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Introduction Date: **March 22, 2016**
Public Hearing Dates: **April 12, 2016**
April 26, 2016
Enactment date: **April 26, 2016**

**CITY OF MARATHON, FLORIDA
ORDINANCE 2016-03**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA AMENDING CHAPTER 22, ARTICLE II, SECTIONS 22-19, 22, & 25 AND CHAPTER 10-8 OF THE CITY CODE OF ORDINANCES; PROHIBITING THE DEPOSIT OF CIGARETTE OR CIGAR MATERIAL ONTO ANY PUBLIC WAY; PROVIDING FOR PENALTIES,; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES FOUND TO BE IN CONFLICT, AND PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Marathon, Florida recognizes that cigarette and cigar material contains toxic particulate matter (tar) that is comprised largely of arsenic, nicotine, polycyclic aromatic hydrocarbons, and heavy metals; and

WHEREAS, the City Council recognizes studies that have shown the harmful effects of cigarette and cigar material that is not properly disposed of; including a high likelihood of leaching these harmful chemicals into the soil and/or the stormwater runoff that eventually makes its way into the surrounding waters, including the sensitive waters of the Florida Keys National Marine Sanctuary and state designated Outstanding Florida Waters; and

WHEREAS, the City Council recognizes that the presence of cigarette and cigar material contain these harmful chemical present a dangerous risk of ingestion by small children and pets in city parks, playgrounds, and beaches; and

WHEREAS, the City Council of the City of Marathon, Florida wishes to commend Leadership Monroe, Class XXIV, "The Gold Standard" for "kicking butts" within the City; and

WHEREAS, the City Council desires to amend the Code of Ordinances in order to create a ban on all unlawful deposits of cigarette and cigar material in public ways within the City of Marathon, Florida; and

WHEREAS, Chapter 166, *Florida Statutes*, grants the City of Marathon (the "City") broad municipal home rule powers to provide for the health, safety and welfare of its residents, business owners and visitors by enacting business regulations for the protection of the public,

~~Strikethrough~~ = deletion **bold underline** = addition

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

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

Section 2. Chapter 22, Article II, Section 22-19.1, - "Definitions" of the City of Marathon Code of Ordinances is hereby amended to read as follows:

Cigar means a tightly-rolled bundle of dried and fermented tobacco leaf, rolled in a series of types and sizes, that is ignited so that its smoke may be drawn into the mouth.

Cigar tobacco is grown in significant quantities in Brazil, Cameroon, Cuba, the Dominican Republic, Honduras, Indonesia, Mexico, Ecuador, Nicaragua, Panama, the Philippines, Puerto Rico, Canary Islands (Spain), Italy and the Eastern United States. The origins of cigar smoking are still unknown. In Guatemala, a ceramic pot dating back to the tenth century features a Mayan smoking tobacco leaves tied together with a string. Sikar, the term for smoking used by the Maya, may have inspired the name cigar.

Cigarette means a small cylinder of finely cut tobacco leaves rolled in thin paper for smoking. The cigarette is ignited at one end and allowed to smolder; its smoke is inhaled from the other end, which is held in or to the mouth; in some cases, a cigarette holder may be used, as well. Most modern manufactured cigarettes are filtered and also include reconstituted tobacco and other additives.

The term cigarette, as commonly used, refers to a tobacco cigarette, but can apply to similar devices containing other substances, such as cloves or cannabis. A cigarette is distinguished from a cigar by its smaller size, use of processed leaf, and paper wrapping, which is normally white, though other colors and flavors are also available. Cigars are typically composed entirely of whole-leaf tobacco.

Public way means any and all streets, roads, alleys, piers, bulkheads, boardwalks, lanes, trails, waters or other public ways, and any and all public properties serving as parks, squares, beaches, ~~parks~~ and any and all recreational facilities and properties owned and/or operated by the State, City, Federal government or special governmental districts.

Solid waste means cigarette or cigar material, whole or part, used or unused, garbage, rubbish, refuse, trash or other discharged solid or semisolid materials resulting from domestic, commercial, industrial, agricultural and governmental operations but does not include solids or dissolved material in domestic sewage effluent or other significant pollutants in water resources such as silt, dissolved or suspended solids in industrial wastewater effluents, dissolved materials in irrigation return flows or other common water pollutants.

Section 3. Chapter 22, Article II, Section 22-22, - “Unlawful disposal of solid waste” of the City of Marathon Code of Ordinances is hereby amended to read as follows:

Sec. 22-22. - Unlawful disposal of solid waste.

(a) No person shall dispose of any garbage or special waste except through franchise collectors. Inhabitants of the City may transport to the solid waste vicinity yard trash from their individual premises, provided that such persons using such facilities shall be required to pay the fee established by the Board of County Commissioners and that said yard trash is so broken up as to be readily disposed of by incineration when delivered to the facility. The disposal of sludge shall be permitted by special permit issued by the County. Fees for disposal of said sludge shall be established by the Board of County Commissioners.

(b) No person shall throw, place or deposit, or cause to be thrown, placed or deposited, any solid waste, special waste, trash, junk, vehicle, garbage or filth of any kind into or on any of the public streets, roads, highways, bridges, alleys, lanes, thoroughfares, waters, canals or vacant lots, or upon the premises of any other person within the limits of the City.

(c) It shall be unlawful to deposit any cigarette or cigar material, whole or part, used or unused, onto any public way as herein defined. This prohibition shall not apply to the proper disposal of cigarette or cigar material in properly marked receptacles intended for such purpose.

Section 4. Chapter 22, Article II, Section 22-25, - “Enforcement and appeals” of the City of Marathon Code of Ordinances is hereby amended to add Section 22-25 (e) to read as follows:

(e) Notwithstanding any provision of this Article, a violation of Section 22-22 (c), shall be punishable pursuant to Chapter 10, Section 10-8, “Procedures for implementation of Fla. Stat. ch. 162, pt. II – Citation.” Particularly, a violation of Section 22-22 (c) shall be subject to a fine of \$100.00, such fine subject to change by Resolution of the City Council

Section 5. Chapter 10, Section 10-8 (c), - “Procedures for implementation of Fla. Stat. ch. 162, pt. II – Citation” of the City of Marathon Code of Ordinances is hereby amended to read as follows:

(c) The maximum fine for a civil infraction shall not exceed \$500.00 per violation. Specifically, violation of Section 22-22 (c) shall carry a fine of \$100.00, subject to change by Resolution of the City Council as provided herein.

Section 6. The Provisions of the Code of Ordinances, City of Marathon, Florida and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 7. 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 8. 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 9. This Ordinance shall be effective immediately upon final adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 26th DAY OF APRIL, 2016.

THE CITY OF MARATHON, FLORIDA



Mark Senmartin, Mayor

AYES: Coldiron, Bartus, Zieg, Kelly, Senmartin
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, David Migt