

**Sponsored By:** Gonzalez

**City Council Public Hearing Date:** September 20, 2022

October 11, 2022

**Enactment Date:** October 11, 2022

**CITY OF MARATHON, FLORIDA  
ORDINANCE 2022-23**

**AN ORDINANCE BY THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 18, ARTICLE III (“OFFENSES INVOLVING PUBLIC PEACE, ORDER, AND MORALS”) OF THE CODE OF ORDINANCES OF THE CITY OF MARATHON BY AMENDING SECTION 18-124 TO CREATE SUBSECTION D WHICH WILL PROVIDE AN ENFORCEMENT MECHANISM FOR SECTION 18-124; BY AMENDING SECTION A TO PROHIBIT SMOKING AT PUBLIC BEACHES AND PARKS; 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 (“City”) is a municipal corporation of the State of Florida with such power and authority as has been conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes, and

**WHEREAS**, Chapter 166, *Florida Statutes*, grants the City broad municipal home rule powers to provide for the health, safety and welfare of its residents, business owners and visitors by enacting regulations for the protection of the public; and

**WHEREAS**, the Marathon City Council has identified significant problems with the number of persons consuming an excessive amount of alcohol on or around the City’s public beaches and parks.; and

**WHEREAS**, as a result of the excessive alcohol consumption, there has been a significant increase in the number of persons unable to operate a vehicle or otherwise relocate themselves from the public beaches and parks after sundown; and

**WHEREAS**, in order to combat this public nuisance, the City wishes to include a clear and specific enforcement procedure to prevent the above situation from occurring; and

**WHEREAS**, the Florida legislature has granted municipalities the power to prohibit smoking at City beaches and parks; and

WHEREAS, it is the desire of the City Council to allow for-profit entities to be able to seek alcohol-prohibition waivers; and

WHEREAS, the City Council has determined that the implementation of such procedures is in the best interests of the public health and safety of the citizens of Marathon.

**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 18, Article III, Section 18-124 “Consumption of alcoholic beverages on public beaches and parks” is hereby amended to read as follows:

Section 18-124. – Consumption of alcoholic beverages **and smoking** on public beaches and parks.

- (a) It shall be prohibited for a person in, on or about any public facility, vehicle or public beach to consume alcohol beverages. **It shall be further prohibited for a person to smoke any item other than an unfiltered cigar within the boundaries of any public beach or public park pursuant to Florida Statute § 386.209.** The prohibitions of consuming alcoholic beverages on public beaches and parks can be waived by the City Council as provided in this section.
- (b) The City Council may waive the **alcoholic beverage** provisions of this section by resolution. However, any such waiver ~~may only be granted to a nonprofit organization,~~ shall require the presence of security guards in the number the City Council determines necessary to preserve public order, and shall require liability insurance naming the City as an additional named insured in a form and amount satisfactory to the City Manager or designee to adequately indemnify the City against liability.
- (c) For the purposes of this section, the term “alcoholic beverage” means any beverage containing more than one (1) percent ethyl alcohol by volume.
- (d) **Enforcement- All rules and regulations contained in this section are enforceable by all law enforcement officers. Those properly designated park employees and city employees may warn participants of ordinance violations and report the same to the proper law enforcement officers for compliance.**
  - a. **A first-time violation of this section will result in the violator being asked to leave the premises.**

- b. **A second-time violation of this section will result in the violator being issued a trespass warning by a law enforcement officer for not more than 364 days, which is inclusive of all city parks.**
- c. **A third-time violation of this section will result in the violator being arrested as a trespasser pursuant to F.S. Ch. 810, or any amended or successor statute. In the event of an arrest of a minor, authorized law enforcement shall notify the parent or legal guardian and shall maintain a record of all such violations.**

**SECTION 3.** 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 4.** 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 5.** 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 “Ordinance” shall be changed to “Section” or other appropriate word.

**SECTION 6.** This Ordinance shall become effective immediately upon approval.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON,  
FLORIDA, THIS XX DAY OF XXXX, 2022.**

**THE CITY OF MARATHON, FLORIDA**

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**John Bartus, Mayor**

AYES:

NOES:

ABSENT:

ABSTAIN:

**ATTEST:**

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Diane Clavier, City Clerk  
(City Seal)

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

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Steven Williams, City Attorney