

Sponsored by: Snead
Introduction Date: April 10, 2012
Public Hearing Dates: April 24, 2012
May 8, 2012
Enactment date: May 8, 2012

CITY OF MARATHON, FLORIDA
ORDINANCE 2012-04

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING SECTION 32-2 OF THE CODE OF ORDINANCES OF THE CITY OF MARATHON, FLORIDA, REQUIRING THE REGISTRATION OF WRECKER OPERATORS WITHIN THE CITY; REQUIRING NOTICE BY WRECKER OPERATORS TO THE CITY OF PROPERTY OWNER, PERSON AUTHORIZED BY THE OWNER, OR LESSEE OF AUTHORIZATION TO OPERATE ON PRIVATE PROPERTY; ESTABLISHING CERTAIN STANDARDS OF OPERATION; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council has become aware of certain issues regarding the fair and effective operation of Wrecker Operators for non-Sheriff generated, non-consensual towing of vehicles within the City of Marathon; and

WHEREAS, the City Council has directed staff to develop certain modifications to the Code of Ordinance regarding Wrecker Operators within the City so as to create more fair and efficient operations of such individuals and entities;

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 32-2 of the Code of Ordinances, City of Marathon, Florida, is hereby amended to read as follows:

(g) Registration of Wrecker Operator; Right to Operate Within the Corporate Limits of the City of Marathon, Florida

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~~.

1. All Wrecker Operators as defined herein must be registered with the City of Marathon, Florida in order to legally operate within the corporate limits of the City.
2. Wrecker Operators of all wrecker classifications ~~operating~~ performing non-consent towing within the corporate limits of the City of Marathon shall register with the City Clerk on an annual basis subject to a registration fee of \$100. Failure to renew prior to expiration will result in a \$250 fee.

(h) Operation of Wrecker Operator on Private Property

1. Wrecker Operators must register all private properties posted as identified in 715.07(2)(a)5 F.S. with the City Clerk prior to the placement of signage identified therein. Said registration shall include letter from the property owner or person authorized by the property owner or lessee indicating that said posting has been requested and approved by the property owner. Such letter must be either notarized or signed by the property owner or authorized person in the presence of two witnesses.
2. If posted notice subject to 715.07(2)(a)5 is removed for any reason by the Wrecker Operator, the City Clerk shall be notified within fifteen (15) days of the removal.
3. Wrecker Operators must have access to a properly zoned storage yard for all vehicles towed. Upon registration by the Wrecker Operator, the City shall inspect such storage yard to assure compliance with the Code.
4. In no event shall a vehicle towed within the City of Marathon be taken to a facility greater than thirteen (13) miles from the location from which the vehicle was towed.

(i) Owners or Operators of Vehicle Present

1. In the event that the owner or operator of a vehicle is present when a Wrecker Operator arrives to tow, the Wrecker Operator shall give a verbal warning and (5) minutes for the owner or operator of the vehicle to remove the vehicle from the property before initiating the tow.
2. In no event shall a Wrecker Operator initiate a tow when the owner or operator of the vehicle in question is present or in the vehicle, ~~and the engine is running.~~

(j) Property Owner, Person Authorized by the Property Owner, or Lessee Presence Required

1. The property owner, person authorized by the property owner, or lessee must be present to authorize all tows initiated by a Wrecker Operator.
2. The property owner's authorized representative shall not have any interest in nor be affiliated with the Wrecker Operator towing the vehicle from the

property owner's property.

(k) Fees

1. No Wrecker Operator may charge any fee for the towing of a vehicle in excess of the fees established by the Monroe County Sherriff's Office for Class-A wrecker services. Notwithstanding the foregoing, the fee shall be determined by the class of the vehicle towed not the size of the wrecker utilized to tow the vehicle.
2. In no event shall a Wrecker Operator charge the owner of a vehicle for waiting time or labor.

(l) Penalties

1. Failure of a Wrecker Operator as defined herein to Register with the City of Marathon, Florida as identified in sub-section 32-2 (g) above, is subject to the loss of the privilege to operate within the corporate limits of the City for a period of up to one (1) year, at the discretion of the City Manager and subject to appeal to the City Council.
2. Failure of a Wrecker Operator to operate within the City of Marathon as required Section 32-2 is subject to loss of registered status for a period of up to one (1) year at the discretion of the City Manager and subject to appeal to the City Council.
3. Any violation of this Section or applicable Florida law shall result in the refund of any towing charge collected from the owner of an improperly towed vehicle.

Section 3. 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 4. 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 5. 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 6. This Ordinance shall become effective immediately upon enactment.

INTENTIONALLY LEFT BLANK

ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON,
FLORIDA, THIS 8th DAY OF MAY, 2012.

THE CITY OF MARATHON, FLORIDA



Pete Worthington, Mayor

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