

ORDINANCE NO. 2008-14

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING ARTICLE XVII OF THE MALABAR LAND DEVELOPMENT CODE; AMENDING SECTION 1.17.1.H.4 RELATING TO THE USE OF FEES IN LIEU OF LAND DEDICATION FOR PARKS AND RECREATION; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, THAT:

SECTION 1.

ARTICLE XVII Section 1-17.1.H.4 of the Malabar Land Development Code is hereby amended to read as follows:

“Section 1-17.1. Required Improvements.

...

H. *Dedication of Lands for Parks and Recreation.* All residential development shall provide an equitable dedication of land for public park purposes and/or fees in lieu thereof pursuant to the standards stated below. The standards provided herein are stipulated to implement policies within the parks and recreation element. The standards shall apply to all residential applications for subdivision approval. No property shall be assessed twice for respective subdivision plat applications unless a rezoning subsequently increases the density permitted on a respective parcel(s) of land.

...

4. *Use of Money.* The money collected shall be paid to the Town of Malabar and placed in a reserve account within a special fund. Monies within the reserve account shall be used and expended solely for the acquisition, improvement, expansion or implementation of parks and recreational facilities of the Town. ~~The monies and accrued interest from fees paid for any given development shall be used solely for acquisition of park land or facilities reasonably related to serving said development.”~~

...

SECTION 2. CODIFICATION. It is the intention of the Town Council of the Town of Malabar, Brevard County, Florida and it is hereby provided that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the town of Malabar, Florida; that the sections of their Ordinance may be renumbered or re-lettered to accomplish such intention; and the word “Ordinance” may be changed to “Section,” “Article” or other appropriate designations.

SECTION 3. SEVERABILITY. In the event a court of competent jurisdiction shall hold or determine that any part of this ordinance is invalid or unconstitutional, the remainder of the ordinance shall not be affected and it shall be presumed that the Town Council of the Town of Malabar did not intend to enact such invalid or unconstitutional

provision. It shall further be assumed that the Town Council would have enacted the remainder of this ordinance without said invalid or unconstitutional provision, thereby causing said remainder to remain in full force and effect.

SECTION 4. CONFLICT. All ordinances or parts thereof in conflict herewith are hereby repealed to the extent of such conflict with this Ordinance.

SECTION 5. EFFECTIVE DATE. The ordinance shall take effect immediately upon its adoption.

The foregoing Ordinance was moved for adoption by Council Member Rivet. The motion was seconded by Council Member McKnight and, upon being put to a vote, the vote was as follows:

Council Member Nancy Borton	<u>Excused</u>
Council Member Brian Vail	<u>Aye</u>
Council Member Steve Rivet	<u>Aye</u>
Council Member Jeffrey (Jeff) McKnight	<u>Aye</u>
Council Member Patricia (Pat) Dezman	<u>Excused</u>

PASSED AND ADOPTED by the Town Council, Town of Malabar, Brevard County, Florida this 15th day of December, 2008.

BY: TOWN OF MALABAR

Thomas Eschenberg
Mayor Thomas M. Eschenberg

PH at P&Z: 11/12/08
First Reading: 11/17/08
Second Reading: 12/15/08

ATTEST:

Debby Franklin
Debby K. Franklin
Town Clerk/Treasurer

Approved as to form and legal sufficiency by:

Karl Bohne
Karl W. Bohne, Jr.
Town Attorney