

ORDINANCE NO. 559

AN ORDINANCE OF THE TOWN OF BELLEAIR, FLORIDA, AMENDING CHAPTER 2 OF THE TOWN CODE (RELATING TO TOWN ADMINISTRATION) TO REMOVE OUTDATED, PREEMPTED OR UNENFORCABLE PROVISIONS AND TO INCORPORATE CURRENT STATE AND FEDERAL LAW REQUIREMENTS; MAKING RELATED FINDINGS; AND PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Town of Belleair (the Town) has codified its ordinances over time into a Town Code (the Code) which sets forth the cumulative law of the Town; and

WHEREAS, the Town Commission (the Commission) regularly adopts ordinances amending the Code; and

WHEREAS, however, many portions of the Code date back to 1980, with other portions of the Code not having been updated for ten or more years; and

WHEREAS, part of the Commission's duties include the necessity to ensure that the Town's ordinances, as codified in the Code, are up to date, reflect current Florida and federal statutory and case law, that they reflect current actual Town operations, and that they do not contain outdated, redundant or erroneous provisions; and

WHEREAS, in light of the foregoing, the Commission has charged the Town Attorney with the task of conducting a complete review of the Town's Code (excluding the Land Development Code) and to bring forward any recommended revisions to the Code which would alleviate any of the aforementioned potential concerns with the Code's current text; and

WHEREAS, the Commission has already adopted updates to Chapter 2 of the Code by adopting Ordinance 548, which significantly revised Article V, Division 2 (Procurement) of Chapter 2, and Ordinance 554, which created a new Article VI of Chapter 2 (Land Acquisition); and

WHEREAS, the Town Attorney has submitted his assessment of the remaining provisions in Chapter 2 of the Code, and has recommended that the Commission make the revisions to that Chapter as are set forth in this Ordinance; and

WHEREAS, the Commission has considered the Town Attorney's recommendations and finds them to be consistent with the goals of the Commission; and

WHEREAS, the Commission therefore finds that it is in the best interests of the Town, and its citizens, property owners and businesses to adopt this Ordinance.

NOW, THEREFORE BE IT ORDAINED by the Town Commission of the Town of Belleair, Florida, that:

Section 1. Articles I through V of Chapter 2 of the Belleair Town Code are hereby amended to read as follows:

Chapter 2 ADMINISTRATION

ARTICLE I. – IN GENERAL

Sec. 2-1. – Service of process.

Pursuant to Florida Statute § 48.111, in any action in which the town is a defendant, the service of process upon the town shall be on the mayor or, in the mayor's absence, on the vice-mayor or, in the absence of both, any commissioner. Attempted service upon the town clerk, town attorney, or any other employee or agent of the town shall not be effective.

Sec. 2-2. – Public records.

- (a) Purpose. The purpose of this section is to establish town specific rules to assist the town in administering and complying with the Florida Public Records Act.
- (b) Copy charges. The town charges fees to offset the cost of providing public records in accordance with Florida Statutes § 119.07. Copying cost estimates are communicated to the requestor in advance and payment must be received before making copies or undertaking labor hours to search for and accumulate larger volumes of records.
- (c) De minimis requests. The purpose of collecting copy charges is to ensure the costs associated with complying with the request are carried by the requestor, and not the town's taxpayers. However, in some cases, only a few pages are requested. Where the statutory copy charges are below three dollars, the custodian or the custodian's authorized records staff are authorized to provide complimentary copies. Otherwise, town staff are not authorized to waive costs or fees absent express approval of the town manager.
- (d) Special service charges.
 - (1) In addition to charges for copies of records, if a response to a records request (either in gathering the records, screening the records for exemptions, conducting searches of electronic records, or supervising someone who is physically examining original records, or any combination of these tasks) requires what the statute calls "extensive use of information technology resources or extensive clerical or supervisory assistance", or both, a special service charge may be assessed in addition to any copy charges. A special service charge is not contingent upon whether the request is to inspect originals, or to have copies. The focus is on how much time and resources the Town must use to comply with the request.
 - (2) The Town adopts 30 minutes as the amount of time after which a special service charge will be asserted. Thus, if more than 30 minutes of either information technology,

clerical or supervisory staff time, or any combination of these, is required to properly respond to the request, then a service charge may be asserted.

