

**EMERGENCY ORDINANCE NO. 22-11**

**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 TROPICAL STORM NICOLE; 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 potentially severe threat to the City of Belle Isle due to Tropical Storm Nicole 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 November 7, 2022, Executive Order Number 22-253 was executed by the Governor of Florida declaring a state of emergency relating to Subtropical Storm Nicole, now Tropical Storm Nicole.

**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 the 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 Tropical Storm Nicole that were taken in a manner consistent with this Ordinance occurring during the time period from the issuance of Executive Order Number 22-253 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 are located on public lands, public or private roads, or gated communities. The City Manager is authorized to enter into a temporary lease or license agreement 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 the 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 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 comply 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, the City Council intends 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 \_\_\_\_ day of November 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