

ORDINANCE 2020-06

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA TO AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES; PROVIDING FOR A COST SHARE IN THE PAVING OF IMPROVED AND ACCEPTED DIRT ROADS THAT HAVE MET THE REQUIREMENTS FOR A SPECIAL ASSESSMENT IN SECTION 13.52.(2)b.; PROVIDING FOR NEW SUBSECTION 13.52.(2)c.; PROVIDING FOR THE FUNDING SOURCE FOR THAT COST SHARE; PROVIDING FOR SEVERABILITY, CODIFICATION; CONFLICTS AND AN EFFECTIVE DATE.

WHEREAS, the Town has acquired, built and maintained rights-of-way throughout the town to promote the general health, safety and welfare of its citizens and the travelling public; and

WHEREAS, utilities and communication services locate their facilities in the rights-of-way to ensure all citizens receive adequate service; and

WHEREAS, in 2017 the Town Council adopted a process to allow property owners on an improved and accepted dirt lane to request paving of their road using a Special Assessment process and adopted its first Special Assessment for paving of Smith Lane; and

WHEREAS, Town Council has further adopted a policy to share in the cost of a portion of the paving as a method to encourage property owners on improved and accepted dirt lanes to Petition to have their road paved; and

NOW THEREFORE BE IT ORDAINED by the Town Council for the Town of Malabar, Brevard County, Florida:

SECTION 1. The above recitals are true and correct.

SECTION 2. Article II of Chapter 13 is hereby amended to add a new subsection "c" to Section 13.52(2) of the Code of Ordinances of the Town to read as follows:

"Sec. 13-52(2) c.

Cost Share. When a Petition is submitted pursuant to Sec. 13-52 (2) and the Petition meets the requirements to proceed with paving an improved and accepted dirt lane as depicted in subsection (b) the Town shall consider in the calculation of the total cost of the Special Assessment a reduction by forty percent (40%) which shall be the Town's contribution to the total paving cost.. The cost share portion of the Town shall be contributed by using only those funds available through the Transportation Impact Fees collected on new construction."

SECTION 3. Severability. If any provisions of this ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalid or unconstitutional portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the other portions of this ordinance, provided the remaining portions effectuate the purpose and intent of this ordinance.

SECTION 4. Conflicting Provisions. In the case of a direct conflict between any provisions of this ordinance and a portion or provision of any other appropriate federal, state, or town law, rule, code or regulations, the more restrictive shall apply.

SECTION 5. Inclusion in Code. It is intention of the Town Council that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the Town of Malabar.

SECTION 6. Conflicting Provisions. In the case of a direct conflict between any provisions of this ordinance and a portion or provision of any other appropriate federal, state, or town law, rule, code or regulations, the more restrictive shall apply.

SECTION 7. Effective Date. This Ordinance shall take effect immediately upon passage and adoption.

The foregoing Ordinance was moved for adoption by Council Member White. The motion was seconded by Council Member Vail and, upon 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 David Scardino	Aye
Council Member Danny White	Aye

This ordinance was then declared duly passed and adopted this 6th day of July 2020.

TOWN OF MALABAR

original signed
Mayor Patrick T. Reilly, Council Chair

ATTEST:

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

(seal)

Approved for Legal Sufficiency:

Karl Bohne, Jr, Town Attorney

First Reading: 06/15/2020 Vote 5 to 0

Second Reading: 07/06/2020