(3) The charge must be reasonable and based on the actual costs incurred. Where town staff are used to satisfy the request, the charge must be calculated by using the pay rate of the staff person with the skills, abilities, and legal access permission who is capable of performing the work needed to satisfy the request.

(e) Advance payment. To prevent the town from performing significant work to respond to a records request only to have the town not be paid by a requestor, where a request appears that it will require more than 30 minutes of staff time to respond to, staff will calculate an estimated special service charge for the requestor. The estimate must be communicated to the requestor with a request to provide payment, and informing the requestor that work will begin once the estimate payment is received.

(f) Supplemental procedures. The town manager is authorized to coordinate with the town attorney in the development of an administrative procedure to be published to the town's staff to assist the staff in understanding and complying with the town's obligations under the records act.

ARTICLE II. – BOARDS, COMMITTEES, COMMISSIONS

DIVISION 1. – GENERALLY

Sec. 2-36. – Establishment and dissolution of boards and committees.

Unless otherwise prohibited by law, the town commission may, from time to time and by resolution, create, reorganize, or dissolve standing or temporary subordinate advisory or quasi-judicial boards or committees as it determines, in its sole discretion, to be in the best interest of the town.

Sec. 2-37. – Status, mission, and authority of subordinate boards and committees.

(a) Unless otherwise provided by law or town code, all boards and committees established pursuant to this article shall be advisory only, and shall not possess the authority to set town policy, to adjudicate the rights of any person or entity, to bind the town in contract or equity, or to expend or authorize the expenditure of town funds.

(b) Upon creation, the town commission will set forth the mission and duties of each subordinate town board or committee.

(c) Unless otherwise provided by law or town code, subordinate boards or committees shall not have the authority to issue subpoenas or to compel witness appearance or testimony. The town commission expressly reserves the right to exercise such authority itself or to request judicial assistance for these actions as may be allowed by law.

Sec. 2-38. – Qualifications and status of appointed board or committee members.

- (a) Unless otherwise provided by law or required by contract or interlocal agreement, each member of a subordinate board or committee of the town must be a qualified elector, as that term is defined in Florida Statutes § 97.021, and must maintain a residence within the town in which the member actually resides at least seven months per year. The town commission may establish additional qualifications (such as the need for academic or professional credentials, industry experience, or specialized knowledge) for specific board or committee members depending on the mission and duties of such board or committee. Qualifications of applicants or members of boards or committees established under this article shall be determined at the sole discretion of the town commission.
- (b) Persons appointed to a subordinate town board or committee shall serve in a volunteer, uncompensated status. Notwithstanding the establishment of a term length, a person appointed to a subordinate town board or committee has no property interest in holding her or his seat for any period of time. An appointee serves at the pleasure of the town commission.
- (c) While persons appointed to a subordinate town board or committee may have, maintain, and express their personal opinions and views regarding federal, state or town policy or business decisions in accordance with their First Amendment rights, expression of such opinions and views must be expressed in the member's personal capacity as a citizen, and not stating or implying that the opinion or view is that of the town, board, or committee. Members of a subordinate town board or committee are expected to follow and faithfully apply the law, including established town law, policy, and business decisions, notwithstanding their contrary opinions or views of such laws, policies, or decisions.
- (d) In addition to the appointment of regular and alternate members, the town commission may appoint one or more honorary or ex officio members to a subordinate town board or committee for term or period of time as the commission desires. Such persons may participate in all discussions and debates of the board or committee, but shall have no voting rights or other town authority.
- (e) No current town commissioner, charter officer, or employee may be appointed to any subordinate town board or committee.

Sec. 2-39. – Compliance with laws.

