

**ORDINANCE NO. 22-30**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MARION COUNTY, FLORIDA, PROVIDING LEGISLATIVE FINDINGS; PROVIDING FOR APPLICABILITY; AMENDING CHAPTER 16, ARTICLE I, DIVISION 1, SECTION 16-1, DEFINITIONS; AMENDING CHAPTER 16, ARTICLE III, SECTION 16-91, LITTER; PROVIDING FOR RESOLUTION OF CONFLICTS; PROVIDING FOR SEVERABILITY, PROVIDING FOR CUMULATIVE EFFECT; PROVIDING FOR NON-EXCLUSIVE REMEDY; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, it is intent of the Board of County Commissioners (hereafter, “the Board”) and this Ordinance to promote a clean, healthy, safe, and attractive community and environment in which to live; and

WHEREAS, the Florida Litter Law, Sections 403.413--.4135, Florida statutes (2021) contains a legislative finding that a comprehensive illegal dumping, litter, and marine debris control program and prevention program is necessary to protect the beauty and the environment of Florida. The Legislature further finds that the program must be coordinated and capable of having statewide identity and grassroots community support. Sec. 403.4135(1), Florida Statutes (2021); and

WHEREAS, Sec. 403.4135(8), Florida Statutes (2021) provides that this section does not limit the authority of any state or local agency to enforce other laws, rules, or ordinances relating to litter or solid waste management; and

WHEREAS, the Board of County Commissioners’ intent is that Chapter 16, Art. III, Litter and Junk, of the Marion County Code of Ordinances, be part of the statewide comprehensive illegal dumping, litter and marine debris control program, and be consistent with the Florida Litter Law, while at the same time providing for additional regulations deemed beneficial for Marion County.

WHEREAS, the Board of County Commissioners finds that illegal dumping of litter on public and private property in Marion County is a serious problem in Marion County resulting in unnecessary cost to taxpayers, and adversely affecting the natural beauty and attractiveness of our community as a whole, the effective solution of which requires a broad-based buy-in from the entire community; and

WHEREAS, consistent with the above-referenced statutory provisions, the Board of County Commissioners has created a broad-based Marion County Litter Task Force, comprised of public and private community leaders, to make recommendations for solutions to the Board; and

WHEREAS, the Task Force has recommended updating the County Code related to litter enforcement, in order to provide enhanced penalties for violators, and otherwise bring the County Code in line with Florida State Statutes; and

WHEREAS, although violations of County ordinances are neither misdemeanors nor felonies under Florida general law, Sec. 125.69(1), Florida Statutes (2021) provides that violations of county ordinances shall be prosecuted *in the same manner as misdemeanors* are prosecuted. Such violations shall be prosecuted in the name of the state in a court having jurisdiction of misdemeanors by the prosecuting attorney thereof and upon conviction shall be punished by a fine not to exceed \$500.00 or by imprisonment in the county jail not to exceed 60 days, or by both such fine and imprisonment. Further, Florida courts have determined that municipal ordinances are *criminal in nature* if they authorize criminal penalties such as incarceration, and such ordinances therefore authorize a full custodial arrest and incidental search. *See, Hull v. State*, 315 So.3d 144, 145-46 (Fla. 5<sup>th</sup> DCA 2021) and *State v. Coleman*, 320 So.3d 890, 894-895 (Fla. 2d DCA 2021); and

WHEREAS, Sec. 403.413(3), Florida Statutes (2021) provides that the local governing body of a county shall determine the training and qualifications of any employee of the county or any employee of the county park or recreation department designated to enforce the provisions of the Florida Litter Law if the designated employee is not a regular law enforcement officer; and

WHEREAS, Sec. 403.4132, Florida Statutes (2021) provides that local governments are encouraged to initiate programs to supplement the existing litter-removal program for public places and highway systems operated by the Department of Transportation. That section further provides that to the extent that funds are available from the department for litter pickup and removal programs beyond those annually available to the Department of Corrections, priority shall be given to contracting with nonprofit organizations for supplemental litter-removal programs that use youth employment programs; and

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MARION COUNTY, FLORIDA:**

**Section 1. Section 16-1 Amendments.** Per section 1-6.3 – Amendments to Code; effect of new ordinance; amendatory language, of the Marion County Code, **Chapter 16** of the Marion County Code, Solid Wastes, **Article I**, Solid Waste Management, **Division 1**, General Provisions, **Section 16-1**, is hereby amended to read as follows (additions shown in underline text and deletions are shown in ~~strikeout-text~~):

Section 16-1. Definitions.

