

ORDINANCE 2019-03

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE AMENDMENT TO ARTICLE III, DISTRICT PROVISIONS, SECTION 1.3.3E AND TABLE 1-3.3(E) OF THE LAND DEVELOPMENT CODE, PROVIDING CLARIFYING LANGUAGE FOR SETBACKS FOR PRINCIPAL STRUCTURES ON CERTAIN ROADS, CORRECTING A SCRIVINORS ERROR AND REMOVING CONFLICT WITH COMPREHENSIVE PLAN ON RIGHT OF WAY WIDTH FOR MINOR COLLECTORS AND REMOVING BRIAR CREEK BOULEVARD FROM LIST OF MAJOR COLLECTOR STREETS; PROVIDING FOR CODIFICATION AND REPEAL OF ORDINANCES OR PARTS 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 based on the guidelines in the Comprehensive Plan; and

WHEREAS, The Town Council has determined there is a need to clarify language in title and body of Section 1-3.3E and Table 1-3.3(E) of Article III, District Provisions, to state the setbacks are for principal structures; and

WHEREAS, The Town Council has determined there is a need to correct the list of major collector streets to delete Briar Creek Boulevard and to correct the right of way width for minor collector streets to 70 feet to eliminate the conflict with the Comprehensive Plan.

WHEREAS, The Town Council approved these recommendations from the Planning and Zoning at their meeting on August 6, 2012.

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. Section 1-3.3(E) and Table 1-3.3(E) are hereby amended to provide for the following language:

~~“Section E. Building Principal Structure Setbacks. Table 1-3.3(A) provides building setbacks for all zoning districts. conventional single-family lots as well as for multiple family residential and nonresidential sites.~~

~~In addition to these setbacks the following building setbacks from thoroughfares shall be enforced. The required minimum setback from the thoroughfare shall be measured from the centerline of the right-of-way as in Table 1-3.3(E).~~

~~The thoroughfare system is illustrated on the Future Traffic Circulation System: 2010 Map located within the traffic circulation element of the Town of Malabar Comprehensive Plan. The below cited table identifies rights-of-way within the Town and stipulates minimum required building setbacks from these roadways.~~

TABLE 1-3.3(E). ~~Additional Building~~ Principal Structure Setbacks from Centerline of Thoroughfares Streets and Roads

Transportation Facility	Building Setback (in feet) from C/L
Arterial Roadways (150 feet ROW)	100
Highway 1	
Malabar Road	
Babcock Street	
	Building Setback (in feet) from C/L
Major Collector Streets (100 feet ROW)	85
Corey Road	
Weber Road	
Marie Street	
Briar Creek Boulevard	
Jordan boulevard	
	Building Setback (in feet) from C/L
Minor Collector Streets (80 70 feet ROW)	75
Atz Road, Hall Road, Old Mission Road	
Benjamin Road, Reese Road	
	Building Setback (in feet) from C/L
Local Streets (50 – 60-foot ROW)	65

“

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 Ball. This motion was seconded by Council Member White, and being put to a vote, the vote was as follows:

Council Member District 1 Grant Ball	Aye
Council Member District 2 Brian Vail	Aye
Council Member District 3 Steve Rivet	Excused
Council Member District 4 Dick Korn	Nay
Council Member District 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

1st Reading: 2/4/19 4 to 1 (CM Korn)

2nd Reading: 3/4/19

(seal)

ATTEST:

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

Approved as to Legal Sufficiency:

Karl W. Bohne, Jr., Town Attorney