- (a) Persons who are appointed to a subordinate town board or committee are public officers, as that term is defined in the Florida code of ethics for public officers and employees, the Florida public records act, and Florida's sunshine law. As such, each member must become familiar with the requirements of the following laws, as they apply to local government boards and committees:
 - (i) the Florida public records act,
 - (ii) the Florida sunshine law, and

- (iii) the Florida code of ethics for public officers (including its provisions of gifts, financial disclosure reports, and conflicts of interest).
- (b) The town manager, in consultation with the town attorney, shall ensure each member of a subordinate town board or committee receives written materials and periodic in-person training outlining their obligations under the state's ethics, records and sunshine laws.
- (c) In the event a subordinate board or committee possesses quasi-judicial authority, the town manager is authorized to request the town attorney provide additional written or in-person training materials to the members of such board or committee to ensure members understand their duties, the limits of their authority, and the proper procedures required by law to be applied in the quasi-judicial setting.

Sec. 2-40. – Seats, appointments, terms, term limits, voting.

- (a) Number of members. Unless otherwise required by law, ordinance, contract or interlocal agreement, each subordinate town board or committee shall consist of five regular members and two alternate members.
- (b) Initial and subsequent appointment.
 - (i) Upon the new establishment of a subordinate town board or committee, the town commission shall appoint all seven members at that time.
 - (ii) Thereafter, the town commission shall appoint members of established subordinate town boards or committees from time to time to fill vacancies, expiring or unexpired terms.
- (c) Term of office, unexpired terms, term limits. Except as otherwise provided for in a resolution establishing a board or committee, all regular and alternate members shall be appointed for staggered two year terms. A person appointed to fill an unexpired term shall serve out the remainder of that term, and may then be eligible for appointment to a full term. Unless otherwise required by law, ordinance, contract or interlocal agreement, a member of a board or committee may not be appointed to more than three consecutive terms.
- (d) Voting and participation rights. Regular members shall have the right and duty to vote on questions to come before the board or committee. To allow them to gain knowledge and experience, alternate members shall attend all meetings, be recognized by the chair, and participate in discussion and debate. However, alternate members may not cast a vote on any matter to come before the board or committee unless the alternate is filling in for an absent regular member.

Sec. 2-41. – Officers, procedures.

- (a) Each subordinate town board or committee shall periodically select from among its regular

members a chair and a vice chair. The chair (or the vice chair in the chair's absence), shall preside over the meetings, move the agenda, and rule on parliamentary matters subject to the vote of the full board.

- (b) Subordinate town boards and committees shall adopt rules of procedure governing the conduct of their meetings. In the absence of such rules, meetings shall be conducted according to the provisions of the most current edition of Roberts Rules of Order. To ensure compliance with Florida's right to speak statute, prior to a vote being taken on a matter (other than ministerial matters such as appointment of officers or approval of minutes), the chair shall seek and allow for comment from any citizen who may be in attendance.
- (c) In the event a member cannot be physically present, the member may request of the town clerk the option to attend the meeting by telephonic or other remote electronic means. In the event such a request is made in a sufficiently timely manner, the clerk shall allow the member to attend remotely using such means as the clerk may be able to arrange, taking into account the technological resources of the town and member.
- (d) Subordinate boards and committees shall schedule such meetings, on such days and times and with such frequency, as each determines will be necessary to perform their duties. All such meetings shall occur at town hall or such other location within the town as is accessible to citizens or the press who may wish to attend. Meetings shall not occur at a private residence. In addition to its own adopted schedule, the town commission or town manager may schedule a special meeting should the needs of the town so require.

Sec. 2-42. – Staff support.

- (a) The town clerk shall coordinate with each subordinate town board and committee to schedule and advertise their meetings.
- (b) The town clerk shall be responsible for ensuring that all meetings of boards and committees are properly noticed as required by law, and if not conducted at town hall, are conducted at a location within the town which complies with the accessibility and non-discrimination requirements of the sunshine law, and shall ensure that all members are properly notified of their respective meetings.
- (c) In the event a subordinate town board or committee requires professional or specialized expertise or guidance (such as financial, legal, architectural or horticultural) to assist it in conducting its duties, it may request such assistance from the town manager. The manager will make all reasonable efforts, taking into account the resources of the town, to assist the board or committee.