- (a) When used in this chapter 16, the following words, terms, and phrases shall have the meanings ascribed to them in this section 16-1:
  - (1) *Administrator* means the county administrator of Marion County or the administrator's designee.
  - (2) *Agricultural waste* means the solid waste that is produced as a result of normal farming operations, or the raising or slaughtering of animals or livestock, or the processing of animal products or orchard, grove or field crops, and is stored, transported, or disposed of as an unwanted waste material.

- (3) *Aircraft* means a motor vehicle or other vehicle that is used or designed to fly but does not include a parachute or any other device used primarily as safety equipment.
- (4) *Applicable law* means any applicable local, state or federal statute, law, constitution, charter, ordinance, judgment, order, decree, permit, rule, regulation, directive, policy, standard or similar binding determination, or a judicial or administrative interpretation of any of the same, which are in effect or are enacted, adopted, promulgated, issued or enforced by a governmental body.
- (5) *Assessable property* means all parcels of residential property included on the assessment roll that receive a special benefit from the county's solid waste systems, services and facilities.
- (6) *Assessment coordinator* means the person designated by the county to administer the solid waste assessment or such person's designee.
- (7) *Assessment roll* means a non-ad valorem special assessment roll, which contains a list of assessable property that is prepared by the assessment coordinator and approved by the board.
- (8) *Baseline landfill* means the county's landfill on Baseline Road in Marion County, Florida.
- (9) *Board* means the Board of County Commissioners of Marion County, Florida.
- (10) *Body of water* means any significant accumulation of water to include any freshwater lake, pond, river, canal, or stream or tidal or coastal water.
- (11) *Building* means any structure, whether temporary or permanent, built for the support, shelter or enclosure of persons, chattel or property. This term includes mobile homes, but not recreational vehicles.
- (12) *Bulk waste* means any large discarded item that cannot be placed in a curbside container because of its size, volume, shape or weight. Bulk waste includes, but is not limited to, sinks, toilets, fixtures, mattresses, box springs, furniture, ladders, carpet, and white goods.
- (13) *Class III waste* means yard trash; construction and demolition debris; processed tires; asbestos; carpet; cardboard; paper; glass; plastic; furniture, but not appliances; and other similar materials that are approved in advance by the FDEP, based on the FDEP's determination that such materials are not expected to produce leachate that poses a threat to public health or the environment.
- (14) *Clerk* means the Clerk of the Circuit Court of Marion County or the clerk's designee.
- (15) *Code* means the Code of Ordinances of Marion County.
- (16) *Code enforcement board* means the Marion County Code Enforcement Board.
- (17) *Collection* means the process of picking up, transporting, delivering, and depositing solid waste, including recyclable materials, at a solid waste management facility.
- (18) *Collection container* means curbside containers, mechanical containers, and recycling containers.

- (19) *Collection service* means commercial collection service, residential collection service, or both, depending on the context.
- (20) *Commercial collection service* means the collection of commercial waste from commercial property by any person other than the owner or occupant of the property.
- (21) *Commercial property* means all real property that is located in the unincorporated area of the county and not classified as residential property. Commercial property includes property used primarily for: (a) commercial purposes, such as hotels, motels, stores, restaurants, theaters, service stations, and recreational vehicle parks; (b) institutional purposes, such as governmental offices, churches, hospitals, and schools; and (c) not-for-profit and charitable organizations. Commercial property includes commercially zoned property that is used primarily for residential purposes. Vacant land, not classified as improved property, is commercial property.
- (22) *Commercial waste* means garbage, rubbish, and class III waste generated on commercial property.
- (23) *Construction and demolition debris* means discarded materials generally considered to be not water-soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, and includes rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing or land-development operations for a construction project, including such debris from construction of structures at a site remote from the construction or demolition project site. Mixing of construction and demolition debris with other types of solid waste will cause the resulting mixture to be classified as other than construction and demolition debris. The term also includes: (a) clean cardboard, paper, plastic, wood, and metal scraps from a construction project; (b) except as provided in section 403.707(9)(j), Florida Statutes, yard trash and unpainted, nontreated wood scraps and wood pallets from sources other than construction or demolition projects; (c) scrap from manufacturing facilities which is the type of material generally used in construction projects and which would meet the definition of construction and demolition debris if it were generated as part of a construction or demolition project. This includes debris from the construction of manufactured homes and scrap shingles, wallboard, siding, concrete, and similar materials from industrial or commercial facilities; and (d) de minimis amounts of other nonhazardous wastes that are generated at construction or destruction projects, provided such amounts are consistent with best management practices of the industry.
- (24) *Consumer price index ("CPI")* means the "Consumer Price Index - Urban Wage Earners and Clerical Workers (CPI-W), South Urban, All Items, Base Period 1982-84 = 100, Not Seasonally Adjusted, Series ID: CWUR0300SA0," as

