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3 **ORDINANCE NO. 18-14**

4 **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF BELLE ISLE, FLORIDA PROVIDING**
5 **FOR THE REGULATION AND CONTROL OF SECURITY ALARMS; PROVIDING FOR A TITLE;**
6 **PROVIDING FOR DEFINITIONS; PROVIDING FOR REGULATIONS CONCERNING THE**
7 **INSTALLATION, MAINTENANCE AND OPERATION OF ALARMS; PROVIDING FOR REGULATIONS**
8 **CONCERNING FALSE AND NUISANCE ALARMS; PROVIDING FOR CORRECTIVE ACTION AND**
9 **PENALTIES FROM FALSE ALARMS; PROVIDING FOR A CITATION PROCEDURE; PROVIDING**
10 **FOR RESPONSE AND ENFORCEMENT BY LAW ENFORCEMENT OFFICERS; PROVIDING FOR THE**
11 **PROHIBITION OF AUTOMATIC ALARM COMMUNICATION SYSTEMS; PROVIDING FOR THE**
12 **LIMITATION OF LIABILITY; PROVIDING FOR THE DISPOSITION OF PENALTIES AND FINES;**
13 **PROVIDING FOR INCLUSION INTO THE BELLE ISLE CITY CODE; PROVIDING FOR LIBERAL NON-**
14 **CONFLICTING CONSTRUCTION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN**
15 **EFFECTIVE DATE.**

16 **WHEREAS**, Section 166.011, Florida Statutes, et.seq., the "Municipal Home Rule Powers Act"
17 provides that municipalities shall have the governmental, corporate and proprietary powers to enable
18 them to conduct municipal government, to perform municipal functions, to render municipal services, and
19 to exercise any power for municipal purposes, except when expressly prohibited by law; and
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21 **WHEREAS**, Section 166.021, Florida Statutes, grants to the City Council of Belle Isle the power to
22 enact legislation concerning any subject matter, such as providing for reasonable regulations concerning
23 the installation, maintenance and operation of security alarms, as well as regulations designed to inhibit the
24 occurrence and reoccurrence of false alarms; and
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1 **WHEREAS**, due to negligence, improper use, mechanical malfunction and poor design, the use of
2 security alarms within the incorporated limits of Belle Isle frequently result in a number of false alarms
3 being reported to which law enforcement personnel must respond in force; and
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5 **WHEREAS**, the incidence of false alarms causes a significant misuse of manpower and resources by
6 causing the dispatch of multiple units to the scene of each false alarm, rendering said units out of service and
7 unavailable for response to legitimate emergency situations; and
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9 **WHEREAS**, the continued frequency of false alarms carries the potential for creating complacency in
10 responding officers, thereby posing a danger to their safety as well as the safety of the citizens of Belle Isle;
11 and
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13 **WHEREAS**, the City Council finds it necessary to prohibit automatic alarm communication devices
14 which are programmed to make connection with the same telephone lines utilized by police services which,
15 could seize and hold said lines to the exclusion of legitimate emergency calls; and
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17 **WHEREAS**, the prohibition against the aforementioned automatic alarm communication devices as
18 well as the regulation of alarm systems and their use will result in a significant reduction of false alarms, with
19 the resultant savings in public resources, as well as the safety of the citizens of Belle Isle.
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21 **NOW THEREFORE, BE IT ENACTED** by the City Council of the City of Belle Isle, Florida, as follows:
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1 **SECTION 1. Recitals Incorporated.**

2 The above recitals are true and correct and are incorporated herein.

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4 **SECTION 2. Creation of Title.**

5 This Ordinance shall be known and may be cited as the "City of Belle Isle Alarm Control Ordinance".

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7 **SECTION 3. Definitions.**

8 Unless it is clear from the context that another meaning is intended, the following words, when used
9 in this Ordinance, shall have the meaning attributed to them by this Section:

10 A. Alarm System - means any mechanical, electrical or radio controlled device which is designed
11 to be used for the detection an unauthorized entry into a building, structure or facility, or for alerting others to
12 the commission of an unlawful action within a building, structure or facility, and which emits a sound or
13 transmits a signal or message when activated. Excluded from this definition are devices that do not register
14 alarms that are audible or visible and that do not otherwise communicate outside of the protected building,
15 structure or facility; auxiliary devices installed by telephone companies to protect telephone systems from
16 damage or disruption of service; and alarm systems installed in conveyances for the exclusive protection of
17 such conveyances. Alarms that indicate malfunctions in public utilities are also excluded from this definition.