Sec. 2-43. – Attendance.

- (a) Appointment to a subordinate town board or committee should be treated as an honor and privilege, and members should understand they accept such appointments to assist the town and its commission in ensuring the town's residents, visitors, and businesses have the

highest quality of live, best services, and optimal environment so as to thrive. Therefore, a member's regular attendance, meeting preparation, and active participation at meetings will regularly be monitored by the town manager and evaluated by the town commission.

- (b) If a regular member of a subordinate town board or committee must be absent from a meeting due to illness, injury, family emergency, or planned vacation, the chair shall ensure the minutes reflect that the member's absence is excused. However, in the event a regular member misses three consecutive meetings without being excused, the member shall be deemed to have resigned her or his seat and the town manager shall immediately note the seat as vacant and inform the town commission of the need to fill the vacancy.

Sec. 2-44. – Annual report.

- (a) The town commission expects its standing subordinate boards and committees to be actively engaged in the performance of their respective missions and duties. Therefore, with the approval of the members of the town's respective boards or committees, the chair of each such board or committee shall develop a written annual report.
- (b) The annual report shall set forth the activities, work and accomplishments of the board or committee for the preceding twelve months. The report shall cover the town's fiscal year and shall be presented to the board of commissioners by no later than December 31st of each year, covering the period October 1st of the prior year through September 31st of the reporting year.
- (c) The town commission shall look to these reports to determine whether each board or committee is still necessary, and whether its current members are actively performing their respective duties.

Sec. 2-45. Commissioners appointed to non-town boards.

- (a) From time to time, an individual town commissioner may be appointed by the town commission to represent the town on a local, county, regional, or statewide governmental entity. When so appointed, that commission member shall be serving in an ex officio capacity for purposes of the constitutional dual office holding prohibition. A commission member holding such appointment is expected to report back to the commission relevant reports of the work being done by the entity and whether the entity will be taking any votes or actions which would have impact on the town. While a town commission member appointed to such entity as a town representative is free to vote her or his conscience, the member is expected to fully communicate to the entity's board the policy positions taken by the town commission. If the commission determines the appointed commissioner is not adequately representing the town's positions and interests, it reserves the right to recall that member and appoint an alternative member.
- (b) While each member of the town commission is free to decide to serve on boards or committees of non-governmental entities or organizations where such service would not create a conflict with that commissioner's town duties, the decision to accept requests for

such service is a private matter between the commission member and entity or organization. Therefore, the town commission will not appoint, ratify, or otherwise be involved appointments to the boards or committees of non-governmental entities or organizations.

DIVISION 2. – LOCAL PLANNING AGENCY

Sec. 2-51. Established.

Pursuant to and in accordance with the Charter of the town and F.S. §§ 163.3161 through 163.3211, the planning and zoning board is hereby designated and established as the local planning agency.

ARTICLE III. – OFFICERS AND EMPLOYEES

DIVISION 1. – GENERALLY

Sec. 2-76. Town manager.

- (a) The town manager shall be the chief administrative officer of the town and shall serve at the sole will and pleasure of the commission.
- (b) The town manager shall be responsible for directing, coordinating, and managing the administration of the town's business, as performed through the town's employees and contractors.
- (c) In performing her or his duties, the town manager shall ensure that all administrative and business decisions are made in compliance with town's charter and code, the resolutions and policy directives of the commission, the town's adopted budget, and all applicable laws, and consistent with any position description or employment agreement adopted by the commission.
- (d) The town manager shall monitor, guide, direct, and evaluate the work of all town employees and contractors except the work of the town attorney, who shall report directly to, and solely be supervised and evaluated by the commission.
- (e) The town manager shall recommend to the commission, in conjunction with the development of the town's budget, the creation or abolition of such employee positions and contractual services as the town manager determines are necessary to deliver town services and ensure town operations are effective and efficient.
- (f) The town manager shall be responsible for the development and periodic review of job descriptions and minimum qualifications, and for the hiring, evaluating, promoting, re-classifying, disciplining, and termination of town employees. Notwithstanding the

foregoing, the town attorney shall be solely appointed, evaluated by, and removed by the commission.

