

Sponsored by: Hernstadt
Introduction Date: June 11, 2013
Public Hearing Dates: June 11, 2013
June 25, 2013
Enactment date: June 25, 2013

CITY OF MARATHON, FLORIDA
ORDINANCE 2013-06

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 18, ARTICLE II, DIVISION 1 OF THE CODE OF ORDINANCES OF THE CITY OF MARATHON TO PROHIBIT NUISANCE CONDITIONS CREATED BY STAGNANT WATER ON PRIVATE PROPERTY; AUTHORIZING THE CITY MANAGER TO ABATE ANY SUCH NUISANCE CONDITION AND CORRECT VIOLATIONS; AUTHORIZING THE IMPOSITION OF LIENS; ESTABLISHING ENFORCEMENT PROCEDURES; 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 the creation and maintenance of nuisance condition caused by stagnant water reduces property values and the quality of life of the City's residents and visitors, and therefore, presents a threat to the health, safety and welfare of the City of Marathon.

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 18-28 of the Code of Ordinances of the City of Marathon, Florida, is hereby amended to read as follows:

Sec. 18-28. - Fence maintenance.

(b) ~~Enforcement and appeals:~~

(1) ~~Upon determination by the Code Compliance Department (the "Department") of the existence of a violation of subsection (a), the~~

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~~.

~~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.~~

- ~~(2) Within 10 calendar days of receipt of the citation by mail or posting, the owner of the property may appeal the determination of the Department to the City Manager.~~
- ~~(3) 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.~~
- ~~(4) 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 3. Section 18-__ of the Code of Ordinances of the City of Marathon, Florida, is hereby created to read as follows:

Sec. 18- . – Stagnant water conditions prohibited.

(a) It shall be unlawful and prohibited for any person to allow water to accumulate in a manmade non pervious physical object of any sort, such as a pool or fountain, other than an operating cistern, that may reasonably create a nuisance or a

dangerous condition, or promote the breeding of mosquitoes.

Section 4. Section 18-___ of the Code of Ordinances of the City of Marathon, Florida, is hereby created to read as follows:

Section 18- . - Enforcement and appeals.

- (a) Upon determination by the Code Compliance Department (the "Department") of the existence of a violation of sections 18-28 or 18- , 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 14-10 calendar days of receipt of the citation by mail or posting, the owner of the property may appeal in writing 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.
- (e) Nothing contained herein, however, shall prohibit the City from enforcing this division by any other lawful means including, but not limited to, in accordance with section 1-7 of this Code; or in accordance with chapter 10

of this Code.

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 25th DAY OF JUNE, 2013.

THE CITY OF MARATHON, FLORIDA



Mayor Mike Cinque

AYES: Snead, Bull, Keating, Cinque

NOES: Ramsay

ABSENT: None

ABSTAIN: None

ATTEST:



Hillary Palmer, Acting 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