

ORDINANCE NO. 2011-__ - _____

AN ORDINANCE OF THE KEY LARGO FIRE RESCUE AND EMERGENCY MEDICAL SERVICES DISTRICT RELATING TO FALSE FIRE ALARMS; PROVIDING FOR RECITALS; PROVIDING FOR DECLARATION AND INTENT; PROVIDING FOR AREAS EMBRACED; PROVIDING FOR DEFINITIONS; PROVIDING FOR SCHEDULE OF FEES; PROVIDING FOR ISSUANCE OF FEE ASSESSMENT; PROVIDING FOR FAILURE TO PAY; PROVIDING FOR APPEAL PROCEDURE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; AND PROVIDING FOR EFFECTIVE DATE.

WHEREAS, the Key Largo Fire Rescue and Emergency Medical Services District (the “District”) is a legally established Independent Special Fire District under Florida Statutes (FS) 189 and 191, and under Laws of Florida 2005-329 (House Bill No. 1291);

WHEREAS, the District is authorized under FS 196.006(5) to adopt ordinances and resolutions that are necessary to conduct District business so long as the ordinance does not conflict with a Monroe County, Florida, ordinance; and

WHEREAS, no Monroe County, Florida, ordinance exists that would directly conflict with an ordinance addressing false fire alarms; and

WHEREAS, the District is authorized under FS 191.009(3)C and Laws of Florida 2005-329, section 7(3) (House Bill No. 1291) to assess and collect user fees for responding to false alarms; and

WHEREAS, the District is concerned about the safety and welfare of the public and business within its jurisdictional limits; and

WHEREAS, the Board of Commissioners (the “Board”) has determined that the high incidence of false alarms causes a significant misuse of District resources by causing the dispatch

of units to a scene of a false alarm which renders them out of service and unavailable to respond to legitimate emergency situations; and

WHEREAS, the Board finds it necessary to collect fees in order to cover costs for services provided by the District;

NOW, THEREFORE, BE IT ORDAINED BY THE KEY LARGO FIRE RESCUE AND EMERGENCY MEDICAL SERVICES DISTRICT AS FOLLOWS:

Section 1. Recitals.

The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Declaration and Intent.

The District finds and declares that the high incidence of false alarms causes a significant misuse of District resources by causing the dispatch of units to a scene of a false alarm which renders them out of service and unavailable to respond to legitimate emergency situations and finds that establishing procedures and fees for multiple false alarms would serve the public health, safety and welfare. The Board further finds that a fee schedule based on a portion of the true cost of a false alarm would better help achieve the goal of proper use and maintenance of fire alarm systems. The charge is not intended to be a penalty, but to compensate the District for the cost incurred in responding to false alarms.

Section 3. Areas Embraced.

All territory described as those lands on the island of Key Largo, in Monroe County, to wit:

All of Cross Key and that part of Key Largo from South Bay Harbor Drive and Lobster Lane to the southern boundary of the right-of-way County Roads 905 and 905-A.

Section 4. Definitions.

The following phrases or terms when used in this ordinance shall, unless the content otherwise indicates, have the following meanings:

- (a) Calendar Year: A one-year period running from January 1st through December 31st.
- (b) False Fire Alarm: An alarm dispatch or other response by the fire department, when the responding unit(s) find no evidence of a fire or attempted fire offense after having completed an investigation of the site. This definition includes signals activated by negligence, accident, mechanical failure, electrical failure, signals activated intentionally in non-emergency situations, and signals for which the actual cause of activation is unknown.

Excluded from this definition are:

- 1. Alarms occurring as a result of lightning, wind, or other meteorological events, where there is clear evidence of physical damage to the fire alarm system;
 - 2. Electrical service interruption verified to the fire department by the local power company manager within forty-eight hours of the occurrence.
- (c) Fire Alarm User: Any owner, tenant or other person or entity that uses or is in control of a fire alarm system, including governmental entities.
 - (d) Fire Alarm System: Any device that emits, transmits or relays a signal intended to summon, or that would reasonably be expected to summon fire department services to the fire alarm site. Fire alarm system does not include:
 - 1. A device installed on a vehicle, unless the vehicle is permanently located on the site;or

2. A device designed to alert only the inhabitants of the device site, and that is not audible or visible from the exterior of the structure; or
 3. A device designed for a purpose other than to alert for fire.
- (e) Fire Department: The Key Largo Volunteer Fire Rescue Department which is an independent contractor for the District or whatever entity is providing fire protection services for the District at that time as an independent contractor.

Section 5. Schedule of Fees

Fees: A fire alarm user shall be fined for false fire alarms as follows:

1. First false alarm in a calendar year: warning (no fee).
2. Second false alarm in a calendar year: warning (no fee).
3. For the third and each subsequent false fire alarms in a calendar year, the District shall levy a service charge of \$250.00 for each false alarm.

Section 6. Issuance of Fee Assessment

The District shall send by Certified U.S. Mail to the alarm user a fee assessment for each unlawful false alarm. The alarm user shall be responsible for paying the fee assessment to the District within thirty (30) days of receipt of the fee assessment. The use and/or employment of an alarm installation, monitoring, or maintenance firm or security firm shall not relieve the alarm user of the responsibility of paying the fee. The fee shall be mailed to:

KLFR & EMS District
P.O. Box 371023
Key Largo, FL 33037-1023

Section 7. Failure to Pay

In addition to the fees set forth in Section 5, if any user refuses to pay or fails to pay within thirty (30) days of the fee assessment, the user will be deemed to have further violated this Ordinance and will incur an additional fee of not less than \$25.00 nor more than \$500.00 for each offense plus all legal fees and all costs caused by enforcement. The District is entitled to have a lien upon any real property, motor vehicle, marine vessel, aircraft, or rail car for any charge assessed under FS 191.009.

Section 8. Appeal Procedure

All users who are assessed fees in accordance with this ordinance shall have the right to an appeal of their fine by the District in accordance with the informal appeal procedure established below:

- (a) **Step One:** The alarm user may appeal the assessment of fees by notifying the District in writing within fifteen (15) days of receipt of fee assessment that such fee is being appealed, briefly stating why the fee for the false alarm is not proper. Proper notification shall stay the imposition of a fee until a decision is made by the District.
- (b) **Step Two:** The District shall consider the written appeal along with the circumstances surrounding the issuance of the fee and render a decision.

Section 9. Severability.

The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand

notwithstanding the invalidity of any part.

Section 10. Repeal of Conflicting Provisions.

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of said conflict.

Section 11. Effective Date.

This Ordinance shall be effective on the date of the adoption of this Ordinance.

REMAINING BALANCE INTENTIONALLY LEFT BLANK

PASSED AND ADOPTED by the Key Largo Fire Rescue and Emergency Medical Services

District at a regular meeting of the Board of Commissioners held on the ____ day of

_____ 2011.

William Andersen, Chairman

ATTEST:

Vicky Fay, Clerk

APPROVED AS TO FORM

FOR THE USE AND BENEFIT OF THE

KEY LARGO FIRE RESCUE AND EMERGENCY

MEDICAL SERVICES DISTRICT

District Attorney