



COUNCIL AGENDA STATEMENT

Meeting Date: December 10, 2019
To: Honorable Mayor and Members of the City Council
From: Douglas Lewis, Growth Management Director
Through: Chuck Lindsey, City Manager

Agenda Item: **Ordinance 2019-15**, Amending Chapter 22, Article II, Section 22-19, “Definitions;” Chapter 22, Article II, Section 22-20, “Premises To Be Cleaned Of Debris And Noxious Material” And Chapter 22, Article II, Section 22-25, “Enforcement And Appeals” Of The City Code Of Ordinances; Providing For The Repeal Of All Ordinances Or Parts Thereof Found To Be In Conflict; Providing For Severability; Providing For Inclusion In The Code Of Ordinances And Providing For An Effective Date.

BACKGROUND & JUSTIFICATION:

The City Code Department frequently receives complaints about excessive amounts of debris on private properties. Current definitions within Chapter 22 have not adequately addressed some of the issues. Additionally, parts of the current code are inconsistent and difficult to enforce. These revisions are meant to clarify the nature of the process, the compliance period and means of appeal.

CONSISTENCY CHECKLIST:

	Yes	No
1. Comprehensive Plan	_____	_____
2. Other –Sewer Mandate	_____	_____

FISCAL NOTE:

APPROVED BY FINANCE DIRECTOR:

RECOMMENDATION: Approval of Resolution

Sponsored By: Lindsey
City Council Public Hearing Date: December 10, 2019
January 14, 2020
Enactment Date:

**CITY OF MARATHON, FLORIDA
ORDINANCE 2019-15**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 22, ARTICLE II, SECTION 22-19, “DEFINITIONS;” CHAPTER 22, ARTICLE II, SECTION 22-20, “PREMISES TO BE CLEANED OF DEBRIS AND NOXIOUS MATERIAL” AND CHAPTER 22, ARTICLE II, SECTION 22-25, “ENFORCEMENT AND APPEALS” OF THE CITY CODE OF ORDINANCES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS THEREOF FOUND TO BE IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Marathon (the “City”) has experienced an increased number of problems with trash and debris accumulating on Residential and Commercial Property; and

WHEREAS, Chapter 22, Article II of the City Code of Ordinances does not adequately provide an effective means for code compliance officers to address the increased number of trash and debris accumulation issues; and

WHEREAS, the accumulation of trash and debris on properties throughout the City poses both a health risk and constitutes a blight on the surrounding neighborhoods; and

WHEREAS, the enforcement procedure outlined in Chapter 22, Article II of the City Code of Ordinances is inconsistent with current City practices.

WHEREAS, the City Council wishes to combat this problem by clarifying the definitions and enforcement options contained in Chapter 22, Article II of the City Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA THAT

~~Strikethrough~~ = deletion **bold underline** = addition

SECTION 1. The above recitals are true, correct, and incorporated herein by this reference.

SECTION 2. Chapter 22, Article II, Section 22-19 of the Marathon Code is hereby amended, by adding a definition for “Debris,” to read as follows:

Sec. 22-19. – Definitions.

Debris means, but is not limited to, garbage; trash; litter; refuse; solid waste; sludge; yard trash; abandoned construction or demolition materials; derelict or wrecked machinery, bedding, plumbing fixtures, appliances, tires, farm machinery, furniture, or any other derelict equipment, machinery, articles or parts thereof without apparent commercial value except, at the most, nominal salvage value and which is in a state of disrepair, partially or wholly dismantled or otherwise inoperative.

SECTION 3. Chapter 22, Article II, Section 22-20 of the Marathon Code is hereby amended to read as follows:

Sec. 22-20. – Premises to be cleaned of debris and noxious material.

For the purpose of promoting the health, safety and general welfare of the residents, ~~that~~ lands in subdivisions and outside of subdivisions, including vacant lands and/or improved property with residences, shall be cleared of debris and any noxious material, ~~be the same garbage, litter, rubbish, refuse, solid waste, trash, or industrial waste cumulatively exceeding 2.5 cubic yards.~~

SECTION 4. Chapter 22, Article II, Section 22-25 of the Marathon Code is hereby amended to read as follows:

Sec. 22-25. – Enforcement and appeals.

- a) Upon determination by the Code Compliance Department (the "Department") of the existence of a violation of Section 22-20 or Section 22-24 of the Marathon Code, the City ~~shall~~ may issue to the property owner of record a citation regarding the existence of the violation(s). The citation shall be issued via first-class mail or posting the property. The property owner of record must correct the violation within ~~ten fourteen~~ (10) (14) calendar days. ~~Upon failure of the property owner to correct the violation(s), the City Manager may instruct employees or contractors of the City to enter the property and correct the violation(s). The cost of such correction shall be levied as an assessment against the property. The City Manager or his designee shall prepare an assessment bill for the entire cost of abatement.~~
- b) Within ~~ten fourteen~~ (10) (14) calendar days of mailing of the citation by mail or posting, the owner of the property may appeal the determination of the Department to the ~~City Manager~~ Special Magistrate.
- c) ~~In the event the City corrects the violation(s), the City shall provide notice to the property owner containing an invoice detailing any and all costs including administrative costs incurred by the City. The City shall serve the property owner with a request for payment of these costs, within 30 days of the date of the issuance of the correction of the violation by the City. In the event the amount set forth on this notice is not paid in full within 30 days of the date of the notice, an assessment lien indicating these costs, signed by the Director, shall~~

¹Additions to existing text are shown by underline/red print; deletions are shown as ~~strikethrough~~

~~be placed against the property and recorded in the official records of Monroe County, Florida. The lien shall accrue interest at the statutory rate on the unpaid balance of the assessment until the balance is paid in full. Such liens shall be superior and paramount to the interest in such parcel or property of any owner, lessee, tenant, mortgagee, or other person except the lien of State, County and City taxes and shall be on parity with the lien of such State, County and City taxes.~~

- d) ~~Any property owner whose property is subject to a lien under this section may appeal the decision of the City Manager to the Code Compliance Board. The property owner has the burden to prove that the violation(s) did not exist at the time of the City's correction of the violation(s). The Code Compliance Board is not authorized to waive the assessment or release the lien placed on the property as a result of the City's correction of the violation(s) if it finds that the violation(s) did exist.~~
- e) c) Notwithstanding any provision of this article, a violation of Subsection 22-22(c), shall be punishable pursuant to Chapter 10, Section 10-8, "Procedures for implementation of Fla. Stat. ch. 162, pt. II - Citation." Particularly, a violation of Subsection 22-22(c) shall be subject to a fine of \$100.00, such fine subject to change by resolution of the City Council.

SECTION 5. Any provisions of the Code of Ordinances of the City of Marathon, Florida or Ordinances or parts of Ordinances that are in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 6. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, or 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 7. It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Marathon Code, that sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

SECTION 8. This Ordinance shall be effective immediately upon its adoption.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA,
THIS 14th DAY OF JANUARY, 2020.**

THE CITY OF MARATHON, FLORIDA

Steven Cook, Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

Diane Clavier, City Clerk

(City Seal)

**APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:**

David Migut, City Attorney