

ORDINANCE 2019-04

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE AMENDMENT TO ARTICLE V, GENERAL PROVISIONS, SECTION 1-5.10 OF THE LAND DEVELOPMENT CODE, PROVIDING FOR CLARIFYING LANGUAGE FOR SETBACKS FOR PRINCIPAL STRUCTURES; PROVIDING FOR REFERENCE TO ARTICLE III DISTRICT PROVISIONS TABLE 1-3.3(A) AND TABLE 1-3.3(E) IN THE LAND DEVELOPMENT CODE; 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 based on the guidelines in the Comprehensive Plan; and

WHEREAS, The Town Council has determined there is a need to clarify language in the body of Section 1-5.10 of Article V, General Provisions, to refer to Article III, District Provisions Table 1-3.3 (A) and Table 1-3.3(E) for the setbacks for principal structures; and

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 1-5.10 of Article V are hereby amended to provide for the following language:

~~“Section 1-5.10. Principal Structure Building Setbacks. from the center line of rights-of-way~~

~~For the purpose of promoting health, safety, and general welfare of the community, and to lessen congestion in the streets; to secure safety from fire, panic, storm, hurricane or other causes; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to provide adequate facilities for transportation, parking, water and sewerage; and to conserve the value of buildings and encourage the most appropriate use of land, all properties with the Town limits shall maintain these minimum building setback lines as measured from the center line of the road.~~

In determining the setback requirement for any principal structures proposed to be located, the setback requirements in this section shall be construed as a minimum setback and if a greater setback is required under any of the zoning districts then such greater setback requirement shall be in compliance with Article III, District Provisions, Table 1-3.3(A) or Table 1-3.3(E), whichever is more restrictive.

~~In the event of the recording of any proposed street or road in the office of the Town Clerk, or in the event of the designation or establishment by the Town Council of any proposed public street or road, the same shall thereupon immediately be used as the reference point for the purpose of determining setbacks for new construction under the terms of this ordinance. This provision shall not prevent the reconstruction of a fully or partially damaged or destroyed legally nonconforming structure so long as the rebuilt structure is consistent with the Building Code. The measurement shall be from the center line of the road. “~~

Section 3. Codification.

It is the intention of the Town Council of the Town of Malabar, Brevard County, Florida, that Article V, General Provisions, Section 1-5.10 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 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	Aye
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

original signed
Mayor Patrick T. Reilly, Council Chair

1st Reading: 2/4/19 5 to 0
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