

Sponsored by: Lindsey
Introduction Date: December 12, 2017
Public Hearing Date(s): December 12, 2017
December 19, 2017
Enactment Date: December 19, 2017

CITY OF MARATHON, FLORIDA
ORDINANCE 2017-08

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA AMENDING CHAPTER 26, ARTICLE IV, “DEBRIS REMOVAL FROM PRIVATE STREETS, ROADS, ROADWAYS, AND PRIVATE PROPERTY”, OF THE CITY OF MARATHON CODE OF ORDINANCE; RELATING TO EMERGENCY MANAGEMENT AND DISASTER-GENERATED DEBRIS REMOVAL; ADDING DEFINITIONS; ADDING EMERGENCY RIGHT OF ENTRY ONTO PRIVATE ROADS, GATED COMMUNITIES, AND CANALS; ADDING INDEMNIFICATION; PROVIDING FOR SEVERABILITY, PROVIDING FOR REPEAL OF ALL ORDINANCE INCONSISTENT HEREWITH; PROVIDING FOR INCORPORATION IN THE CITY OF MARATHON CODE OF ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Marathon (the “City”) is a municipal corporation located within the State of Florida and often subject to major or catastrophic storm events and natural disasters potentially including those of human origin; and

WHEREAS, such events and disasters may on occasion cause the City or specific geographical areas with the City to experience widespread damage and destruction; and

WHEREAS, if the damage is significant and widespread, there will be a substantial benefit to the City’s recovery plan to remove debris in order to restore emergency services, utilities, and to protect life and property; and

WHEREAS, it may be difficult or impossible for property owners living near or adjacent to canals to clear debris from canals quickly and effectively; and

WHEREAS, the City Council of the City of Marathon has determined that this ordinance promotes and protects the general health, safety, and welfare of the residents of the City of Marathon.

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

Section 1. The above recitals are hereby confirmed and adopted.

Section 2. Section 26-92 of the Code of Ordinances, City of Marathon, Florida, is hereby amended to read as follows:

Sec. 26-92. - Definitions.

As used in this Article, the following terms shall have the following meanings, unless the context clearly otherwise requires:

Access properties means access to the properties depicted on the map entitled "maintained roads map", as it may be amended from time to time, maintained by and in the custody of the City Public Works Department, and incorporated herein as if fully set forth verbatim. Access shall be provided if: (1) the City is undertaking to clear and push debris; and (2) it is reasonably possible with respect to the equipment used to provide access under the circumstances. The maintained roads map represents the best efforts of the City to set forth a complete listing; however, due to the nature of the roadway system and the historical problems relating to documentation and memorialization of roadways and rights-of-way, the listing may not be all inclusive.

Canal means an artificial waterway constructed to allow the passage of boats, or other waterways inland.

Debris shall include, but is not limited to, displaced, broken, or discarded building and construction materials, garbage, vegetative matter and spoiled or ruined household goods or materials.

Private property means all property that is not owned or controlled by a governmental entity.

Private streets, roads and roadway shall include the rights-of-way as well as the improved surface that provides access to residential and commercial areas as identified as "private roadways" in the maintained roads map.

Section 3. Section 26-93.1 of the Code of Ordinances, City of Marathon, Florida, is hereby created to read as follows:

Sec. 26-93.1 - Canals.

The City shall have the right of entry and authority to remove disaster-generated debris located on or in canals, whether privately or publicly owned, when such debris is determined to pose an immediate threat to the health, safety, and welfare of the community. This right of entry shall also apply to any upland private property adjacent to a canal that the City must access in order to get equipment in or out of canals, or to remove debris from canals. The City Manager shall determine whether there is an immediate threat to the public health, safety, and welfare sufficient to warrant removal of said debris pursuant to the standards listed in section 26-93, supplemented by the following additional standards:

- (1) The debris in the canals contains contaminants which have a reasonable likelihood of impairing the waterways of the City.

- (2) The debris in the canals, including submerged or partially submerged vessels and other debris, is rendering the canals impassible or extremely dangerous to vessels, preventing movement down the canals by first responders as well as citizens in the area.

Section 4. Section 26-95 of the Code of Ordinances, City of Marathon, Florida, is hereby amended to read as follows:

Sec. 26-95. - Indemnification and hold harmless.

Prior to removal of debris by the City as contemplated herein, on private roadways, and private property, and canals, or clearance by the City of private property or canals as provided herein, the private property owner shall indemnify and hold harmless, to the maximum extent permitted by law, the Federal, State, and local government and all employees, officers and agents of the Federal, State, and local government connected with the rendering of such service. This section shall also apply to any upland private property adjacent to a canal that the City must access in order to get equipment in or out of canals, or to remove debris from canals.

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. Any provisions of the Code of Ordinances of the City of Marathon, Florida or Ordinances or parts of Ordinances that are in conflict with the provisions of this Ordinance are hereby repealed.

Section 7. The provisions of this ordinance shall be included and incorporated into the Code of Ordinances, City of Marathon, Florida, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

Section 8. This Ordinance shall be effective immediately upon its adoption.

ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 19th DAY OF DECEMBER, 2017.

THE CITY OF MARATHON, FLORIDA



Michelle Coldiron, Mayor

AYES: Cook, Senmartin, Zieg, Bartus
NOES: None
ABSENT: Coldiron
ABSTAIN: None

ATTEST:



Diane Clavier
City Clerk

(City Seal)

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



David Migut, City Attorney