

Local Law Filing

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 City of Marathon:
 Town
 Village

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OCT 13 2017

DEPARTMENT OF STATE

Local Law No. 2 of the year 2017

Local Law No. 2 of 2017, Town of Marathon, Providing for the Prohibition of Junk in the Town of Marathon
(Insert title)

Be it enacted by the Town Board of the Town of Marathon as follows:
(Name of Legislative Body)

Section 1: TITLE:

The title of this Local Law shall be "Junk Regulation for the Town of Marathon."

Section 2: AUTHORIZATION:

This Local Law is adopted pursuant to Municipal Home Rule Law, Section 20.

Section 3: PURPOSE:

The Marathon Town Board hereby declares that a clean, wholesome, and attractive environment is of vital importance to the continued general welfare of its citizens, and that the regulation of the deposit, accumulation, or maintenance of junk, regardless of quantity, is hereby prohibited pursuant to the provision set forth. By adoption of this law the Town of Marathon declares its intent to preserve and promote a reasonable quality of environment and aesthetics and to prohibit actions and conduct that tend to depreciate not only the property on which it is located but also the property of other persons in the neighborhood and the community generally.

Section 4: DEFINITIONS:

As used in this Local Law the following terms shall have the meanings as indicated:

ENFORCEMENT OFFICER: The person(s) appointed by the Marathon Town Board to enforce the provisions of this law.

GARBAGE: All putrescible animal and vegetable waste resulting from growing, processing, marketing and preparation of food items, including container in which packaged.

JUNK: Worn out or discarded material of little or no value including, but not limited to a junk appliance, junk furniture, junk mobile home, junk motor vehicle or garbage, rubbish and debris

JUNK ACCESSORY VEHICLE: Any abandoned or discarded truck camper, camping trailer, camper, travel trailers, pop up trailer, tent trailer or overnight trailer.

JUNK APPLIANCE: Any household appliance, including but not limited to, a stove, washing machine, dryer, dishwasher, freezer, refrigerator, air conditioner, water heater, or television, which is stored outside of any residence or structure.

JUNK FURNITURE: Abandoned, discarded, or irreparably damaged furniture including, but not limited to, sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs, and chests of drawers.

JUNK MANUFACTURED HOME: Any abandoned or discarded structure, or part thereof, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, if erected on a site is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. To qualify as a junk manufactured home, the dwelling must meet two out of the three of the following conditions for six months or more:

- a. the electric service is disconnected or terminated
- b. it is abandoned as a dwelling unit
- c. it is no longer habitable for residential occupancy

JUNK STORAGE AREA:

The areas of any real property used or intended to be used for the placement, storage or deposit of one or more of the following: junk appliances, junk furniture, junk mobile homes, and junk motor vehicles.

JUNK MOTOR VEHICLE: Any motor vehicle or used parts or waste materials from motor vehicles which, taken together, equal in bulk one or more such vehicle, which is:

- a. unlicensed or unregistered; or
- b. abandoned, wrecked, stored, discarded, dismantled, or
- c. partly dismantled; or not in condition for legal use upon the public highways.

The fact that a motor vehicle does not display a current motor vehicle registration or license plate shall be presumptive evidence that such motor vehicle is not in condition for legal use upon the highways. With respect to any motor vehicle not required to be licensed or a motor vehicle not usually used on public highways, the fact that such motor vehicle is not in condition to be removed under its own power shall be presumptive evidence that such motor vehicle is a junk motor vehicle unless refuted by verifiable and credible proof.

OUTDOOR STORAGE: The placing, maintaining or keeping of junk, rubbish, clutter, litter or debris in a place other than a structure with a roof and fully enclosed on all sides, such as a garage or barn.

MOTOR VEHICLE: All vehicles propelled or drawn by power other than muscular power originally intended for use on public highways, including but not limited to automobile, bus, trailer, truck, tractor, motor home, motorcycle, and mini-bicycle. This term shall also include an all-terrain vehicle or snowmobile.

OWNER OF MOTOR VEHICLE: A person, other than a lien holder, having possession or title to a motor vehicle. The term includes a person entitled to the use and possession of a motor vehicle subject to a security interest in another person and also includes any lessee or bailee of a motor vehicle having the exclusive use thereof, under a lease or otherwise, for a period of greater than thirty (30) days.

PERSON: An individual, partnership, association, corporation, or entity of any other kind.

RUBBISH, CLUTTER, LITTER AND DEBRIS: Ordinary household or commercial trash such as paper and paper products, barrels, cartons, boxes, cardboard, cans, glass, metals, machinery, plastics, rubber, crates, furniture, rugs, clothing, rags, mattresses, blankets, cigarettes, tires, lumber, brick, stone and other building materials no longer intended or in condition for ordinary use; and any and all tangible personal property no longer intended or in condition for ordinary use; and any and all tangible personal property no longer intended or in condition for ordinary and customary use.