published by the U.S. Department of Labor, Bureau of Labor Statistics, or a successor agency.

- (25) *County* means, depending on the context, either (a) the geographical area contained within unincorporated Marion County, Florida, or (b) the government of Marion County, acting through the board or the board's designee.
- (26) *Curbside* means the physical location where curbside containers shall be placed for residential collection service. This location shall be as close as practicable to the street used by the franchise holder's vehicle.
- (27) *Curbside container* means a garbage can, roll cart, or similar receptacle that is made of metal or heavy-duty rigid plastic and used for the collection of solid waste.
- (28) *Customer* means any person that uses a franchise holder's commercial collection service or residential collection service.
- (29) *Customer list* means a current, accurate list of all customers served by a franchise holder.
- (30) *Director* means the Solid Waste Director of Marion County, Florida, or the director's designee.
- (31) *Dump* means to dump, throw, discard, place, deposit, or dispose of.
- (32) *Dumpster* means a collection container that is designed to hold at least two (2) cubic yards of commercial waste and is emptied into a front-end loading garbage truck or similar vehicle with a hydraulic lifting mechanism or similar equipment.
- (33) *Dwelling unit* means a room or rooms constituting a separate, independent living area with cooking facilities or kitchen, a separate entrance, and bathroom facilities, that are physically separated from any other rooms or dwelling unit in the same structure or in separate structures. A mobile home is a dwelling unit; however, a hotel room, motel room, or recreational vehicle is not.
- (34) *FDEP* means the Florida Department of Environmental Protection and any successor agency.
- (35) *Fiscal year* means that period commencing October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by applicable law as the fiscal year for the county.
- (36) *Franchise fee* means the fee paid by the franchise holder for: (a) the use of the streets, alleys, bridges, easements, and other public places in the county; and (b) the right to provide collection service in the county.
- (37) *Franchise holder* means a person that is authorized by the board to provide commercial collection service, residential collection service, or both in the county.
- (38) *Garbage* means all kitchen and table food waste, and animal or vegetative waste that is attendant with or results from the storage, preparation, cooking, or handling of food materials.
- (39) *Gross receipts* means all of the fees, charges and costs that are collected by a franchise holder based on, arising out of, attributable to, or in any way derived from the services the franchise holder provides pursuant to its franchise. Gross

receipts include but are not limited to the revenues that are collected pursuant to a franchise for: the franchise holder's collection service; the use, rental, maintenance or relocation of the franchise holder's collection containers and equipment; and the franchise holder's surcharges. Gross receipts do not include (a) sales taxes and other taxes collected by the franchise holder or (b) revenues that are derived from the collection of yard trash or construction and demolition debris.

- (40) *Hazardous waste* means solid waste, or a combination of solid wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, or otherwise managed. This term does not include human remains that are disposed of by a person licensed under chapter 497, Florida Statutes.
- (41) *Improved property* means any cleared, graded or drained real property in the county upon which a building or structure is erected and occupied or capable of being occupied (i.e., a certificate of occupancy has been issued) for residential, commercial, institutional or industrial use.
- (42) *Institutional property* means improved property that is used primarily for a public purpose, even if the property is privately owned, such as property used by or for schools, universities, hospitals, and churches.
- (43) *Junk* means any litter, debris, waste materials of any kind, dead or decaying vegetation or vegetative refuse, dead animals, used or unserviceable automobile and machinery parts, used and nonfunctional furniture and appliances, and used and nonfunctional tools, equipment, and implements, but shall not include compost piles for personal, noncommercial use.
- (44) *Law enforcement officer* means any officer of the Florida Highway Patrol, the county sheriff's department, a municipal law enforcement department, or a law enforcement department of any other political subdivision or agency of the State of Florida. In addition, and solely for the purposes of section 16-91, Law enforcement officer means any employee of the county that is designated by the county administrator as a litter enforcement officer, including, but not limited to, a county code inspector, a solid waste enforcement officer, an animal control officer, a building inspector, an employee of the county parks and recreation department, or an employee whose duty it is to ensure code compliance or to enforce codes and ordinances.
- (45) *Litter means* includes, but is not limited to, any garbage; rubbish; solid waste; trash; refuse; can; glass or plastic bottle; box; container; paper; tobacco product; cigarette butts; disposable medical or other filtration masks of any kind; syringes or drug paraphernalia; tire; appliance; mechanical equipment or part; building or construction material; tool; machinery; wood; motor vehicle or motor vehicle part; vessel; aircraft; farm machinery or equipment; sludge from a waste

