

## ORDINANCE 2021-23

**AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, RELATING TO BUILDING CODES; AMENDING CHAPTER 6, CREATING A NEW SECTION 6-10 OF THE CODE OF ORDINANCES OF THE TOWN; PROVIDING FOR PRIVATE PLAN AND BUILDING CODE INSPECTIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Florida Statute Section 553.791 provides, in part that: *Notwithstanding any other law or local government ordinance or local policy, the fee owner of a building or structure, or the fee owner's contractor upon written authorization from the fee owner, may choose to use a private provider to provide building code inspection services with regard to such building or structure and may make payment directly to the private provider for the provision of such services... The fee owner may elect to use a private provider to provide plans review or required building inspections, or both; and,*

**WHEREAS**, Florida Statute Section 553.791 provides, in part, that: *If an owner or contractor retains a private provider for purposes of plans review or building inspection services, the local jurisdiction must reduce the permit fee by the amount of cost savings realized by the local enforcement agency for not having to perform such services; and,*

**WHEREAS**, The Town staff has reviewed the total cost savings to the Town for not having to do such inspections and has compared the and reviewed similar cost savings to other local jurisdictions, including the city of Melbourne, Town of Grant-Valkaria, City of Palm Bay and Brevard County and has recommended a reduction of 25% on plan review costs and Inspection fees done by private providers; and,

**WHEREAS**, The Town Council adopts the findings of Town staff.

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

**SECTION 1.** Chapter 6 of the Malabar Code of Ordinances is hereby amended to add a new section 6-10 to read as follows:

**"Section 6-10. Private plan and building code inspections**

A property owner or the owner's contractor may elect to use a private provider to provide plans review or required building inspections, or both. However, if the owner or the owner's contractor uses a private provider to provide plans review, the Town's building official, in his or her discretion, may require the owner or the owner's contractor to use a private provider to also provide required building inspections.

If the owner or contractor retains a private provider for purposes of plans review or building inspection services, the Town must reduce the permit fee by 25%. The Town may not charge fees for plan or building inspections if the owner or contractor hires a private provider to perform such services; however, the Town may charge a reasonable administrative fee to be provided by resolution of the Town Council from time to time.

The provisions of Florida Statute section 553.791 are hereby adopted herein by reference and it shall be the responsibility of the property owner or property owner's contractor to comply with the provisions of Florida Statute section 553.791 as amended from time to time."

**SECTION 2. Codification.**

It is the intention of the Town Council of the Town of Malabar, Brevard County, that the provisions of Section 1 of this Ordinance become part of the Code of Ordinances of the Town of Malabar. The Town Clerk is hereby authorized and directed to cause the provisions of Section 1 of this ordinance to be incorporated into the Code of Ordinances.

**SECTION 3. 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 this 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 4. Conflicts.**

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

**SECTION 5. Effective Date.**

This Ordinance shall become effective immediately upon its adoption.

The foregoing Ordinance was moved for adoption by Council Member Scardino. The motion was seconded by Council Member Vail 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 Mary Hofmeister	Aye

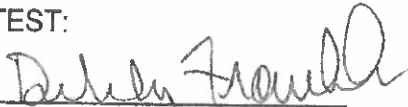
**PASSED AND ADOPTED** by the Town Council, Town of Malabar, Brevard County, Florida this 15<sup>th</sup> day of November, 2021.

BY:  
**TOWN OF MALABAR**  
Patrick T. Reilly  
Mayor Patrick T. Reilly, Council Chair

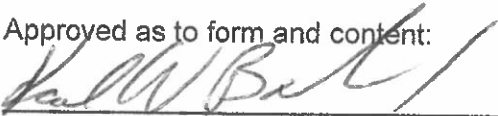


First Reading: 11/01/2021 Vote:5 to 0.  
Second Reading: 11/15/2021

ATTEST:

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

Approved as to form and content:

  
Karl W. Bohne, Jr., Town Attorney