMINATED EARLIER OR EXTENDED FURTHER.

3. Adjournment

ORDINANCE NO. 22-08

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELLE ISLE, FLORIDA, ESTABLISHING AN IDLE SPEED, NO WAKE ZONE TO REGULATE THE WAKE CREATED BY BOATS, VESSELS, AND WATERCRAFT PROPELLED OR POWERED BY MACHINERY ON THE CONWAY CHAIN OF LAKES; PROVIDING FINDINGS; PROVIDING DEFINITIONS; PROVIDING FOR AN OPERATION STANDARD FOR THE BOATS, VESSELS, AND WATERCRAFT IN THE IDLE SPEED, NO WAKE ZONE; PROVIDING FOR EXEMPTIONS; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

WHEREAS, Hurricane Ian has caused extensive damage to the docks and boats, vessels, and watercraft on the Conway Chain of Lakes; and

WHEREAS, there is a large amount of submerged or sunken debris such as docks and boats in the Conway Chain of Lakes are considered hazards; and

WHEREAS, high boats, vessels, watercraft, and persons being towed by boats may not be able to see the hazards throughout the Conway Chain of Lakes; and

WHEREAS, The Governor of the State of Florida issued a State of Emergency, Executive Order Number 22-219; and

WHEREAS, Section 4.C. of Executive Order Number 22-219 authorizes the political subdivision has the power and authority to waive the procedures and formalities otherwise required of the political subdivision by law pertaining to the performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community; and

WHEREAS, The City of Belle Isle is authorized under F.S. 252.38 to adopt emergency ordinances to ensure the health, safety, and welfare of the community

1 WHEREAS, given the uniquely hazardous present conditions, the Belle Isle City Council finds and
2 determines that, subject to limited exceptions, an idle speed, no wake zone, is created on the Conway Chain of
3 Lakes as set forth herein by emergency ordinance is necessary to protect the public health, safety, and welfare
4 of the citizens of Belle Isle.

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

7 Section 1. Findings. The City Council of the City of Belle Isle, Florida makes the following findings:

- 8 a. The prudent and safe operation of boats, vessels, and watercraft is essential to protect the public
9 health, safety, and welfare of the citizens of Belle Isle.
- 10 b. An Idle Speed, No Wake Zone in the Conway Chain of Lakes is necessary to avoid hazards to persons and
11 damage to property resulting from boats, vessels, and watercraft traveling at excessive speeds.
- 12 c. The City Council is empowered to perform public work and take whatever prudent action is necessary to
13 ensure the health, safety, and welfare of the community under Section 252.38(5)(a) of the Florida
14 Statutes.
- 15 d. The City Council is empowered to regulate the speed and wake of boats, vessels, and watercraft under
16 252.38(5)(a) of the Florida Statutes.
- 17 e. The Belle Isle Police Department is empowered to impose penalties under 252.50 for violations of the
18 regulated the speed and wake of boats, vessels, and watercraft under 252.38(5)(a) of the Florida
19 Statutes.

20 Section 2. Definitions

- 21 a. "Person" means an individual, partnership, firm, corporation, or other entity.
- 22 b. "Idle Speed, No Wake Zone" means an area of a waterway, in this instance the Conway Chain of Lakes,
23 in which a boat, vessel, or watercraft cannot proceed at a speed greater than that specified by the Idle
24 Speed, No Wake Zone definition in State Rule Chapter 68D-24.002

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- 1 c. "Idle Speed, No Wake Zone" indicates a boating restricted area, in this instance the Conway Chain of
- 2 Lakes that has been established to protect the safety of the public. "Idle Speed, No Wake Zone" means
- 3 that a boat, vessel, or watercraft cannot proceed at a speed greater than that speed which is necessary
- 4 to maintain Steerageway (Florida Administrative Code, Chapter 68D-24.002)
- 5 d. "Boat, Vessel, or Watercraft" means any vessel being propelled or powered by machinery, including but
- 6 not limited to personal watercraft
- 7 e. "Wake" means all changes in the vertical height of the water surface caused by the passage of a boat,
- 8 vessel, or watercraft, including but not limited to a vessel's bow wake, stern wake, and propeller wash.
- 9 f. "Steerageway" means the minimum rate of motion required for the helm of the vessel to have effect.

10 Section 3. Prohibition. It shall be unlawful for any Person in physical control of a boat, vessel, or watercraft in
 11 the Idle Speed, No Wake Zone to operate the vessel in violation of the Idle Speed, No wake Zone within 500 feet
 12 of any boat ramp, hoist, marine railway, shoreline, or other launching or landing facility available for use by the
 13 general boating public; within 300 feet of a confluence of water bodies presenting a blind corner, a bend in a
 14 narrow channel or fairway, or such other area if an intervening obstruction to visibility may obscure other
 15 vessels or other users of the waterway, and hazardous water levels or currents, or containing other navigational
 16 hazards.

17 Section 4. Exemptions. The restrictions created by this Ordinance shall not apply to a vessel of a federal, state,
 18 county, or City of Belle isle agency while operated by an officer, employee, or agent thereof who is engaged in
 19 law enforcement or other necessary city or governmental activity. Further, the restrictions created by this
 20 Ordinance, shall not apply to vessels operated under emergency conditions during a legitimate emergency.