treatment facility, water supply treatment plant, or air pollution control facility; illegal signs; temporary political signs still in place sixty days after the last applicable election; or waste substance in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.

- (46) *Litter presumption.* Any property or other object left unattended in or on any public highway, road, street, alley, or thoroughfare, on any other public lands, in or on any freshwater lake, river, canal, or stream of the County, or in or on any private property, without the express or implied permission of the property owner or official or governing body maintaining control of the place upon which the property or other object is left unattended, shall be presumed to be "litter" for purposes of this Chapter. This presumption may be rebutted by competent substantial evidence.
- (47) *Litter receptacle* means a collection container with a capacity of ten (10) gallons or more that has been constructed and placed for use as a depository for litter.
- (48) *Materials recovery facility* means a solid waste management facility that provides for the extraction from solid waste of recyclable materials, materials suitable for use as a fuel or soil amendment, or any combination of such materials.
- (49) *Mechanical container* means a dumpster, roll-off container, compactor, or other large container that is used for the collection of solid waste and unloaded with mechanical equipment. Mechanical containers are larger than and do not include curbside containers.
- (50) *Motor vehicle* means an automobile, motorcycle, truck, trailer, semitrailer, truck tractor, or any other vehicle that is powered by a motor.
- (51) *Multi-family dwelling unit* means any building or structure containing two or more dwelling units held under common ownership.
- (52) *Municipal service benefit unit ("MSBU" or "Unit")* means a financing unit using non-ad valorem assessments on lands within the unincorporated jurisdiction of the county (and pursuant to appropriate procedures, a municipality) in which the county manages the provision of certain municipal services which may be financed by property taxes, service charges or non-ad valorem special assessments pursuant to the home rule power of the county and sections 125.01(1)(q) and (r), Florida Statutes.
- (53) *Municipality or any like term.* means a municipality created pursuant to general or special law authorized or recognized pursuant to S.2 or S.6, Article VIII of the State Constitution and, when s. 403.706(19), Florida Statutes (2021) applies, means a special district or other entity located within Marion County, Florida.
- (54) *Oversized yard trash* means any piece or item of yard trash or land clearing debris that is more than four (4) feet in length or four (4) inches in diameter. Oversized yard trash also includes any accumulation of yard trash that exceeds two (2) cubic yards in volume.
- (55) *Owner* shall mean the person identified as the owner of assessable property on the assessment roll.

