



ORDINANCE NO. 2025-02

AN ORDINANCE OF THE TOWN OF BELLEAIR SHORE, FLORIDA, AMENDING CHAPTER 30 – WATERWAYS, ARTICLE II. – BEACH AREAS, DIVISION 2.- BEACH AND ACCESS AREA RESTRICTIONS, BY CREATING A NEW SECTION 30-60. – LOITERING AND PROWLING; BY CREATING A NEW SECTION 30-61. – TRESPASS UPON PRIVATE PROPERTY; PROVIDING FOR REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Belleair Shore (the “Town”) is an incorporated form of local that has all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, and it may exercise any power for municipal purposes except as otherwise provided by law; and

WHEREAS, the Town Commission of the Town of Belleair Shore, (the “Commission”) finds the Florida Legislature made loitering and prowling illegal pursuant to Fla. Stat. § 856.021; and

WHEREAS, the Commission finds the Florida Legislature made trespass upon private property illegal pursuant to Fla. Stat. §§ 810.08 and 810.09; and

WHEREAS, A municipality may enact an ordinance which creates an offense against municipal law for the same act that constitutes an offense against state law. *Jaramillo v. City of Homestead*, 322 So. 2d 496 (Fla. 1975); and

WHEREAS, Fla. Stat. §§ 810.08 and 810.09 allow for private property owners to authorize third-parties to trespass people from their property; and

WHEREAS, the Town is solely comprised of fifty-two (52) homes and only a residential zoning district without out any commercial or businesses within its jurisdiction; and

WHEREAS, there is no business or economic impact implications for the passage of this ordinance within the Town; and

WHEREAS, the Commission finds it is in the best interest of the Town to protect the private property rights of its residents.

NOW THEREFORE, BE IT ORDAINED BY the Town Commission of the Town of Belleair Shore, Florida, as follows:

Section 1. : All of the foregoing findings are true and correct and shall be incorporated as if fully set forth herein.

Section 2. : A new Section 30-60 of the Town of Belleair Shore Code of Ordinances shall be added as follows:

Section 30-60. - Loitering and Prowling

- (a) It is unlawful for any person to loiter or prowl in a place, at a time or in a manner not usual for law-abiding individuals, under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity.
- (b) Among the circumstances which may be considered in determining whether such alarm or immediate concern is warranted is the fact that the person takes flight upon appearance of a law enforcement officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstance makes it impracticable, a law enforcement officer shall, prior to any arrest for an offense under this Section, afford the person an opportunity to dispel any alarm or immediate concern which would otherwise be warranted by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this Section if the law enforcement officer did not comply with this procedure or if it appears at trial that the explanation given by the person is true and, if believed by the officer at the time, would have dispelled the alarm or immediate concern.

Section 3.: A new Section 30-61 of the Town of Belleair Shore Code of Ordinances shall be added as follows:

Section 30-61. – Trespass upon Private Property

- (a) It is unlawful for any person who willfully enters or remains upon private property without being authorized, licensed, or invited pursuant to Fla. Stat. §§810.08 and 810.09 to refuse to obey an order to leave the premises given by a law enforcement officer who is authorized to issue such an order under the provisions of this section.
- (b) Law enforcement officers may be preauthorized in writing by a private property owner, tenant or other authorized person regarding property within the Town of Belleair Shore to issue orders to trespassers directing them to leave the property. When police officers have been preauthorized by a private property owner, tenant or other authorized person, the police officers shall be considered authorized

persons for the purpose of invoking the provisions of Fla.Stat. §§ 810.08 and 810.09.

Section 4.: If any section, subsection, sentence, clause or phrase of the Ordinance is determine for any reason to be illegal, invalid, or unconstitutional by a court or regulatory body of competent jurisdiction, then the offending provision shall be deemed severable, shall not affect the validity of the remaining portions hereof, and the remainder shall continue in full force and effect.

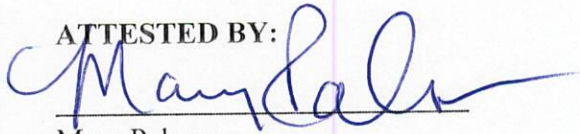
Section 5.: The effective date of this shall be immediately upon its passage in the manner provided by law.

UPON MOTION DULY MADE AND CARRIED, the foregoing ordinance was approved upon the first reading on the 17th day of December 2024.

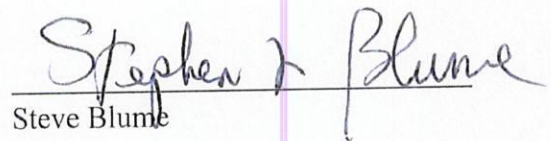
UPON MOTION DULY MADE AND CARRIED, the foregoing ordinance was approved upon the second reading on the 21st day of January 2025.

TOWN OF BELLEAIR SHORE

ATTESTED BY:



Mary Palmer
Town Clerk



Steve Blume
Mayor

APPROVED AS TO FORM AND CORRECTNESS:



Daniel P. Lewis, Esq.
Town Attorney