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19 B. Alarm User -means the person, firm, business, partnership, association, corporation or other
20 entity who either;

- 21 1. Owns the premises in which an alarm system is installed; or
22 2. Who leases or occupies the premises; or
23 3. Who is designated as the registered gent of the premises; or
24 4. Is the rental/property management company for the premises?

1 C. Automatic Alarm Communication System - means any automatic communication device
2 or automatic telephone dialing alarm system which, upon being activated, automatically transmits to any
3 telephone in the Belle Isle Police Department a recorded message or coded signal indicating the need for
4 an emergency response.

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6 D. Belle Isle- The City of Belle Isle, Florida.

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8 E. False Alarm - means an activated alarm that elicits a response by the Belle Isle Police
9 Department when no criminal activity, reasonable threat of criminal activity, unauthorized entry or other
10 emergency requiring the services of the police department
11 exists.

12
13 This definition includes signals activated by accident, negligence, mechanical failure, electrical failure,
14 signals activated intentionally in non-emergency situations and signals for which the actual cause of activation
15 is unknown. A rebuttable presumption shall exist that an alarm is false if in the case of a security alarm,
16 personnel from the police department find no evidence of an unauthorized entry, criminal activity, a
17 reasonable threat of criminal activity, or another emergency requiring the services of the police department
18 after following normal operating procedures. This presumption may be overruled if the alarm user proves
19 that:

- 20 1. In case of a security alarm, an individual activated the alarm based upon a reasonable belief
21 that an unauthorized entry, criminal activity, a reasonable threat of criminal activity, or
22 another emergency requiring the services of the police department actually existed; or
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- 1 2. The alarm system was activated by lightning or an electrical surge that caused physical
2 damage to the alarm system, as evidenced by the testimony of the state-certified or
3 registered alarm system technician who conducted an on-site inspection of the system; or
4 3. The alarm system was activated by some other cause beyond the alarm user's reasonable
5 control.

6
7 G. Key Holder- means any person authorized by the alarm user to enter or provide access to
8 the alarm user's premises for the purposes of enabling the police department to investigate and
9 determine the validity of an alarm and to reset the alarm.

10
11 H. Lock Box System - is a secure key and premise information holding system utilized by the Belle Isle
12 Police Department for the purpose of entering and determining the nature of an alarm activation. Belle Isle
13 Police Department personnel shall not be classified as "key holders".

14
15 I. Panic Alarm- means any mechanical, electrical or radio-controlled device which is personally
16 activated by the alarm user and which indicates that a clear and present danger is presently confronting the
17 alarm user.

18
19 J. Police Department- means the City of Belle Isle Police Department.

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21 K. Responding Officer- means an officer with the Belle Isle Police Department responding to a security
22 alarm .

1 L. Three Hundred. Sixty-Five {365} day period- means any consecutive Three Hundred, Sixty-Five (365)
2 day period.

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4 **SECTION 4. Automatic Alarm Communication Systems Prohibited.**

5 A. It shall be unlawful for any person, firm, business, partnership, association, corporation or
6 other entity to install, maintain, or operate an automatic alarm communication system, as defined herein. The
7 owner, operator or lessee of such a system shall disconnect such system within seventy-two (72) hours of
8 receiving notice to do so.

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10 B. Failure to comply with this section shall constitute a misdemeanor of the second degree,
11 punishable as provided in Chapter 775, Florida Statutes.

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13 **SECTION 5. Response to Alarms; Determination of Validity.**

14 A. Upon responding to any alarm activated in the incorporated limits of Belle Isle, the responding
15 officer shall make a complete and thorough inspection of the building or premises to determine the validity of
16 the alarm.