- (g) Consistent with its oversight role, the town commission reserves the right, in its sole discretion, to review any administrative actions or decisions made by the town manager and, if necessary, to instruct the town manager to take an alternative action.

Sec. 2-77. Finance officer.

- (a) The finance officer shall be the chief financial officer of the town;
- (b) Shall be designated by the town manager;
- (c) Must be a department head who has been previously confirmed by the town commission; and
- (d) Any references to “finance director” within the town’s ~~Ccode of Ordinances~~ or associated policies shall be synonymous with “finance officer.”

Sec. 2-78. Town clerk.

- (a) Shall be appointed by the town manager and confirmed by the town commission;
- (b) Shall be the town's records management liaison officer; and
- (c) Shall act as supervisor of elections for all town elections.

DIVISION 2. – TOWN ATTORNEY

Sec. 2-91. Review of documents.

It shall be required of and shall be a duty of the town attorney to review, analyze, research, and approve, as necessary, prior to the execution by the town and its authorized agents, any document or instrument of any nature or kind which shall have a legal effect upon the town in any manner whatsoever.

DIVISION 3. – CLAIMS AGAINST OFFICERS AND EMPLOYEES

Sec. 2-94. – Defense of civil actions; scope of coverage.

- (a) Pursuant to Florida Statutes § 111.07, the town is authorized to provide an attorney to defend any civil action arising from a complaint for damages or injury suffered as a result of any act or omission of action of any of its officers, employees, or agents for an act or omission arising out of and in the scope of his or her employment or function, unless, in the case of a tort action, the officer, employee, or agent acted in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.
- (b) Defense of such civil action includes, but is not limited to, any civil rights lawsuit seeking relief personally against the officer, employee, or agent for an act or omission under color

of state law, custom, or usage, wherein it is alleged that such officer, employee, or agent has deprived another person of rights secured under the Federal Constitution or laws. Legal representation of an officer, employee, or agent of the town may be provided by the town attorney or by an attorney provided by any applicable insurance provider.

- (c) For purposes of this section, a “complaint for damages or injury” shall include actions properly brought under 42 U.S.C. § 1983, Florida Statutes § 768.28 or pursuant to Florida Statutes Chapter 760; but shall not include actions brought for alleged violations of the Florida Sunshine Law, the Florida Public Records Act, the Florida Code of Ethics for Public Officers and Employees, the Florida Election Code, or brought under the Florida Declaratory Judgment Act.
- (d) Any attorney’s fees paid from town funds for any officer, employee, or agent who is found to be personally liable by virtue of acting outside the scope of his or her employment, or to have been acting in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property, may be recovered by the town in a civil action against such officer, employee, or agent. For purposes of this subsection, the finding of personal liability by virtue of the above-noted reasons may be made by the court or other judicial or quasi-judicial officer, by a jury, by an arbitrator, or by the town commission.
- (e) If the town is authorized pursuant to this section to provide an attorney to defend a civil action arising from a complaint for damages or injury suffered as a result of any act or omission of action of any of its officers, employees, or agents and the town commission, in its sole discretion, declines to provide such attorney, the town shall reimburse any such defendant who prevails in the action for court costs and reasonable attorney’s fees. For purposes of this section, the term “prevails” shall mean that the officer, employee or agent succeeded on at least one significant issue in the litigation. While a final merits determination is not required to “prevail”, an officer, employee or agent shall not be deemed to have “prevailed” where the action is dismissed by the plaintiff if the dismissal was predicated on the payment of damages or attorney fees to the plaintiff, where the officer, employee or agent concedes that he or she committed a tort including a civil rights violation, or where the dismissal is without prejudice.

Sec. 2-95. – Defense of other statutory actions.