21 Section 5. Enforcement. This ordinance shall be enforced by the City of Belle Isle Police Department officers
 22 and any other authorized law enforcement officer as provided by Section 252.50 of the Florida Statutes.

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1 Section 6. Penalties. Any person violating any provision of this Ordinance shall be fined not more such amounts
2 that may be authorized by Section 252.50 of the Florida Statutes, as amended. Further nothing herein contained,
3 shall prohibit the Belle Isle Police Department from enforcing this ordinance by any other lawful means.

4 Section 7. Severability. The provisions of this Ordinance are declared to be severable and if any section,
5 sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional, such decisions shall not
6 affect the validity of the remaining sections, sentences, clauses, or phrases of this Ordinance but they shall
7 remain in effect, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of
8 any part.

9 Section 8. Effective Date. This Ordinance shall be in effect immediately on passage by the City Council by at least
10 by a two-thirds vote of the governing body. Further, this Ordinance will be filed with the Florida Fish and
11 Wildlife Commission upon passage.

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13 INTRODUCED AS AN EMERGENCY ORDINANCE, ADOPTED by at least by a two-thirds vote of the governing body,
14 and ORDERED PUBLISHED IN FULL in a newspaper of general circulation in the City of Belle Isle by the City
15 Council at a special meeting held on the ____ day of September, 2022.

	YES	NO	ABSENT
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17 Ed Gold	_____	_____	_____
18 Anthony Carugno	_____	_____	_____
19 Karl Shuck	_____	_____	_____
20 Randy Holihan	_____	_____	_____
21 Beth Lowell	_____	_____	_____
22 Stanley Smith	_____	_____	_____
23 Jim Partin	_____	_____	_____

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1 ATTEST: _____

2 Yolanda Quiceno, CMC-City Clerk

Nicholas Fouraker, Mayor

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4 STATE OF FLORIDA

5 COUNTY OF ORANGE

6 I, Yolanda Quiceno, City Clerk of the City of Belle Isle do hereby certify that the above and foregoing document
7 ORDINANCE 22-08 was duly and legally passed by the Belle Isle City Council, in session assembled on the _____
8 day of _____, 2022, at which session a quorum of its members were present.

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10 Yolanda Quiceno, CMC-City Clerk

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EMERGENCY ORDINANCE NO. 22-09

AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELLE ISLE, FLORIDA, DECLARING A STATE OF EMERGENCY WITHIN THE CITY OF BELLE ISLE WITH THE DECLARATION OF EMERGENCY BY THE GOVERNOR; ADOPTING EMERGENCY REGULATIONS TO ADDRESS PREPARATION FOR AND THE AFTERMATH OF HURRICANE IAN; PROVIDING FOR NON-CODIFICATION, SEVERABILITY, AN EFFECTIVE DATE AND SEVEN DAYS EXPIRATION UNLESS TERMINATED EARLIER OR EXTENDED FURTHER.

WHEREAS, there is a need to prepare for a potential severe threat to the City of Belle Isle due to Hurricane Ian approaching the State of Florida (the "Storm");

WHEREAS, the Storm could pose a severe threat to the City of Belle Isle and requires timely precautions be taken to protect the community, critical infrastructure, and general welfare of the public; and

WHEREAS, City is granted the authority under § 2(b), Art. VIII of the Florida Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, this Emergency Ordinance is authorized by City of Belle Isle Charter Section 3.13, Chapter 166, Florida Statutes, Section 252.38, Florida Statutes, and other applicable provisions of law; and

WHEREAS, on September 24, 2022, Executive Order Number 22-219 was executed by the Governor of Florida declaring a state of emergency for the State of Florida relating to Tropical Depression Nine since upgraded to Hurricane Ian.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLE ISLE AS FOLLOWS:

SECTION 1. Recitals. The above recitals are true and accurate and are incorporated herein.

SECTION 2. Declaration of Emergency. The City Council further finds, due to those reasons enumerated herein, that a State of Emergency is hereby declared to exist within the City of Belle Isle immediately upon the Effective Date of this Ordinance. The City Council therefore makes this formal declaration of a State of Emergency, which shall expire seven (7) days from the Effective Date of this Ordinance date and may be extended as necessary in seven (7) day increments by ordinance or resolution unless terminated earlier by ordinance or resolution of the City Council. Further, the City Council hereby ratifies actions taken by the City of Belle Isle and its officers and employees to prepare for Hurricane Ian that were taken in a manner consistent with this Ordinance occurring during the time period from the issuance of Executive Order Number 22-219 to the Effective Date of this Ordinance.

SECTION 3. Emergency Powers.

- A. In accordance with applicable statutory, executive and common law authority, the City Council hereby elects to suspend the effect of any statute, ordinance, procedure, rule or order, to the extent necessary to procure any and all necessary supplies, commodities,

services, temporary premises, and other resources, including, but not limited to, any and all statutes, rules, ordinances, or orders which affect budgeting, leasing, printing, purchasing, travel, and the condition of employment and the compensation of employees, provided that any such statute, ordinance, rule or order is suspended only to the extent necessary to ensure timely performance of disaster response and mitigation functions. The City Manager should, however, attempt to obtain the most competitive pricing available given the circumstances, and to the extent possible piggyback on existing government contracts.