- (56) *Performance bond* means the financial security furnished by the franchise holder as a guarantee that the franchise holder will perform its work and pay all applicable fees and claims in accordance with the terms of this article.
- (57) *Person* means any and all persons, natural or artificial, including any individual, firm, venture, or association; any public or private corporation organized or existing under the laws of this state or any other state; any city or county of this state; and any governmental agency of this state or the Federal Government.
- (58) *Processing* means any technique designed to change the physical, chemical, or biological character or composition of any solid waste so as to render it safe for transport; amenable to recovery, storage, or recycling; safe for disposal; or reduced in volume or concentration.
- (59) *Property appraiser* means the Marion County Property Appraiser or the property appraiser's designee.
- (60) *Recovered materials* means metal, paper, glass, plastic, textile, or rubber materials that have known recycling potential, can be feasibly recycled, and have been diverted and source separated or have been removed from the solid waste stream for sale, use or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other, but the term does not include materials destined for any use that constitutes disposal. Recovered materials as described above are not solid waste.
- (61) *Recyclable materials* means those materials that are capable of being recycled and that would otherwise be processed or disposed of as solid waste.
- (62) *Recycling* means any process by which solid waste, or materials that would otherwise become solid waste, are collected, separated, or processed and reused or returned to use in the form of raw materials or products.
- (63) *Recycling center* means a solid waste management facility where the county accepts recyclable materials, yard trash or other types of solid waste generated on residential property located in the unincorporated areas of the county.
- (64) *Recycling container* means a bin, box, cart or similar container that is made of heavy-duty, hard plastic or other suitable substance and used for the storage and accumulation of recyclable materials.
- (65) *Residential collection service* means the collection of residential waste from residential property by anyone other than the property owner or occupant.
- (66) *Residential property* means all improved property that is used for residential purposes, including but not limited to: single family residences; single family and multi-family dwelling units; duplex apartments; apartment buildings; condominium units; cooperatives established pursuant to chapter 719, Florida Statutes; time-share apartments; and leased residential premises of the classes described above, whether occupied or not. Property used exclusively as a recreational vehicle park, as defined in section 513.01(10), Florida Statutes, shall be deemed commercial property.
- (67) *Residential waste* means garbage, rubbish, recyclable materials, and yard trash generated as a result of normal housekeeping activities on residential property.



- (68) *Rubbish* means waste materials, other than garbage and yard trash, resulting from normal housekeeping activities on residential property and commercial property. Rubbish includes, but is not limited to discarded trash, paper, plastic, bottles, cans and similar materials.
- (69) *Set out* means the proper preparation and placement of solid waste and recyclable materials for collection at the customer's premises, in accordance with the requirements of this article.
- (70) *Sludge* includes the accumulated solids, residues, and precipitates generated as a result of waste treatment or processing, including wastewater treatment, water supply treatment, or operation of an air pollution control facility, and mixed liquids and solids pumped from septic tanks, grease traps, privies, or similar waste disposal appurtenances.
- (71) *Solid wastes* means sludge unregulated under the federal Clean Water Act or Clean Air Act, sludge from a waste treatment works, water supply treatment plant, or air pollution control facility, or garbage, rubbish, refuse, special waste, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. Recovered materials are not solid waste.
- (72) *Solid waste assessment* means a non-ad valorem special assessment imposed and levied lawfully by the county against assessable property to fund all or any portion of the solid waste cost.
- (73) *Solid waste cost* means: (a) the amount necessary in any fiscal year to fund and provide the county's solid waste management systems, services, and facilities for the benefit of the assessable property in the county, including but not limited to the provision of recycling services, litter control, the handling and disposal of household hazardous waste, and other solid waste collection and disposal services; and (b) the estimated cost to be incurred during any fiscal year relating to the collection of the solid waste assessment, including any related costs, such as the service charges of the tax collector and property appraiser, and any amounts necessary to offset the maximum discounts available for early payment of non-ad valorem assessments pursuant to any applicable law.
- (74) *Solid waste management facility* means any solid waste disposal area, volume reduction plant, transfer station, materials recovery facility, or other facility, the purpose of which is resource recovery or the disposal, recycling, processing, or storage of solid waste. This term does not include recovered materials processing facilities that meet the requirements of section 403.7046, Florida Statutes, except the portion of such facilities, if any, used for the management of solid waste.
- (75) *Tax collector* means the Marion County Tax Collector or the tax collector's designee.
- (76) *Uniform Assessment Collection Act* means sections 197.3631, 197.3632 and 197.3635, Florida Statutes, or any successor statutes, authorizing the uniform billing, collection, and enforcement of non-ad valorem assessments on the same

tax notice as ad valorem taxes, and Rule 12D-18, Florida Administrative Code, and any applicable regulations promulgated or referenced thereunder, including Rule 12D-13, Florida Administrative Code.

- (77) *Unserviceable vehicle* means any vehicle which is required to be licensed by the state if used on public streets and which remains for a period of seven (7) days in such condition that it cannot be started or moved under its own power or in its normal and usual manner, without repair or the addition of parts, or would be in violation of section 316.215, Florida Statutes, if used on public streets. This term does not include an automobile that is more than twenty (20) years old and undergoing repair or restoration inside a completely enclosed building.
  - (78) *Vessel* means a boat, barge, or airboat or any other vehicle used for transportation on water.
  - (79) *White goods* includes discarded air conditioners, heaters, refrigerators, ranges, water heaters, freezers, and other similar domestic and commercial large appliances.
  - (80) *Yard trash* means vegetative matter resulting from landscaping maintenance and land clearing operations and includes associated rocks and soils.
- (b) If a definition contained herein is inconsistent with a corresponding definition in section 403.703, Florida Statutes, the definition in section 403.703 shall prevail, but only to the extent necessary to resolve the inconsistency.