- (a) Pursuant to Florida Statutes § 286.011(7), the town is authorized, but not required, to reimburse a town officer, employee or agent for any portion of his or her reasonable attorney’s fees whenever he or she is charged with a violation of the Florida Sunshine Law and is acquitted or otherwise found by the court or other judicial or quasi-judicial officer, or by a jury, to have not violated that law.
- (b) Pursuant to Florida Statutes § 112.317(7), the Florida Commission on Ethics is authorized, in its discretion, to award defense fees to a town officer, employee or agent accused of a violation of the Florida Code of Ethics for Public Officers and Employees, if the officer, employee or agent successfully defends the charges before the Ethics Commission, and the Commission finds that the accuser knew the complaint was false or recklessly disregarded

whether the complaint was false. However, the town is not authorized to pay for or reimburse such expenses, and town funds shall not be used for that purpose, unless the town commission determines by a four-fifths vote that a proceeding before the Florida Commission on Ethics arose or has arisen from the performance of the officer's or employee's official duties which were undertaken while serving a public purpose.

- (c) The town is authorized, but not required, to reimburse an officer, employee, or agent for any portion of his or her legal defense fees associated with an action brought against him or her under the Florida Public Records Act. However, such reimbursement is not authorized where the officer, employee, or agent has not first prevailed in the action. For purposes of this section, the term "prevails" shall mean that the officer, employee, or agent succeeded on at least one significant issue in the litigation. While a final merits determination is not required to "prevail", an officer, employee or agent shall not be deemed to have "prevailed" where the action is dismissed by the plaintiff if the dismissal was predicated on the payment of damages or attorney fees to the plaintiff, where the officer, employee or agent concedes that a violation occurred, or where the dismissal is without prejudice.

Sec. 2-96. – Payment of final judgments or settlements.

- (a) Pursuant to Florida Statutes § 111.071, the town is authorized, but not required, to expend available town funds to pay:
- (1) Any final civil judgment, including damages, costs, and attorney's fees, arising from a complaint for damages or injury suffered as a result of any act or omission of action of any town officer, employee, or agent in a civil or civil rights lawsuit described in Florida Statutes § 111.07. If the civil action arises under Florida Statutes § 768.28 as a tort claim, the limitations and provisions of that law governing payment shall apply. If the action is a civil rights action arising under 42 U.S.C. § 1983, or similar federal statutes, payments for the full amount of the judgment may be made unless the officer, employee, or agent has been determined in the final judgment to have caused the harm intentionally.
- (2) Any compromise or settlement of any claim or litigation as described in paragraph (a), subject to the limitations set forth in that paragraph.
- (3) Any reimbursement required under Florida Statutes § 111.07 for court costs and reasonable attorney's fees when the town has failed to provide an attorney and the defendant prevails.
- (b) For purposes of this section, a "final judgment" means a judgment upon completion of any appellate proceedings.
- (c) "Agency of the state" or "state agency," as used in this section, includes an executive department, a constitutional officer, the legislature, and the judicial branch.
- (d) This section is not intended to be a waiver of sovereign immunity or a waiver of any other defense or immunity to such lawsuits.

- (e) The town shall not pay or reimburse for any part of any final judgment or settlement which constitutes punitive damages unless required to do so by law.

Sec. 2-97. – Defense of criminal charges prohibited.

The town is prohibited by law from providing a legal defense to any officer, employee, or agent for the defense of any criminal charge, whether or not that charge is associated with or arises from the exercise or performance of officer's, employee's or agent's official powers or duties. Therefore, no town funds shall be expended for such purposes.

Sec. 2-98. - Conditions of coverage.

To be eligible for the payment of town funds to defend or resolve claims against a town officer, employee or agent, such officer, employee, or agent must agree to the following conditions:

- (a) The officer, employee or agent must provide full cooperation to the town in the defense of the claim or action through the prosecution of any appeal. This shall include, but not be limited to, providing statements under oath and all evidence in his or her possession to the town's attorney promptly upon request.
- (b) The officer, employee, or agent shall not communicate with, give statements to, or otherwise provide evidence to any attorney, investigator, or other person concerning the claim or action, other than to the town's attorney, insurance adjuster or other authorized representative, without the town's consent. Nothing herein shall be construed as prohibiting any employee from exercising his or her rights under the Florida Public Employee's Whistleblowers Act.
- (c) The officer, employee, or agent shall tender to the town attorney the complaint, summons, process, or other pleading immediately after he or she is served with such documents.
- (d) Counsel selected to defend the officer, employee, or agent shall be at the sole discretion of the town commission unless otherwise provided for by contract.
- (e) The town shall have full right to compromise and settle all claims against the officer, employee, or agent, except that the town will not include a term of settlement admitting liability or statutory violations on the part of the officer, employee, or agent unless such person agrees to such term of settlement.
- (f) In the event of damages arising from a counterclaim against any aggrieved party, the town shall be entitled to all damages from such party.
- (g) All funds received from a collateral source by an officer, employee, or agent to pay any cost, fee, judgment or settlement of a claim or action for which the town is paying or has paid shall be deducted from such amounts, and said officer, employee or agent must agree to subrogate all rights to recover from such collateral sources to the town.

Sec. 2-99. - Reservation of rights and immunities.

- (a) To the extent the town undertakes the defense of its officers, employees, or agents as provided for in this article, it nevertheless reserves the right to seek indemnification, reimbursement, and/or recovery for any judgment or settlement made, or court costs incurred, and all attorney's fees incurred in the defense of these officers, employees, or agents where it is determined that such individuals acted or failed to act because of fraud, corruption, or malice; acted in bad faith, with malicious purpose, in a manner exhibiting wanton and willful disregard of human or civil rights, safety, or property; was not entitled to protection under this article or under state law; or fails to cooperate in good faith in the defense of the claim.
- (b) The provisions of this article shall not be construed to impair, alter, limit, or modify the rights and obligations of any insurer or insured under any policy of insurance.
- (c) Nothing in this section shall be construed as a waiver by the town or by any town officer, employee, or agent, of any claim of immunity, including sovereign immunity, applicable to any action.

ARTICLE IV. – EXEMPTION FROM CERTAIN COUNTYWIDE ORDINANCES

Sec. 2-111. Animal control; County Ordinance No. 92-15.

- (a) The town commission hereby determines and declares that the area within the town's territorial limits shall be and is exempt from the application of Pinellas County Ordinance No. 92-15 relating to animal control, except as set forth in subsection (b) hereof.
- (b) The exemption provision in subsection (a) of this section shall not apply to Pinellas County Ordinance No. 92-15, Section 2, Rabies and Vaccinations and Licensing; Section 14, Fees and Charges; Administration; and Section 16, Penalties for Violation; Civil Remedies. The Sections 2, 14 and 16 are hereby specifically incorporated into the Code of Ordinances of the town, and shall be in effect within the territorial limits of the town.

Sec. 2-112. Human rights; County Ordinance No. 92-14.

The town commission hereby determines and declares that the area within the town's territorial limits shall be and is hereby exempt from the application of Pinellas County Ordinance No. 92-14 relating to human rights in housing, employment and public accommodations.

Sec. 2-113. Discharge of firearms; County Ordinance No. 76-3.

The town hereby exempts itself from Pinellas County Ordinance No. 76-3, relating to the discharging of firearms, amending Laws of Fla. ch. 65-1619.

Sec. 2-114. Removal of trees; County Ordinance No. 72-9.

The residents and citizens of the town shall be exempted from the provisions of Pinellas County Ordinance No. 72-9, as enacted on October 3, 1972, by the board of county commissioners of Pinellas County, Florida, and, as provided under section 19 of such ordinance, the area and territory within the town shall be specifically deleted from the provisions of such ordinance.

Sec. 2-115. Noise; County Ordinance No. 72-11.

The residents and citizens of the town shall be exempted from the provisions of Pinellas County Ordinance No. 72-11, as enacted on October 17, 1972, by the board of county commissioners of Pinellas County, Florida, and, as provided under section 9 of such ordinance, the area and territory within the town shall be specifically deleted from the provisions of such ordinance.

Sec. 2-116. Identification of structures; County Ordinance No. 87-52.

- (a) The structures, residential or nonresidential, as defined in Pinellas County Ordinance No. 87-52 and existing within the town, are not required to have the proper address conspicuously displayed on the front or rear of their buildings in numbers at least three inches in height.
- (b) Strip store business structures, as defined in Pinellas County Ordinance No. 87-52 and existing within the town, are not required to display their names at or near their rear doors.