- B. The City Manager shall have the authority on behalf of the City to execute contracts with third parties and other governmental agencies as deemed necessary to prepare for and mitigate and counteract the ill effects of the declared emergency. Any emergency contracts so executed shall be limited to the purpose of mitigating or otherwise managing the emergency declared and shall not obligate the City to the purchase of products or services beyond the timeframe of such emergency.

- C. The City shall have the right to exercise any of the powers specifically provided to local governments pursuant to § 252.38, Fla. Stat., and authorizes and directs City Manager to execute those activities deemed necessary to respond to and mitigate the disaster conditions caused by the Storm and any other adverse weather conditions concomitantly impacting the City. For the purpose of carrying out disaster mitigation, the City Manager is directed and encouraged to seek assistance from any and all applicable federal, state, and local agencies that may be capable of providing emergency services, compensation, or reimbursement to the City.

- D. The City Manager shall have the right to determine a threat to public health and safety that may result from the generation of widespread debris throughout the City, that such debris constitutes a hazardous environment for all modes of movement and transportation of the residents as well as emergency aid and relief services, endangerment to all properties in the City, an environment conducive to breeding disease and vermin, and greatly increased risk of fire, and that it is in the public interest to collect and remove disaster debris from all property whether public lands, public or private roads, and gated communities to eliminate an immediate threat to life, public health and safety to reduce the threat of additional damage to improved property and to promote economic recovery of the community at large. To assist in maintaining safe and sanitary living and functioning conditions and protect property from immediate threat, the City Manager shall have the power, but not the obligation, to authorize the removal of disaster-generated debris and wreckage resulting from a declared disaster from all property whether such debris and wreckage is located on public lands, public or private roads, or gated communities. The City Manager is authorized to enter into temporary lease or license agreements for real property which is necessary for creating and operating a temporary debris and waste reduction and staging area to process and remove debris.

- E. The City Manager shall have the authority to authorize the City or the City's contracted agent(s) right of access to private roads or gated communities as needed by emergency vehicles such as, but not limited to, police, fire, medical care, debris removal, and sanitation to alleviate immediate threats to public health and safety.

F. During the state of emergency declared by this Ordinance, the City Manager has the power to invoke any or all of the following prohibitions or restrictions:

(1) *Restrictions.* In the interest of protecting citizens and property during a declared state of emergency, the City Manager may apply additional restrictions contained in this subsection to certain neighborhoods, subdivisions, or sections of the City impacted or threatened by a disaster.

(2) *Restricted Access Areas.* No person shall enter an area designated as a Restricted Access Area by the City Manager unless he/she is in performance of his/her official governmental duties, has written permission of the City Manager or his/her designee, or resides in such area.

(3) *Curfew.* If it is necessary to preserve peace and order within the City, the City Manager may impose a curfew for a restricted area or the entire City as required by the circumstances surrounding a declared state of emergency. Such curfew shall not apply to persons in the bona fide performance of designated essential services such as fire, police, medical and physician services, public service, government, or government-contracted employees in the execution of their delegated duties, or other employees, with verifiable identification, traveling to and from their place of employment.

(4) *Notice of Restrictions.* Should the City Manager or his/her designee invoke any or all of the foregoing provisions contained in this subsection F, he shall inform City staff, law enforcement, and emergency personnel of such and provide local news media with written notification thereof for immediate dissemination to the public.

G. During this declared state of emergency, all procedural and notice time periods affecting the normal functions of the City, including those set forth in ordinances and rules of the City, to the extent such requirements cannot be complied with due to the emergency, shall be temporarily suspended during the emergency. Such functions include, but are not limited to, permitting, development applications, code enforcement matters, and other municipal review and approval procedures.

SECTION 3. Severability. If any portion of this Ordinance is finally determined by a court of competent jurisdiction to be invalid, unconstitutional, unenforceable or void, the balance of the Ordinance shall continue in full force and effect.

SECTION 4. Non-Codification. Given the temporary nature and effect of this Ordinance, it is the intent of the City Council that this Ordinance will not be codified.

SECTION 5. Effective Date. This Ordinance shall become effective immediately and pursuant to City Charter, this Ordinance shall expire seven (7) days from the effective date and may be extended as necessary in seven (7) day increments unless sooner repealed by the City Commission by ordinance or resolution.

READ AND ADOPTED this 28th day of September, 2022

	YES	NO	ABSENT
Ed Gold	_____	_____	_____
Anthony Carugno	_____	_____	_____
Karl Shuck	_____	_____	_____
Randy Holihan	_____	_____	_____
Beth Lowell	_____	_____	_____
Stanley Smith	_____	_____	_____
Jim Partin	_____	_____	_____

CITY OF BELLE ISLE, FLORIDA

ATTEST:

Nicholas Fouraker, Mayor

Yolanda Quiceno, City Clerk