**Section 2. Section 16-91 Amendments.** Per section 1-6.3 – Amendments to Code; effect of new ordinance; amendatory language, of the Marion County Code, **Chapter 16** of the Marion County Code, Solid Wastes, **Article III**, Litter and Junk, **Section 16-91**, is hereby amended to read as follows (additions shown in underline text and deletions are shown in ~~strikeout-text~~):

Section 16-91. Litter.

- (a) No person shall ~~drop, deposit, or otherwise dispose of litter in or upon any body of water, public property, or private property of another person within the county, except when the litter is properly disposed of in a public collection container, a litter receptacle provided for public use, or a solid waste management facility.~~ dump litter or junk in any manner or amount:
1. In or on any public highway, road, street, alley, or thoroughfare, including any portion of the right-of-way thereof, or any other public lands, except in containers lawfully provided therefor. When any litter or junk is thrown, blown, bounced or discarded from a motor vehicle, the operator or owner of the motor vehicle, or both, shall be deemed in violation of this section; or
  2. In or on any freshwater lake, river, canal, or stream of the County, including canals. When any litter or junk is thrown, blown or discarded from any boat or vessel, the operator or owner of the boat or vessel, or both, shall be deemed in violation of this section; or

3. In or on any private property, unless prior consent of the owner has been given and unless the dumping of such litter or junk by such person will not cause a public nuisance or otherwise be in violation of any other state or local law, rule, or regulation.
- (b) No person shall operate any motor vehicle on any street or highway unless such motor vehicle is constructed, and loaded to prevent any of its load from dropping, sifting, leaking, spilling, or otherwise escaping; provided, however, that sand or any substance used to increase traction, or water or other substance used to control dust, may be applied on a roadway in the cleaning or maintaining of such roadway by a state or local government agency having such responsibilities.
  - (c) Any motor vehicle transporting litter junk, or other items likely to fall or be blown from such motor vehicle shall be enclosed, covered, or secured with a close-fitting tarpaulin or other appropriate cover or load securing device to prevent its contents from blowing, dropping, or falling from such vehicle, ~~as provided in subsection 16-8(g), above.~~
  - (d) Any person generating, transporting, or receiving litter or junk shall be responsible for ensuring that such litter or junk is managed, stored, handled, transported, and disposed of in accordance with the provisions of this chapter.
  - (e) When a violation of any provision of this section has been observed by any person, and the litter or junk dumped ~~or disposed of~~ on a highway, right-of-way, property adjacent to a highway or right-of-way, private property, or body of water has been ejected from a motor vehicle or vessel, the owner, operator, or both, of such motor vehicle or vessel, that fact shall constitute prima facie evidence that the owner, ~~or~~ operator, or both, of such motor vehicle or vessel ~~was the person who ejected the litter~~ shall be deemed to be in violation of this section.
  - (f) Any article of litter or junk bearing a person's name ~~or~~ and postal street address or email address, phone number, or any other information sufficient to enable the verification of the identity of such individual, found on the private property of another or on public property, shall constitute prima facie evidence that the litter or junk is the property of such person whose name ~~or address~~ and other identifying information appears thereon, and it shall constitute prima facie evidence that such person dumped or disposed of such article of litter or junk. The named individual may be an owner-occupant, or a tenant, of the designated property, as long as he or she is a current resident of such property. This presumption shall be rebuttable by competent substantial evidence.
  - (g) All law enforcement officers shall enforce the provisions of this section. Employees of the county parks and recreation department and solid waste department, ~~and county code inspectors~~ enforcement officers, animal control officers and building inspectors are authorized to issue citations and initiate prosecutions under this section.
  - (h) Pursuant to Section 403.413(7), Florida Statutes (2021), all employees of the county whose duty it is to ensure code compliance or to enforce codes and ordinances are hereby designated and authorized to enforce the provisions of the Florida Litter Law. Such employees include employees of the county parks and recreation department and solid waste department, county code ~~inspectors~~ enforcement officers, building inspectors, and animal control officers. Nothing in this section shall provide such employees with the authority to bear arms or to make arrests.

