



THE CITY OF KEY WEST

Executive Summary

To: Patti McLauchlin, City Manager
Via: Todd Stoughton, Assistant City Manager
From: Jim Young, Director of Code Compliance *JY*
Date: March 22, 2023
Subject: Amendment to the Deposits of oil, grease or other waste Ordinance

Action statement:

This measure proposes to amend Chapter 62, titled Streets and Sidewalks, Article I, titled In General, Section 62-1. - Deposits of oil, grease or other waste and Sec. 62-2. – Obstructions to allow Code Compliance to issue a Notice of Code Violation as an option to an arrest. The proposal also seeks to expand the definition of unlawful deposits onto the city's right-of-way to include construction debris and fluids.

Background:

Recently, there was a complaint filed with the Code Compliance Department of an individual draining water from a hole dug for a pool onto a City easement. Upon researching the penalties for violating unlawful deposits of oil, grease or other waste and obstructions it was discovered that Code Compliance could not cite the violator due to the ordinance stating violations **shall** be punishable as provided in section 1-15. Additionally, construction debris/fluid is not currently a substance that violated the city code.

Section 1-15 General penalty states.

(a) Except as provided in subsection (c) hereof, whenever in this Code of Ordinances section 1-15 is referred to as providing a penalty for violation, the violation shall be punishable by a fine of not more than \$500.00 or a term of imprisonment not to exceed 60 days or both a fine and term of imprisonment.

(b) All such violations may be enforced by notice to appear in the county court as provided by F.S. § 901.28 or for a threat to public health, safety and welfare by arrest as provided in F.S. § 901.15 (1), except where prohibited by law.

(c) Through section 86-11 hereof, a violation of a city zoning or land development regulation is deemed a civil infraction, unless such a specific regulation provides for criminal penalties. The special master of the city, under his or her authority to impose administrative fines and non-criminal penalties, may hear cases of alleged violations of the zoning or land development regulations.

Options:

1. To approve the proposed ordinance revisions which will allow both the KWPD and/or Code Compliance to enforce the ordinance, and includes construction debris and fluids in the list of illegal substances to dump onto the city ROW

2. To defeat the proposed ordinance amendment.

Recommendation:

To approve the proposed ordinance revision.

Sec. 62-1. - Deposits of oil, grease or other waste.

It shall be unlawful for any person to cause or allow to be caused any oil, grease, construction debris, or other waste matter to flow or otherwise be placed upon any right-of-way, street, alley, swale, public square or sidewalk within the city. Violations shall be punishable as provided in section 1-15 and may also be punishable pursuant to the code enforcement authority of the special master in sections 2-633 and 2-634.

Sec. 62-2. - Obstructions.

(a) It shall be unlawful for any person willfully to obstruct the free, convenient and ordinary use of any public right-of-way, street, roadway, alley, sidewalk, swale or public square by impeding, hindering, stifling, retarding or restraining the passage of either pedestrian or vehicular traffic or by endangering the safe movement of pedestrians or vehicles travelling thereon.

(b) This section shall not apply to the right of assembly or to any other purpose for which a government has issued a permit; provided, however, that a permit to use a public area for a commercial purpose does not authorize obstruction.

(c) Violations shall be punishable as provided in section 1-15 and may also be punishable pursuant to the code enforcement authority of the special master in sections 2-633 and 2-634.