

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 2011-03

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING SECTION 22-20, CREATING SECTION 22-24 AND CREATING SECTION 22-25 OF THE CODE OF ORDINANCES OF THE CITY OF MARATHON, FLORIDA, REGARDING LOT MOWING AND MAINTENANCE; 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 lots with overgrown grass and weeds or with debris may reasonably become infested with or inhabited by mosquitoes and other insects, rodents, vermin and snakes; and

WHEREAS, such lots may cause undue pollenization which may produce hay fever or other respiratory conditions in humans; and

WHEREAS, such lots may be unsightly and, therefore, reduce neighboring property values and the quality of life; and

WHEREAS, such lots may contribute to the combustion and spread of fire or may become an attractive nuisance or menace to children and others, and for all or any of the aforesaid reasons constitutes a public nuisance.

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

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

**Section 2.** Section 22-20 of the City Code of Ordinances of the City of Marathon,

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<sup>1</sup> / 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~~.

Florida, is hereby amended to read as follows:

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

(a) For the purposes 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, 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, ~~and high grass or weeds which tend to be a breeding place or haven for snakes, rodents, insects and vermin of all kinds and character, or which tend to create a fire hazard or endanger the lives and property of the residents of the City, or which tend to create a traffic hazard, or which tend to create a nuisance or other unsightly or unsanitary condition.~~

~~(b) For the purposes of health, safety, and general welfare of the residents of platted residential subdivisions, all residential subdivision lots, vacant or occupied, shall be mowed and/or cleared of debris no less than once each three (3) months, except that for subdivisions located within public acquisition areas, publicly owned vacant lots acquired for conservation and resource protection purposes and private vacant lots subject to a City approved management plan shall only be required to be cleared of debris. The schedule for mowing and/or clearing of debris be as follows:~~

~~(1) Once during the period from January 1 through March 31; once during the period April 1 through June 30;~~

~~(2) Once during the period from July 1 through September 30; and~~

~~(3) Once during the period from October 1 through December 31.~~

**Section 3.** Section 22-24 of the City Code of Ordinances of the City of Marathon, Florida, is hereby created to read as follows:

Section 22-24. - Lot mowing and maintenance

(a) It shall be unlawful, and prohibited for any person to suffer, cause, or permit the existence of noxious, uncultivated, or rank weeds, grasses, or undergrowth to exceed 18 inches in height upon a substantial portion of any unimproved lot or 12 inches in height upon a substantial portion of any improved lot.

**Section 4.** Section 22-25 of the City Code of Ordinances of the City of Marathon, Florida, is hereby created to read as follows:

Section 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 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 5.** 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 6.** 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 7.** 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 8.** This Ordinance shall be effective immediately upon enactment

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 29<sup>th</sup> DAY OF MARCH, 2011.**

**THE CITY OF MARATHON, FLORIDA**

  
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**Ginger Snead, Mayor**

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

**ATTEST:**

  
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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:**

  
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City Attorney