ORDINANCE NO. 18-14

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF BELLE ISLE, FLORIDA AMENDING CHAPTER 15 OF THE CITY OF BELLE ISLE CODE OF ORDINANCES TO CREATE A NEW ARTICLE IV PROVIDING FOR THE REGULATION AND CONTROL OF SECURITY ALARMS; PROVIDING FOR A TITLE; PROVIDING FOR DEFINITIONS; PROVIDING FOR REGULATIONS CONCERNING THE INSTALLATION, MAINTENANCE AND OPERATION OF ALARMS; PROVIDING FOR REGULATIONS CONCERNING FALSE AND NUISANCE ALARMS; PROVIDING FOR CORRECTIVE ACTION AND PENALTIES FROM FALSE ALARMS; PROVIDING FOR A CITATION PROCEDURE; PROVIDING FOR RESPONSE AND ENFORCEMENT BY LAW ENFORCEMENT OFFICERS; PROVIDING FOR THE PROHIBITION OF AUTOMATIC ALARM COMMUNICATION SYSTEMS; PROVIDING FOR THE LIMITATION OF LIABILITY; PROVIDING FOR THE DISPOSITION OF PENALTIES AND FINES; PROVIDING FOR INCLUSION INTO THE BELLE ISLE CITY CODE; PROVIDING FOR LIBERAL NON-CONFLICTING CONSTRUCTION; PROVIDING FOR SEVERABILITY, CODIFICIATION, AND AN EFFECTIVE DATE.

WHEREAS, Section 166.011, Florida Statutes, et.seq., the "Municipal Home Rule Powers Act" provides that municipalities shall have the governmental, corporate and proprietary powers to enable them to conduct municipal government, to perform municipal functions, to render municipal services, and to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Section 166.021, Florida Statutes, grants to the City Council of Belle Isle the power to enact legislation concerning any subject matter, such as providing for reasonable regulations concerning the installation, maintenance and operation of security alarms, as well as regulations designed to inhibit the occurrence and reoccurrence of false alarms; and

WHEREAS, due to negligence, improper use, mechanical malfunction and poor design, the use of security alarms within the incorporated limits of Belle Isle frequently result in a number of false alarms being reported to which law enforcement personnel must respond in force; and

WHEREAS, the incidence of false alarms causes a significant misuse of manpower and resources by causing the dispatch of multiple units to the scene of each false alarm, rendering said units out of service and unavailable for response to legitimate emergency situations; and

WHEREAS, the continued frequency of false alarms carries the potential for creating complacency in responding officers, thereby posing a danger to their safety as well as the safety of the citizens of Belle Isle; and

WHEREAS, the City Council finds it necessary to prohibit automatic alarm communication devices which are programmed to make connection with the same telephone lines utilized by police services, which could seize and hold said lines to the exclusion of legitimate emergency calls; and

WHEREAS, the prohibition against the aforementioned automatic alarm communication devices as well as the regulation of alarm systems and their use will result in a significant reduction of false alarms, with the resultant savings in public resources, as well as the safety of the citizens of Belle Isle.

NOW THEREFORE, BE IT ENACTED by the City Council of the City of Belle Isle, Florida, as follows:

SECTION 1. **Recitals Incorporated.**

The above recitals are true and correct and are incorporated herein and constitute the legislative findings of the City of Belle Isle.

SECTION 2. **City Code Amendment.**

Chapter 15 of the Belle Isle City Code is hereby amended to add a new Article IV containing the following provisions, which shall be known and may be cited as the "City of Belle Isle Alarm Control Ordinance".

ARTICLE IV. – ALARM CONTROL

Sec. 15-72. - Definitions.

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

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

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

1. Owns the premises in which an alarm system is installed; or

2. Who leases or occupies the premises; or

3. Who is designated as the registered agent of the premises; or

4. Is the rental/property management company for the premises.

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

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

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

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

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

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

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

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

I. *Police Department*- means the City of Belle Isle Police Department.

J. *Responding Officer*- means an officer with the Belle Isle Police Department responding to a security alarm.

K. *Three Hundred Sixty-Five {365) day period*- means any consecutive Three Hundred Sixty-Five (365) day period.

Sec. 15-73. - Automatic Alarm Communication Systems Prohibited.

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

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

Sec. 15-74. - Response to Alarms; Determination of Validity.

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

B. If the responding officer determines the alarm to be false, the officer shall so notify the Sheriff's Office communications section in the case of a security alarm. Upon request by the police department, the alarm monitoring company shall provide the name, physical/mailing address, and phone number of the alarm premises' owner, the alarm premises lessee/occupant, the rental/property management

company or the registered agent. This information shall be used to maintain a current database to ensure compliance with the provisions of this Ordinance. Failure by the alarm monitoring company to provide such information, upon request, will result in fines and penalties for false alarms imposed pursuant to Section 6 of this Ordinance against the alarm monitoring company.

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

Sec. 15-75. - False Alarms; Required Corrective Action and Penalties.

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

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

I. No fine shall be imposed for the first false alarm within any ninety (90) day period. A warning letter will be issued to the alarm owner.

2. No fine shall be imposed for the second false alarm within any one hundred and eighty (180) day period unless the alarm user has failed to comply with the requirements of subsection (A), in which case a fine in the amount of Fifty Dollars ($50) shall be imposed.

3. The fine for a third false alarm within a one hundred and eighty (180) period shall be in the amount of One Hundred and Fifty Dollars ($150), and any subsequent false alarm shall be in the amount of Two Hundred and Fifty Dollars ($250), except that the listed fines shall be doubled if the alarm user is not in compliance with subsection (A) at the time of the false alarm triggering the fine occurs.

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

Sec. 15-76. - Citation Procedure.

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

Sec. 15-77. - Appeal.

Any alarm user who receives a citation for a false alarm fine shall be entitled to an appeal hearing before the City Manager, or his or her authorized designee. A request for an appeal hearing must be in writing

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

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

Sec. 15-78. - Alarm System Operations.

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

Sec. 15-79. - Applicability.

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

Sec. 15-80. - Limitation of Liability.

Nothing in this Article shall be construed as to create a duty on the part of the Police Department or the City of Belle Isle to respond to any alarm or to otherwise guarantee the safety of any member of the public. Further, the Belle Isle Police Department and the City of Belle Isle expressly retain the discretion to determine whether or not to respond to an alarm, and to otherwise determine the most efficient deployment

of law enforcement resources. Nothing in this Article shall be construed as a waiver of sovereign immunity by the City of Belle Isle.

Sec. 15-81. - Disposition of Penalties and Fines.

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

SECTION 3. Codification.

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

SECTION 4. Liberal, Non-Conflicting Construction.

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

SECTION 5. Severability.

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

SECTION 6. Effective Date.

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

FIRST READING: December 4th, 2018

SECOND READING: February 5th, 2018 9

ADOPTED this 5th day of February, 2018 9, by the City Council of the City of Belle Isle, Florida.

	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

STATE OF FLORIDA

COUNTY OF ORANGE

I, Yolanda Quiceno, City Clerk of the City of Belle Isle do hereby certify that the above and foregoing document ORDINANCE 18-14 was duly and legally passed by the Belle Isle City Council, in session assembled on the 5th day of February, 2019, at which session a quorum of its members were present.

Yolanda Quiceno

Notary

YOLANDA QUICENO
Notary Public - State of Florida
Commission # GG 10309
My Comm. Expires Nov 11, 2020