

## ORDINANCE 2019-02

**AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE AMENDMENT TO TABLE 1-3.3(A) IN ARTICLE III OF THE LAND DEVELOPMENT CODE, PROVIDING FOR FINDINGS; PROVIDING FOR NEW SETBACK ALLOWANCES IN RR-65 ZONING FOR ACCESSORY STRUCTURES ONLY; PROVIDING FOR CODIFICATION AND REPEAL OF ORDINANCES OR PART OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, The Town Council of the Town of Malabar adopted size and dimension regulations for all zoning classifications for principal structures; and

**WHEREAS**, The Town Council has determined it should amend those regulations to provide for new setback regulations for accessory structure only in RR-65 zoning in the Land Development Code.

**WHEREAS**, The Town Council approved the recommendation from the Planning and Zoning at their meeting on August 6, 2012 establishing a lesser setback for accessory structure in RR-65 Zoning based on the height of the accessory structure and reducing the setback to the height of the accessory structure or 15 feet, whichever is less. Under no conditions will the setback be less than 15 feet from the side or rear property lines.

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

**Section 1.** Findings. The above statements are correct.

**Section 2.** Table 1-3.3(A) Size and Dimension Regulations in Article III of the Land Development Code is hereby amended to provide for a footnote "7." That provides for the following language:

"7. In RR-65 Zoning, side and rear setback may be reduced for accessory structures to equal the height of the accessory structure but under no condition be reduced to less than 15 feet. If the height of the accessory structure height is 20 feet, the side and rear setbacks for that building would be 20 feet."

**Section 3.** Codification.

It is the intention of the Town Council of the Town of Malabar, Brevard County, Florida, that Article III, District Provisions, Section 1-3.3(E) and Table 1-3.3(E) be codified into the next supplement update of the Land Development Code of the Town of Malabar, Florida.

**Section 4.** 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 5.** Conflicts.

All ordinances or parts thereof in conflict herewith are hereby repealed to the extent of such conflict with this Ordinance.

**Section 6.** Effective Date.

This ordinance shall take effect immediately upon its adoption.

This ordinance was moved for adoption by Council Member Vail. This motion was seconded by Council Member White, and being put to a vote, the vote was as follows:

Council Member Grant Ball	Aye
Council Member Brian Vail	Aye
Council Member Steve Rivet	Excused
Council Member 4 Dick Korn	Aye
Council Member 5 Danny White	Aye

This Ordinance will be declared to be duly adopted seven days after the regular meeting of the Town of Malabar Town Council on March 4, 2019.

**TOWN OF MALABAR**

**By:**

original signed  
Mayor Patrick T. Reilly, Council Chair

1<sup>st</sup> Reading: 2/4/19 5 to 0  
2<sup>nd</sup> Reading: 3/4/19

(seal)

ATTEST:

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Debby K. Franklin, C.M.C.  
Town Clerk/Treasurer

Approved as to Legal Sufficiency:

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Karl W. Bohne, Jr., Town Attorney