

**Sponsored By:** Garrett

**City Council Public Hearing Date:** December 14, 2023

January 9, 2023

**Enactment Date:** January 9, 2024

**CITY OF MARATHON, FLORIDA  
ORDINANCE 2023-23**

**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 AMEND SUBSECTION D(a) WHICH WILL PROVIDE AN ENFORCEMENT MECHANISM FOR SECTION 18-124; 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 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 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, **or, in the discretion of the officer on scene, a first time violation may result in the violator being issued a trespass warning as set forth in paragraph “b” below.**
  - 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 9<sup>th</sup> DAY OF JANUARY, 2024.**

**THE CITY OF MARATHON, FLORIDA**

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**Robyn Still, 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

# Business Impact Estimate Form

This Business Impact Estimate Form is provided to document compliance with and exemption from the requirements of Sec. 166.041(4), Fla. Stat. If one or more boxes are checked below under “Applicable Exemptions”, this indicates that the City of Marathon has determined that Sec. 166.041(4), Fla. Stat., does not apply to the proposed ordinance and that a business impact estimate is not required by law. If no exemption is identified, a business impact estimate required by Sec. 166.041(4), Fla. Stat. will be provided in the “Business Impact Estimate” section below. In addition, even if one or more exemptions are identified, the City of Marathon may nevertheless choose to provide information concerning the proposed ordinance in the “Business Impact Estimate” section below. This Business Impact Estimate Form may be revised following its initial posting.

## Proposed ordinance’s title/reference:

**Proposed Ordinance 2023-23 Offenses Involving Public Peace, Order, and Morals**

## Applicable Exemptions:

- The proposed ordinance is required for compliance with Federal or State law or regulation;
- The proposed ordinance relates to the issuance or refinancing of debt;
- The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the municipal government;
- The proposed ordinance is an emergency ordinance;
- The ordinance relates to procurement; or
- The proposed ordinance is enacted to implement the following:
  - Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements, and development permits;
  - Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
  - Section 553.73, Florida Statutes, relating to the Florida Building Code; or
  - Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

## **Business Impact Estimate:**

**The City of Marathon hereby publishes the following information:**

- 1. A summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):**

Ordinance 2023-23 amends Chapter 18, of the City of Marathon Code of Ordinances by allowing a law enforcement officer, within their discretion, to issue a trespass warning to an individual upon a first-time violation of the section related to consumption of alcohol beverages and smoking on public beaches and parks. The City Council has identified a significant problem with the number of persons consuming an excessive amount of alcohol on or around the City's public beaches and parks. As such, this proposed ordinance relates to public health, safety, morals, and welfare.

- 2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the municipality, including the following, if any:**

- (a) An estimate of direct compliance costs that businesses may reasonably incur if the ordinance is enacted:**

Ordinance 2023-23 does not impose a direct compliance cost on businesses as the ordinance pertains to public beaches and parks, which are owned by the City of Marathon.

- (b) Identification of any new charge or fee on businesses subject to the proposed ordinance, or for which businesses will be financially responsible:**

Ordinance 2023-23 does not impose a new charge or fee on businesses as the ordinance pertains to public beaches and parks, which are owned by the City of Marathon.

- (c) An estimate of the municipality's regulatory costs, including an estimate of revenues from any new charges or fees that will be imposed on businesses to cover such costs:**

None.

- 3. A good faith estimate of the number of businesses likely to be impacted by the ordinance:**

None.

**4. Additional information the governing body determines may be useful (if any):**

No additional information.

**Note:** *The City's provision of information in the Business Impact Estimate section above, notwithstanding an applicable exemption, shall not constitute a waiver of the exemption or an admission that a business impact estimate is required by law for the proposed ordinance. The City's failure to check one or more exemptions below shall not constitute a waiver of the omitted exemption or an admission that the omitted exemption does not apply to the proposed ordinance under Sec. 166.041(4), Fla. Stat., Sec. 166.0411, Fla. Stat., or any other relevant provision of law.*