

ORDINANCE 2021-06

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 2, ARTICLE IV, CREATING A NEW SECTION 2-76 OF THE MALABAR CODE OF ORDINANCES RELATED TO ADOPTING ORDINANCES, HOLDING PUBLIC HEARINGS AND PROVIDING PUBLIC NOTICES AND LEGAL ADVERTISEMENTS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the Town Council desires to update the Code of Ordinances relating to adopting ordinances and holding public hearings.

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

SECTION 1. Add a new section in Chapter 2, Article IV, as Section 2-76 providing for the following:

Chapter 2 – ADMINISTRATION

ARTICLE IV. - ORDINANCE ADOPTION PROCEDURE

“Section 2-76. Public Hearing Notices.

(A) *Newspaper publication.* Notice of all public hearings shall be advertised in a newspaper of general circulation with the Town as required by Florida Statutes.

(B) *Courtesy mailout.*

1. All property owners within five hundred (500) feet of property which is the subject of a rezoning, future land use map amendment, conditional use, zoning variances, architectural style exception, preliminary subdivision, or final subdivision plats, shall be transmitted a courtesy notice by mail stating: the date, time, and place of the hearing; the type of petition to be considered at the hearing; and the location where the petition can be reviewed.
2. The applicant is required to provide a radius package from the Brevard County Planning and GIS department that includes the 500' radius map, list of all property owners within that radius, and labels for mailing the courtesy notices. Failure to mail or failure of a property owner to receive a courtesy notice shall not affect any action or proceedings taken on a subject matter.
3. When a property within this radius is included in a legally constituted property owners', homeowners', or condominium association boundary, a courtesy notice will also be provided to that association based on the latest contact information available from the Office of the Town Clerk.

(C) *Signs posted on the subject property.*

1. All properties that are subject to a rezoning, future land use map amendment, conditional use, zoning variance, architectural style exception, preliminary subdivision, or final subdivision, shall be posted by the owner/applicant, at their expense, with a sign(s) meeting the following criteria:

- a. Sign(s) shall have minimum dimensions of 24 inches by 24 inches (24" x 24") for requests related to single family homes. The font shall be a minimum of $\frac{3}{4}$ " in height and be legible from the roadway. The signage shall include the Town logo in color.
- b. Signs shall have minimum dimensions of 48 inches by 48 inches (48" x 48") for on all commercially zoned properties. The font shall be a minimum of $\frac{3}{4}$ " in height and be legible from the roadway. The signage shall include the Town logo in color.
- c. Corner properties shall require two (2) signs, one each facing both streets.
- d. Signage shall be placed as close to the front (and side corner property line on corner lots) as possible, or in other locations approved by the Building Department in order to achieve maximum visibility from the roadway.
- e. Signs shall include the date, time and place of the public hearing, applicant's name, and the specific request.
- f. Sign(s) shall be posted thirty (30) days prior to the public hearing at Planning and Zoning Board meeting at which the matter is to be considered and shall remain in place until after the final public hearing on the matter by Town Council. Such signs shall be removed within forty-eight (48) hours of the conclusion of the final public hearing on the matter.
- g. The Town Staff shall provide

(D) Large area rezonings and future land use map amendments.

Administrative rezonings or administrative Future Land Use Map amendments shall meet the requirements of F.S. 166.041(3)(c), in lieu of the requirements contained in this section.

E) Failure to post sign(s).

1. Failure to post the sign(s) within the time frame specified in paragraph 2-76 (C) of this section shall result in the continuance of the public hearing. The matter shall be rescheduled in accordance with paragraph 2-76 (B) of this section. The applicant shall pay a fee equaling one-half ($\frac{1}{2}$) the initial filing fee.
2. Upon the continuance of the public hearing, failure to post the sign(s) within the time frame specified or to pay the fee within three (3) working days of the date of the public hearing is reschedule, shall render the matter as a withdrawal under this chapter.

Secs. 2-77—2-100. - Reserved."

SECTION 2. 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 3. 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 4. 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 5. Effective Date. This Ordinance shall take effect immediately upon passage and adoption.

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

Council Member Marisa Acquaviva	Aye
Council Member Brian Vail	Aye
Council Member Steve Rivet	Aye
Council Member David Scardino	Aye
Council Member Danny White	Aye

This ordinance was then declared duly passed and adopted this 7th day of June 2021.

TOWN OF MALABAR

By: original signed
Mayor Patrick T. Reilly, Council Chair

(seal)

ATTEST:

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

Approved for Legal Sufficiency:

Karl Bohne, Jr, Town Attorney

P&Z Meeting: N/A
1st reading: 5/17/2021: Vote: 4 to 0 (CM Scardino excused)
2nd Reading: 7/7/2021: see above