

CITY COUNCIL AGENDA STATEMENT



Meeting Date: January 11, 2022

To: Honorable Mayor and Members of City Council

From: Brian Shea, Planning Director

Through: George Garrett, City Manager

Item: **Ordinance 2021-23**, Amending The Comprehensive Plan By Adding A Property Rights Element To Include Further Protections Of Private Property Rights.; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The Department Of Economic Opportunity; And Providing For An Effective Date Upon The Approval Of This Ordinance By The State Department Of Economic Opportunity.

RECOMMENDATION

Staff is recommending approval of the ordinance as written.

I. BACKGROUND AND JUSTIFICATION

Florida amended the Community Planning Act to require every city and county “to include in its comprehensive plan a property rights element.” FLA. STAT. § 163.3177(6)(i)1. (2021). The City must adopt this new element “by the earlier of the date of its adoption its next proposed plan amendment that is initiated after July 1, 2021, or the date of the next scheduled evaluation and appraisal of its comprehensive plan.” FLA. STAT. § 163.3177(6)(i)2. (2021). The City has proposed plan amendments that will be submitted after this deadline, and therefore, must adopt the amendment.

ORC report stated that the property rights should be as a separate element, so rather than adding to the existing property rights under Chapter 1, a new Chapter 10 is created for the sole purpose of a Private Property Rights Element.

II. ANALYSIS AND RECOMMENDATION

The City already has a private property rights element in the comprehensive plan. However, the specific statutory items are not elaborated within the comprehensive plan. Therefore, staff is recommending amending the comprehensive plan to expand the elements to adopt the specific language from the statute.

Based on the above, Planning Staff recommends that the City Council **APPROVE** the comprehensive plan amendment as written.

Sponsored by: Garrett
Introduction Date: October 12 2021
Public Hearing Dates: October 12 2021
January 11 2022
Enactment Date: January 11 2022

**CITY OF MARATHON, FLORIDA
ORDINANCE 2021-23**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA AMENDING THE COMPREHENSIVE PLAN BY ADDING A PROPERTY RIGHTS ELEMENT TO INCLUDE FURTHER PROTECTIONS OF PRIVATE PROPERTY RIGHTS.; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY.

WHEREAS, Section 163.3167, Florida Statutes, requires the City of Marathon to maintain a comprehensive plan to guide its future development and growth; and

WHEREAS, Section 163.3177(6)(i)1., Florida Statutes, requires the City of Marathon comprehensive plan to include a property rights element; and

WHEREAS, the City of Marathon respects judicially acknowledged and constitutionally protected private property rights; and

WHEREAS, the City of Marathon respects the rights of all people to participate in land use planning processes; and

WHEREAS, the City Council determined that it is in the public interest to amend the comprehensive plan by further amending the property rights element;

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. The City of Marathon creates comprehensive plan Chapter 10 Property Rights:

PROPERTY RIGHTS ELEMENT
GOALS, OBJECTIVES, AND POLICIES

Purpose

Pursuant to Chapter 163.3177(6)(i)2 F.S. the purpose of the Property Rights Element is to ensure that governmental entities respect judicially acknowledged and constitutionally protected private property rights. §163.3177(6)(i)2 F.S.

Goal 10-1 Respecting Property Rights

The City of Marathon will make decisions with respect for property rights and with respect for people's rights to participate in decisions that affect their lives and property.

Objective 10-1.1 The City of Marathon will respect judicially acknowledged and constitutionally protected private property rights.

Policy 10-1.1.1 The City of Marathon will consider in its decision-making the right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.

Policy 10-1.1.2 The City of Marathon will consider in its decision-making the right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.

Policy 10-1.1.3 The City of Marathon will consider in its decision-making the right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

Policy 10-1.1.4 The City of Marathon will consider in its decision-making the right of a property owner to dispose of his or her property through sale or gift.

Section 3. The Provisions of the Marathon Code and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 4. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause, or phrase of this Ordinance shall be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. This Ordinance shall become effective immediately upon adoption on second reading.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON,
FLORIDA, THIS 11th DAY OF JANUARY, 2022.**

THE CITY OF MARATHON, FLORIDA

John Bartus, Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

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:**

Steven T. Williams, City Attorney