

## RESOLUTION 39-2008

**A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING RESOLUTION 01-2002; SETTING FEES AND DEPOSITS PER CHAPTER 12.5 SECTION 20 AND 22 OF THE CODE OF ORDINANCES; PROVIDING FOR CERTAIN PROCEDURES FOR USE AND RENTAL OF THE PARK; PROVIDING FOR THE REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town Council of the Town of Malabar adopted Ordinance 06-00 which became Chapter 12.5 of Malabar's Code of Ordinances providing for rules and regulations within Malabar parks; and

**WHEREAS**, this Chapter also provides that in order to designate an area of any Malabar park as reserved, a permit must be issued; and

**WHEREAS**, the Town Council of the Town of Malabar has determined that a resolution providing for the various fees be established; and

**WHEREAS**, it is the clear intent of the Town Council to only require a fee when the applicant clearly desires to reserve that area of a park for their use. All rules regulations adopted as Chapter 12.5 of the Code of Ordinances must be met prior to issuance of a permit.

**NOW, THEREFORE BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, as follows:**

### **SECTION 1. USER CATEGORIES**

When determining if deposits or user charges are applicable the Town staff shall use the following categories:

CATEGORY	FEE	COMMENTS
1. Government agency, school district administration (under 30 in attendance & limit of 1 time a month only)  Non-profit/fundraiser or special event (Scout groups, Charter Schools, youth sports.)  Private – any event not open to the public.	\$50 Deposit; \$10 per hour	Same rules apply for any reserved facility.
2. Commercial – any venture that involves a private business and/or a “for profit” activity.	Charge rental fee of \$20 per hour, damage deposit of \$100 and all appropriate direct costs.	Commercial contracts may require additional negotiation, depending on function or event. Contracts to have Town Administrator or designee approval.
3. Civic organizations – youth league sports, adult league sport, non-profit groups that benefit the local community.	No damage deposit required	These groups use the park to benefit the community.  The league sports will be charged a seasonal fee of \$375 per season; youth and adult sport leagues.

		<p>Contracts to have Town Administrator or designee approval.</p> <p>Could be 2 seasons in one calendar year</p>
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**SECTION 2. USE OF PARK WITHOUT PERMIT FEES.**

It is the clear intent of the Town Council to not require a user fee for individuals or families that desire to use the park on a first come, first serve basis, without a reservations.

**SECTION 3. PERMIT USER FEES.**

Reservation of the large pavilion at Malabar Community Park: \$10.00 per hour. Hours must be stated on the application.

Reservation of the ball field: \$10.00 per hour or seasonal rate.

Reservation of the soccer field: \$10.00 per hour or seasonal rate.

Reservation of the tennis, volleyball, or basketball courts: \$3.00 per hour

**SECTION 2. CONFLICTS.** All resolutions or parts thereof in conflict herewith are hereby repealed to the extent of such conflict with this resolution.

**SECTION 3. SEVERABILITY.** In the event a court of competent jurisdiction shall hold or determine that any part of this resolution is invalid or unconstitutional, the remainder of the resolution 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 resolution without said invalid or unconstitutional provision, thereby causing said remainder to remain in full force and effect.

**SECTION 4. EFFECTIVE DATE.** This Resolution shall become effective immediately upon its adoption.

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

- Council member Nancy Borton Aye
- Council member Brian Vail Aye
- Council member Charles "Chuck" McClelland Aye
  
- Council member Jeffrey "Jeff" McKnight Aye
- Council member Patricia D. Dezman Aye

This Resolution was then declared to be duly passed and adopted this 3rd day of November, 2008.

**TOWN OF MALABAR**

BY: Thomas Eschenberg

Mayor Thomas Eschenberg, Chair

Approved for Legal Sufficiency:

Karl Bohne  
Karl Bohne, Jr., Town Attorney

ATTEST:

Debby Franklin  
Debby K. Franklin  
Deputy Town Clerk

(Seal)