- (i) Pursuant to Sec. 403.413(3), Florida Statutes (2021), the County Administrator is directed to develop, in consultation with the Marion County Sheriff, and the State Attorney for the Fifth Judicial Circuit, policies providing for the training and qualifications of all Marion County employees who are designated to enforce this Ordinance, who are not law enforcement officers, and to present those policies to the Board for ratification within 90 days of the adoption of this Ordinance.
- (j) PENALTIES: Any person who violates the provisions of this section shall be cited as follows:
- (1) A person who dumps litter or junk in violation of this section shall be guilty of a noncriminal infraction for a first offense, and subject to a civil penalty of one hundred fifty dollars (\$150).
  - (2) A person who dumps litter or junk in violation of this section, and who has one prior conviction for dumping litter in violation of this section or in violation of s. 403.413, Florida Statutes, commits a criminal infraction and shall be punished as follows:
    - a. Incarceration in the county jail up to 10 days; and/or
    - b. Community service as prescribed by the Florida Litter Law, section 403.413, Florida Statutes, when authorized therein; and
    - c. A fine of three hundred dollars (\$300).
  - (3) A person who dumps litter or junk in violation of this section, and who has two prior convictions for dumping litter in violation of this section or in violation of s. 403.413, Florida Statutes, commits a criminal infraction and shall be punished as follows:
    - a. Incarceration in the county jail of not less than 10 days, and up to 30 days; and/or
    - b. Community service as prescribed by the Florida Litter Law, section 403.413, Florida Statutes, when authorized therein; and
    - c. A fine of five hundred dollars (\$500).
  - (4) A person who dumps litter or junk in violation of this section, and who has three or more prior convictions for dumping litter in violation of this section or in violation of s. 403.413, Florida Statutes, shall be punished as follows:
    - a. Incarceration in the county jail of not less than 10 days, and up to 60 days; and/or
    - b. Community service as prescribed by the Florida Litter Law, section 403.413, Florida Statutes, when authorized therein; and
    - c. A fine of five hundred dollars (\$500).
  - (5) For purposes of this article, "conviction" means a determination of guilty of a violation of this article as the result of a plea, a trial, or the imposition of a civil fine

~~(6) *Civil penalties:* Any person who litters in violation of this article is guilty of a noncriminal infraction, punishable by a civil penalty of fifty dollars (\$50.00) one hundred fifty dollars (\$150.00) for the first violation, two hundred fifty (\$250.00) three hundred dollars (\$300.00) for the second violation and five hundred dollars (\$500.00) for the third and all subsequent violations.~~

~~(7) *Criminal Additional penalties:*~~

~~a. The fourth second and all subsequent violations of the provisions of this section shall constitute a misdemeanor of the second degree, in addition to the above fines, and shall be punishable by:~~

~~1. Five hundred dollars (\$500.00) fine; and/or~~

~~2. Imprisonment of up to ten (10) days; and/or community service time as prescribed by the Florida Litter Law, section 403.413, Florida Statutes.~~

~~3. Both such fine and imprisonment and/or community service time, as as prescribed by the Florida Litter Law.~~

~~(8) Imposition of such fine shall not include costs imposed by the court and shall not prohibit a judge from imposing civil penalties which would include, but not be limited to, picking up litter or performing other labor commensurate with the offense committed. The moneys collected from the assessed fine shall go into the general revenue fund of Marion County to be used for litter control.~~

~~(9) Litter cleanup restitution payment. Separate from, and in addition to, any penalties provided for violation of the provisions of this Ordinance, the Board may mail, serve, or deliver to the violator, an invoice supported by a list of certified expenses incurred by the County or a County contractor for the cleanup of any litter dumped by the violator. The violator shall remit payment for such invoice to the Marion County Solid Waste Department within 30 days of the date of such invoice. If the invoice is not timely paid, the Board may record a lien on the property of the violator, if the violation and cleanup related to such property. If the violator dumped the litter on property he or she did not own, the Board shall have a cause of action for recovery of such certified expenses in the County Court of Marion County, and the violator shall be liable for all court costs and expenses incurred by the County in obtaining payment of such invoice.~~

~~(10) Special Litter Enforcement Corridors. The Board, by Resolution, may designate certain segments of public roads as Litter Enforcement Corridors as a way to increase focus on litter and illegal dumping. These road segments are ones that have a high aesthetic or historic value worth preserving and will be marked with signs to notify motorists.~~