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18 B. If the responding officer determines the alarm to be false, the officer shall so notify the
19 Sheriff's Office communications section in the case of a security alarm. Upon request by the police
20 department, the alarm monitoring company shall provide the name, physical/ mailing address, and phone
21 number of the alarm premises' owner, the alarm premises lessee/occupant, the rental/property management
22 company or the registered agent. This information shall be used to maintain a current database to ensure
23 compliance with the provisions of this Ordinance. Failure by the alarm monitoring company to provide such
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1 information, upon request, will result in fines and penalties for false alarms imposed pursuant to Section 6 of
2 this Ordinance against the alarm monitoring company.

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4 C. Alarm users shall respond to each activated alarm at their premises within forty five (45)
5 minutes of notification. Response means arrival at the scene of the alarm. Response by a key holder shall
6 constitute response by an alarm user for the purposes of this subsection. In addition to any other penalty
7 provided for herein, failure to respond within forty-five (45) minutes of notification without good cause shall
8 result in a fine of fifty dollars (\$50.00). In addition, the police department may, in their sole discretion, choose
9 not to respond to an alarm in the event they have been informed by the alarm user or some other reliable
10 source that neither the alarm user nor a key holder for the alarm user will respond to the alarm and no
11 legitimate reason for such failure to respond exists. However, the police department shall attempt to respond
12 in all cases where a panic alarm has been activated and in all cases where they have received reliable
13 information that an emergency in fact exists.

14
15 **SECTION 6. False Alarms; Required Corrective Action and Penalties.**

16 A. Regardless of the number of false alarms an alarm user has had within any period of time,
17 whenever it appears that a false alarm was caused by a system malfunction rather than human error or some
18 other external source, the alarm user shall within fifteen (15) days have his or her alarm system inspected and,
19 if necessary, repaired by a state-certified or state-registered alarm contractor. The alarm user shall submit
20 written proof of such inspection and, if applicable, repair to the police department in the case of a security
21 alarm within thirty (30) days of the false alarm.

1 B. The penalties for false alarms shall be as follows:

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3 I. No fine shall be imposed for the first false alarm within any three hundred, sixty-five
4 (365) day period. A warning letter will be issued to the alarm owner.

5
6 2. No fine shall be imposed for the second false alarm within any three hundred, sixty-
7 five (365) day period unless the alarm user has failed to comply with the requirements of subsection
8 (A), in which case a fine in the amount of Fifty Dollars (\$50) shall be imposed.

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10 3. The fine for a third within a three hundred, sixty-five (365) day period shall be in the
11 amount of One Hundred and Fifty Dollars (\$150), and any subsequent false alarm shall be in the
12 amount of Two Hundred and Fifty Dollars (\$250), except that the listed fines shall be doubled if the
13 alarm user is not in compliance with subsection (A) at the time of the false alarm triggering the fine
14 occurs.

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16 C. If an alarm user fails to pay any fine imposed herein within thirty (30) days of the issuance of a
17 citation or does not prevail in an appeal pursuant to Section 8, Appeal, the alarm user forfeits the right to
18 operate his or her alarm system and, unless otherwise required by law, may not operate said system until such
19 fine is paid. Operation of an alarm system in violation of this subsection shall constitute a misdemeanor of the
20 second degree, punishable as provided in Chapter 775, Florida Statutes.

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2 **SECTION 7. Citation Procedure.**

3 The police department may issue citations for violations of this Ordinance. Citations may be issued to
4 the alarm user in person or by certified mail. As provided in Section 6(c), an alarm user shall have thirty (30)
5 days from the issuance of a citation to pay the fine imposed pursuant to the citation. In the event an alarm
6 user fails to pay any false alarm charge within the thirty (30) day period, the enforcement official may, at his or
7 her discretion, determine that there shall be no response to any alarm activation by the alarm system which
8 has been the cause for the false alarm citation until the fine is paid.

