

Sponsored by: Code Board/Hernstadt
Introduction Date: March 8, 2011
Public Hearing Dates: March 8, 2011
March 29, 2011
Enactment date: March 29, 2011

CITY OF MARATHON, FLORIDA
ORDINANCE 2011-02

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, CREATING SECTION _____, OF THE CODE OF ORDINANCES OF THE CITY OF MARATHON, FLORIDA REQUIRING THE MAINTENANCE OF FENCES AND AUTHORIZING THE CITY MANAGER TO ABATE NUISANCES AND CORRECT VIOLATIONS; AUTHORIZING THE IMPOSITION OF LIENS; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Council finds that fences that have fallen into disrepair present a threat to the health, safety and welfare of the City of Marathon; and

WHEREAS, such fences may be unsightly and, therefore, reduce neighboring property values and quality of life; or may become attractive an attractive nuisance or menace to children and others, and for all or any of the aforesaid reasons constitute a public nuisance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AS FOLLOWS:¹

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

Section 2. Section _____ of the City Code of Ordinances of the City of Marathon, Florida, is hereby created to read as follows:

Section _____ Fence Maintenance

(a) Fences, as defined in Chapter 110, Article 3 of the Land Development Regulations must meet the following maintenance requirements:

- i. Fences may not have non-manufactured holes or gaps, damaged or missing pieces.
- ii. All Fence gates must be aligned and functional with hinges and lockable hatches.

¹ / Additions to existing text are shown by underline, changes to existing text on second reading are shown by double underline, and deletions are shown as ~~strikethrough~~.

- iii. Vertical and horizontal supports must be level and plumb.
- iv. Fences may not be leaning or separated from support structures.
- v. Fences must be free of vegetation including, but not limited to, grass, weeds, and invasive vines.

Section 3. Section _____ of the City Code of Ordinances of the City of Marathon, Florida, is hereby created to read as follows:

Section _____ Enforcement and Appeals.

(a) Upon determination by the Code Compliance Department (the "Department") of the existence of a violation of Section _____, the City shall 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 10 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 10 calendar days of mailing receipt of the citation by mail or posting, the owner of the property may appeal the determination of the Department to the City Manager.

(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 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.

Section 4. The provisions of the Marathon Code and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 5. The provisions of this Ordinance are declared to be severable, and if any sentence, section, 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 sentences, sections, clauses or phrases of the Ordinance, but they shall remain in effect it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 6. 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 7. This Ordinance shall be effective immediately upon enactment

ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 29th DAY OF MARCH, 2011.

THE CITY OF MARATHON, FLORIDA



Ginger Snead, Mayor

AYES: Cinque, Keating, Worthington, Snead
NOES: Ramsay
ABSENT: None
ABSTAIN: None


ATTEST:



Diane Clavier, City Clerk

(City Seal)

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



City Attorney
#757084 v1