(k) Subject to the limitations contained herein, the solid waste department collects litter from the public right-of-way of collector and arterial roads maintained by the county transportation department. The solid waste department also collects solid waste from illegal dumping on such roads. The solid waste department is not responsible for collecting litter or solid waste on other roads or private property. The administrator may authorize the solid waste department to collect litter on public roads and public property

illegal dumping on such roads. The solid waste department is not responsible for collecting litter or solid waste on other roads or private property. The administrator may authorize the solid waste department to collect litter on public roads and public property when required for the public health, safety and welfare. The extent and frequency of such activities are subject to the county's budgetary constraints and weather conditions.

- (l) Subject to the limitations contained herein, the county solid waste department may remove and dispose of litter, junk, and solid waste that was illegally dumped on a public right-of-way or other public property and then collected by a civic or community organization during a community clean-up project. The extent and frequency of the county's activities in support of a community clean-up project are subject to the county's budgetary constraints and other factors. Although the county supports community clean-up projects, the county does not remove or dispose of materials collected during a clean-up on private property.
- (m) In any proceeding brought under this article, including civil and criminal proceedings, a photograph of the litter or junk that is the subject of the proceeding, may be deemed competent substantial evidence of the litter or junk and may be admissible in the prosecution to the same extent as if the litter or junk were introduced into evidence. Such photograph shall be taken by, or at the direction of, a law enforcement officer or other person responsible for enforcement of this Article. After litter or junk is photographed, it may be destroyed or otherwise disposed of by the person who took or directed the taking of the photograph.

### **Section 3. Inclusion in the Code.**

It is the intent of the Board of County Commissioners of Marion County, Florida, and it is hereby provided that the provisions of this ordinance shall become and be part of the Marion County, Florida Code of Ordinances; that the sections of this Ordinance may be re-numbered or re-lettered to accomplish such intent; and that the word "ordinance" may be changed to "section," "article," or other appropriate designation.

**Section 4. Conflicting Provisions.** In the event of any conflict between any provision of this Ordinance and any provision of another section of the County Code, the provisions of this Ordinance shall govern.

**Section 5. Severability.** Severability is intended throughout and within the provisions of this Ordinance. If any provision, including any exception, part, phrase or term or the application thereof to any person or circumstance is held preempted or invalid by a Court of appropriate jurisdiction, the application to other persons or circumstances shall not be affected thereby, and the validity of this Ordinance in any and all other respects shall not be affected thereby. The Board of County Commissioners do not intend this this Ordinance be held inapplicable in such cases, if any, where its application would be unconstitutional as constitutionally permitted construction is intended and shall be given.

**Section 6. Applicability.** This Ordinance shall be applicable in the unincorporated area of Marion County, Florida.

**Section 7. Ordinance Cumulative.** This Ordinance shall be cumulative and in addition to any other laws or ordinances in force in Marion County.

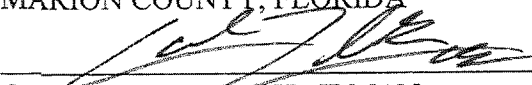
**Section 8. Non-Exclusive Remedy.** The standards and procedures set forth in this ordinance are non-exclusive and therefore the Board and law enforcement officers may simultaneously proceed under one or more statutes or ordinances as to any single condition or violation, as deemed appropriate.

**Section 9. Filing With Secretary of State.** A certified copy of this Ordinance shall be filed with the Secretary of State by the Clerk within ten (10) days after enactment by the Board of County Commissioners, as provided in Section 125.66(2)(b), Florida Statutes.

**Section 10. Effective Date.** This Ordinance shall become effective upon receipt of confirmation that it has been filed with the Office of the Secretary of State of the State of Florida.

DULY ADOPTED this 19th day of July, 2022.

BOARD OF COUNTY COMMISSIONERS  
MARION COUNTY, FLORIDA

  
CARL ZALAK, III, CHAIRMAN

ATTEST:

  
GREGORY C. HARRELL, CLERK

APPROVED AS TO FORM:

  
MATTHEW G. MINTER, COUNTY ATTORNEY

RECEIVED NOTICE FROM SECRETARY OF  
STATE ON JULY 22, 2022 ADVISING  
ORDINANCE WAS FILED ON JULY 21, 2022.