

**ORDINANCE NO. 2009-22**

**AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, RELATING TO BUILDING CODES; AMENDING CHAPTER 6, SECTION 6-1 OF THE CODE OF ORDINANCES; PROVIDING FOR ADOPTION OF CERTAIN MODEL BUILDING AND CONSTRUCTION CODES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the State of Florida first mandated statewide building codes during the 1970's and required all municipalities to adopt and enforce one of four state-recognized model codes known as the "state minimum building codes;" and

**WHEREAS**, after Hurricane Andrew a comprehensive review of the state building code system resulted in a complete reform that placed emphasis on uniformity and accountability and led to the amendment of Florida Statute 553 creating a single state building code; and

**WHEREAS**, the Florida Building Code is adopted and updated with new editions triennially and the Town of Malabar last adopted the latest national building codes in 2006; and

**WHEREAS**, such regulation, code enforcement and administration are in the best interest of the public.

**WHEREAS**, it is the intent of Council to adopt revisions as amended in the future.

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

**SECTION 1.** Section 6-1 Chapter 6 of the Town of Malabar Code of Ordinances is hereby amended in full to read as follows:

**"Section 6-1. Codes and amendments adopted**

The Florida Building Code supersedes all local building codes which are developed and maintained by the Florida Building Commission. It is updated every three years and may be amended annually to incorporate interpretative clarifications. It is the intent of Malabar Council to adopt these codes as may be amended in the future. The base codes for the 2007 edition of the Florida Building Code are composed of seven main volumes:

- (1) The Florida Building Code, Building, 2007 edition which includes
  - A) Chapter 13 Energy Efficiency
  - B) Chapter 11 Accessibility

- (2) The Florida Building Code, Plumbing, 2007
- (3) The Florida Building Code, Residential, 2007
- (4) The Florida Existing Building Code, 2007
- (5) The Florida Building Code, Mechanical, 2007
- (6) The Florida Building Code, Fuel Gas, 2007
- (7) Test Protocols for High Velocity Hurricane Zones, 2007

All codes that are specifically referenced by any of the above are hereby adopted by reference. These would include, but are not limited to:

- (1) The Florida Fire Prevention Code, 2007 Edition, in its entirety
- (2) The National Electric Code (2005 Edition) N.F.P.A. 70

The following Codes are also adopted:

- (1) The Standard Amusement Device Code, 1985 Edition
- (2) The Standard For Unsafe Building Abatement Code, 1985 Edition
- (3) International Property Maintenance Code, 2006 edition as published by the International Code Council, Inc.

#### **SECTION 2. Codification.**

It is the intention of the Town Council of the Town of Malabar, Brevard County, that the provisions of Section 1 of this Ordinance become part of the Code of Ordinances of the Town of Malabar. The Town Clerk is hereby authorized and directed to cause the provisions of Section 1 of this ordinance to be incorporated into the Code of Ordinances.

#### **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 this 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. Conflicts.**

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

#### **SECTION 5. Effective Date.**

This Ordinance shall become effective immediately upon its adoption.

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

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

This Ordinance was then declared to be duly passed and adopted this 4th  
day May, 2009.

TOWN OF MALABAR

BY: Thomas Eschenberg  
Mayor Thomas M. Eschenberg, Chair

First Reading: 03/16/2009  
Second Reading: 05/04/2009

ATTEST:

Debby K. Franklin  
Debby K. Franklin  
Town Clerk/Treasurer

Approved as to form and content:

Karl W. Bohne, Jr.  
Karl W. Bohne, Jr.,  
Town Attorney