Section 5: REGULATIONS AND RESTRICTIONS:

It shall be unlawful for any person to store, deposit, place, maintain or cause to permit to be stored, deposited, placed or maintained outdoors;

- a. any junk, clutter, litter and debris upon private property within the Town of Marathon;
- b. Any junk, manufactured home;
- c. More than one motor vehicle without the current inspection tag;
- d. Any bus, uninhabited mobile home, truck, truck trailer, horse trailer, semi-trailer, tank truck, or similar vehicles; or units for the storage of junk.

Section 6: EXCLUSIONS:

Section 5 shall not apply to the storage or placement on the premises of the following material:

- a. Wood intended for consumption in a wood burning stove, furnace or fireplace located in a building on the premises.
- b. Lawn or yard or garden ornaments and implements.
- c. Lawn and patio furniture.
- d. Operable farm, garden and yard machinery and apparatus used on the premises.
- e. Standing fences.
- f. Hoses and sprinklers used for watering lawns or gardens.
- g. Storage or placement and accumulation of materials in connection with a commercial operation duly conducted on the premises where such storage, placement and accumulation is expressly permitted by the laws of the municipality.
- h. Construction material and equipment used for the construction or renovation of a building on the premises for which a building permit has been issued.

Section 7: ADMINISTRATION AND ENFORCEMENT:

- A. This law may be enforced by the building inspector, zoning enforcement officer, or by any appointed officer of the municipality. Said persons shall have the authority to enforce the provisions of this chapter and to inspect premises within the Town of Marathon as necessary for said enforcement.
- B. Any person may file a complaint with the enforcement officer that a violation of this law may have taken place. The enforcement officer shall properly record and investigate any such complaint. The enforcement officer may also investigate any alleged violation that he or she has reason to believe has occurred or is occurring
- C. Upon the Code Enforcement Officer determining whether there is reasonable cause to believe the violation of this Local Law is occurring he shall issue a written to complain by first class mail, or personal delivery, which note shall include the following information:
 - 1. The name of the owner or occupant to whom the notice shall be addressed.
 - 2. The location of the premises involved in the violation.
 - 3. A statement of the facts which it is alleged violates this law.
 - 4. A demand that the junk be removed or placed so as to be in compliance with the law within a specified number of days after the service or mailing of the notice.
 - 5. A statement that a failure to comply with the demand may result in prosecution.
 - 6. A copy of this law
- D. Upon the expiration of twenty days after the issuance of a notice to comply, the enforcement officer is hereby authorized pursuant to Criminal Procedure Law §150.20(3) to issue an appearance ticket to any person whom the enforcement officer has reason to believe has violated this law, and cause such person to appear before the Town Justice of the Town of Marathon.

Section 8: Penalties and Remedies:

- A. Any person who shall violate any of the provisions of this law shall be guilty of a violation and subject to the following:
 - 1. A fine not to exceed \$250.00 or imprisonment for a period not to exceed fifteen days, or both; or
 - 2. A civil penalty not to exceed \$500.00 to be recovered by the Town of Marathon in a civil action
- B. Every such person shall be deemed guilty of a separate violation for each week such violation, disobedience, omission, neglect or refusal shall continue.
- C. The Town Board may also maintain an action or proceeding in the name of the Town in a Court of competent jurisdiction to compel compliance with or restraint by injunction the violation of any provision of this law.

Section 9: Abandoned Vehicles:

In addition to the provisions contained herein, on notification by a property owner that a motor vehicle has been abandoned on his/her property by other than the owner, the owner's spouse, parents, children or entity in which the owner has an ownership interest, the enforcement officer may follow the procedures established in Vehicle and Traffic Law §1224 to achieve the removal of the abandoned vehicles.

Section 12: SEPARABILITY

Each separate provision of this Local Law shall be deemed independent of all other provisions herein and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

Section 13: REPEALER

This Local Law shall supersede all prior Local Laws, Ordinances, Rules and Regulations relative to the prohibition of junk within the Town of Marathon, and they shall be upon the effectiveness of this Local Law, null and void.

Section 14: EFFECTIVE DATE:

This Local Law shall take effect upon its adoption and filing with the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2017 of the Town of Marathon was duly passed by the Marathon Town Board on September 9, 2017, in accordance with the applicable provisions of law.

(Name of legislative body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County) (City) (Town) (Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved) (not approved)

(Name of legislative body)

(repassed after disapproval) by the _____ and was deemed duly adopted

(Elective Chief Executive Officer*)

on _____ 20____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County) (City) (Town) (Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved) (not approved)

(Name of legislative body)

(repassed after disapproval) by the _____ on _____ 20____.

(Elective Chief Executive Officer*)

Such Local law was submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County) (City) (Town) (Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved) (not approved)

(Name of legislative body)

(repassed after disapproval) by the _____ on _____ 20____. Such local

(Elective Chief Executive Officer*)

law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Office means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20 _____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the County of _____ State of New York having been submitted to the electors at the General Election of November _____ 20 _____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____, above.



(Seal)

Doris Adams

Doris Adams, Town Clerk
Clerk of the county legislative body, City, Town or Village
Clerk of officer designated by local legislative body.

Date: 9/12/17

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Carroll

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Donald C. Armstrong
Signature: Donald C. Armstrong

Town Attorney
Title: Town Attorney

Town Of Marathon

Date: 9/12/17