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10 **SECTION 8. Appeal.**

11 Any alarm user who receives a citation for a false alarm fine shall be entitled to an appeal hearing
12 before the City Manager, or his or her authorized designee. A request for an appeal hearing must be in writing
13 with the reasons why the fine should not be assessed, and shall be made within twenty (20) days from the
14 issuance of the citation. Once the request has been received by the City Manager, a hearing will be scheduled
15 and subsequently conducted as soon as practicable. At the hearing, the alarm user shall have the opportunity
16 to be heard, and to introduce testimony and evidence. Following the conclusion of the hearing, the City
17 Manager, or his or her authorized designee, shall review the testimony, the evidence, and shall determine
18 whether the alarm user has shown good cause why the fine should be withdrawn. The City Manager or
19 designee shall render a decision on the appeal within five (5) business days thereafter. The decision of the City
20 Manager, or designee, shall be the final administrative action by the City of Belle Isle. Upon making a decision
21 on the matter, the City Manager or designee shall notify the alarm user of the decision in writing.

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23 Failure to either pay the applicable fine or to request an appeal within the aforementioned
24 time periods shall constitute a waiver of the alarm user's right to contest the citation.

1 **SECTION 9. Alarm System Operations.**

2 A. The City of Belle Isle, its officers, employees and agents shall not assume any duty or
3 responsibility for the installation, maintenance, operation, repair or effectiveness of any privately owned
4 alarm system. Those duties or responsibilities shall be the sole responsibility of the owner of the particular
5 premises and system. Additionally, it shall be the responsibility of the alarm user or his or her authorized
6 representatives to silence an activated alarm and thereafter reset it.

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8 **SECTION 10. Applicability.**

9 This Ordinance shall apply in the incorporated limits of the City of Belle Isle, Florida.

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11 **SECTION 11. Limitation of Liability.**

12 Nothing herein shall be construed as to create a duty on the part of the Police Department or the City
13 of Belle Isle to respond to any alarm or to otherwise guarantee the safety of any member of the public.
14 Further, the Belle Isle Police Department and the City of Belle Isle expressly retain the discretion to determine
15 whether or not to respond to an alarm, and to otherwise determine the most efficient deployment of law
16 enforcement resources. Nothing herein shall be construed as a waiver of sovereign immunity by the City of
17 Belle Isle.

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19 **SECTION 12. Disposition of Penalties and Fines.**

20 Fines collected for false alarms shall be forwarded to the director of finance who shall deposit funds
21 received for false security alarms, less costs of notification and collection, into a separate police account for
22 false security alarm funds. These funds shall be used by the police department for training and
23 communication.

1 **SECTION 13. Provision for Inclusion into the Belle Isle City Code.**

2 It is the intention of the City Council of the City of Belle Isle that the provisions of this Ordinance shall
3 become and be made a part of the Code of the City of Belle Isle, and that the sections of this Ordinance
4 may be renumbered or relettered, and the word "Ordinance" may be changed to "Section", "Article", or
5 such other appropriate word or phrase in order to accomplish such intentions.

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7 **SECTION 14. Liberal, Non-Conflicting Construction.**

8 The provisions of this Ordinance shall be liberally construed such that its purpose is effectively
9 rendered in the interest of the health, safety and welfare of the citizens and residents of the City of Belle
10 Isle. Likewise, such provisions shall be interpreted so as to not to conflict with, but be supplemental to, all
11 applicable City of Belle Isle Codes, and all other laws, rules, ordinances and regulations.

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13 **SECTION 15. Severability.**

14 If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by
15 any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining
16 sections of this Ordinance.

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18 **SECTION 16. Effective Date.**

19 This Ordinance shall take effect upon its approval and publication as required by law.

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21 **FIRST READING:** _____, 2018

22 **SECOND READING:** _____, 2018

23 **ADOPTED** this _____ day of _____, 2018, by the City Council of the City of Belle Isle, Florida.

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YES

NO

ABSENT

Ed Gold

Anthony Carugno

Jeremy Weinsier

Mike Sims

Harvey Readey

Jim Partin

Sue Nielsen

Lydia Pisano, Mayor

ATTEST: _____

Yolanda Quiceno, CMC-City Clerk

Approved as to form and legality,

Kurt Ardaman, City Attorney

1 STATE OF FLORIDA

2 COUNTY OF ORANGE

3 I, Yolanda Quiceno, City Clerk of the City of Belle Isle do hereby certify that the above and foregoing document

4 ORDINANCE 18-14 was duly and legally passed by the Belle Isle City Council, in session assembled on the

5 _____ day of _____, 2018, at which session a quorum of its members were present.

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7 _____

8 Notary

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