Sec. 2-117. Open burning; County Ordinance No. 76-18.

The residents and citizens of the town shall be exempted from and specifically excluded from the provisions of Pinellas County Ordinance No. 76-18, as enacted on September 21, 1976, by the board of county commissioners of Pinellas County, Florida.

Sec. 2-118. Residential electrical or mechanical detection alarms; County Ordinance No. 82-20.

The town hereby exempts the area in its territorial limits from the area embraced by Pinellas County Ordinance No. 82-20, pertaining to residential electrical or mechanical detection alarms.

Sec. 2-119. Installation of sanitary sewer systems.

The residents and citizens of the town shall be exempted from and specifically excluded from the provisions of county ordinances regarding the installation of sanitary sewer systems, adopted by the board of county commissioners of Pinellas County, Florida.

Sec. 2-120. Housing code; County Ordinance No. 92-65.

The town commission hereby determines and declares that the area within the town's territorial limits shall be and is exempt from the application of Pinellas County Ordinance No. 92-65 relating to the housing code in Pinellas County.

Sec. 2-121. Substandard lots; County Ordinance No. 93-92.

The town commission hereby determines and declares that the area within the town's territorial limits shall be and is exempt from the application of Pinellas County Ordinance No. 93-92 relating to nonconforming or substandard lots created by eminent domain proceedings.

Sec. 2-122. Water shortage emergencies and irrigation restrictions; County Ordinance Nos. 94-52, 94-53.

- (a) The town commission hereby determines and declares that the area within the town's territorial limits shall be and is exempt from the application of Pinellas County Ordinance No. 94-52 relating to water shortage emergencies, except as set forth in subsection (c) hereof.
- (b) The town commission hereby determines and declares that the area within the town's territorial limits shall be and is exempt from the application of Pinellas County Ordinance No. 94-53 relating to irrigation restrictions, except as set forth in subsection (c) hereof.
- (c) The exemption provisions in subsections (a) and (b) of this section shall not apply to those periods of time when the town purchases water from the county. During those time periods, Pinellas County Ordinance Nos. 94-52 and 94-53, and/or any subsequent Pinellas County Ordinances in effect at such time the ~~city~~ town purchases water from the county, shall be in effect within the territorial limits of the town.

ARTICLE V. – FISCAL MANAGEMENT

DIVISION 1. – GENERALLY

Sec. 2-175. – Administration of article V~~Authority~~.

The ~~town manager~~ ~~finance officer~~ shall designate and oversee such town employees or contractors as the manager deems necessary to ensure adherence ~~the provisions of this article are carried out in a competent and ethical manner.~~

Section 2. For purposes of codification of any existing section of the Belleair Town Code herein amended, words underlined represent additions to original text, words ~~stricken~~ are

deletions from the original text, and words neither underlined nor stricken remain unchanged.

Section 3. If any section, subsection, sentence, clause, provision or word of this Ordinance is held unconstitutional or otherwise legally invalid, same shall be severable and the remainder of this Ordinance shall not be affected by such invalidity, such that any remainder of the Ordinance shall withstand any severed provision, as the Town Commission would have adopted the Ordinance and its regulatory scheme even absent the invalid part.

Section 4. The Codifier shall codify the substantive amendments to the Belleair Town Code contained in Section 1 of this Ordinance as provided for therein, and shall not codify the exordial clauses nor any other sections not designated for codification.

Section 5. Pursuant to Florida Statutes § 166.041(4), this Ordinance shall take effect immediately upon adoption.

ADOPTED ON FIRST READING by the Town Commission of the Town of Belleair, Florida at the meeting held on the 6th day of December, 2022.

PUBLISHED THE 4th day of January, 2023.

PASSED AND ADOPTED ON SECOND READING AND PUBLIC HEARING this 17th day of January, 2023.

Michael Wilkinson, Mayor

ATTEST:

Christine Nicole, CPM, CMC, Town Clerk