



CITY COUNCIL AGENDA STATEMENT

Meeting Date: January 10, 2023
To: Honorable Mayor and City Council
From: Brian Shea, Planning Director
Through: George Garrett, City Manager

Agenda Item: **Ordinance 2023-01** Amending The City’s Code Of Ordinances, Chapter 26, “Streets, Sidewalks, And Other Public Places.” In Order To Modify A Portion Of The Chapter, To Add A New Article Iv, And Renumber Articles And Sections; Accordingly, And Providing For An Effective Date.

BACKGROUND:

The attached amended Ordinance will create similar code language for the maintenance of private streets to mirror the language that exists for public streets.

Fire, emergency response, utility services (public and private), mail and package delivery, garbage service and other franchises access and assist residents on private streets and easements. Maintaining the functionality of these streets and easements allows this to continue without interruption. This code section allows for a mechanism to ensure that there are standards and penalties consistent with other sections of the code.

CONSISTENCY CHECKLIST:

	Yes	No
1. Comprehensive Plan	<u> </u>	<u>No</u>
2. Other –Sewer Mandate	<u> </u>	<u>No</u>

FISCAL NOTE:

NA

APPROVED BY FINANCE DIRECTOR:

RECOMMENDATION:

Approval of Ordinance 2023-01 to be brought forward for a second public hearing.

Sponsored By: Garrett
City Council Public Hearing Date: January 10, 2023
February 14, 2023
Enactment Date: February 14, 2023

**CITY OF MARATHON, FLORIDA
ORDINANCE 2023-01**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING THE CITY’S CODE OF ORDINANCES, CHAPTER 26, “STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES.” IN ORDER TO MODIFY A PORTION OF THE CHAPTER, TO ADD A NEW ARTICLE IV, AND RENUMBER ARTICLES AND SECTIONS ACCORDINGLY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council finds it necessary, desirable, and proper to adopt this amendment to the City’s Code of Ordinances in furtherance of the public good; particularly to those who live on or have businesses on a private street, right-of-way, or easement within the City of Marathon; and

WHEREAS, this Ordinance had a hearing before the City Council on January 10, 2023 and February 14, 2023 during which the Council took staff testimony, all public comment, and having duly deliberated, determined that the Ordinance was in the best interest of the public, supporting the public health, safety, and welfare; and

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. Amend the City Code of Ordinances, Chapter 26, “Streets, Sidewalks, and Other Public Places.” in order to modify a portion of the Chapter, to add a new Article IV, and renumber Articles and Sections accordingly:

Chapter 26 – Streets, Sidewalks, ~~And~~ Other Public Places, **And Private Streets, Rights-Of-Way, or Easements**

Article IV - Maintenance of Private Streets and Rights-Of-Way.

Section 26-91. – Intent and purpose:

The intent of this Article is to acknowledge:

- **The existence of private streets, rights-of-way, and easements within the City of Marathon,**
- **The need to provide public services to property owners within those areas, and**

- The requirement to establish private property owner responsibility to maintain those areas for continued provision of public services.

Public services in this context shall mean those services provided by both public sector agencies , private sector entities, or franchises whose responsibly it is to provide essential services including but not limited to fire, emergency response, utility services (public and private), mail and package delivery, garbage service among other functions. Said services are assumed to require service vehicles.

(a) Affected Property Owner(s): Any property owner whose access to his/her/its privately held land or structure is via a privately held street, right-of-way, or easement. Property owner shall mean those individuals, entities or associations or individuals or entities who individually or collectively have legal responsibility for the ownership and maintenance of the privately held street, right-of-way, or easement in question.

(b) Property Owner's Responsibility: All affected property owners shall maintain their privately held streets, rights-of-way, or easements so as to be safely passable both from the standpoint of the maintenance of road, right-of-way, or easement surfaces and overhanging vegetation which may impede the passage of service vehicles.

(c) Impediment of Access: For purposes of this Article, impediment of access to service vehicles shall be created when failure to maintain any portion of the private road, right-of-way, or easement area limits access to the area to be serviced. Such limitations shall include, but are not limited to, poorly maintained travel surfaces, potholes, and overhanging vegetation which would potentially and reasonably bring damage to a service vehicle.

(d) Permits Required: Maintenance of Mangrove or other native vegetation trimming, and removal requires a permit from the Florida Department of Environmental Protection for mangroves and/or the City of Marathon for other vegetation. Permits for the repair and maintenance of private streets, rights-of-way, and easements also require City permits.

(e) Standards for Trimming: Mangrove trimming shall be performed in accordance with Fla. Stat. §§ 403.9321—403.9334. Trimming of other vegetation types shall generally comply with standards set out in Chapter of 106, Article 2 of the City's Land Development Regulations.

(f) Applicable Law: It is the property owner's responsibility to ensure compliance with all State and local laws governing the removal and maintenance of vegetation.

Sec. 36-92. - Penalties.

Failure to maintain private roads, rights-of-way, or easements so that they are passable by service vehicles may cause termination of service to the area to which the private roads, rights-of-way, or easements serve. Notification of the cessation of service by any City agency or by any agency or service entity making complaint to the City, shall be by certified mail to the affected property owner(s).

A continued violation of this Article may be enforced by issuance of a citation, summons, notice to appear in County court, arrest as provided in Fla. Stat. Ch. 901, or in accordance with this Code,

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

and punishable by a fine not to exceed \$500.00. Nothing contained herein, however, shall prohibit the City from enforcing this Article by any other lawful means.

ARTICLE IV. - DEBRIS REMOVAL FROM PRIVATE STREETS, ROADS, ROADWAYS AND PRIVATE PROPERTY

SECTION 3. 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, 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 4. It is the intention of the City Council and it is hereby ordained 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 5. This Ordinance shall be effective immediately upon final adoption.

ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 14th DAY OF FEBRUARY, 2023.

THE CITY OF MARATHON, FLORIDA

Luis Gonzalez, Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

Diane Clavier, City Clerk

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

Steven T. Williams, City Attorney

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