

ORDINANCE 2023-02

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE TOWN'S LAND DEVELOPMENT CODE; AMENDING ARTICLE III, DISTRICT PROVISIONS; AMENDING SECTION 1-3.1, PURPOSE AND INTENT OF DISTRICTS; AMENDING SUBSECTION "O" R/LC (RESIDENTIAL/LIMITED COMMERCIAL) TO INCLUDE ADDITIONAL LANGUAGE AND TABLE 1-3.1; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the Town of Malabar is seeking to expand the viability of commercial properties in Town; and

WHEREAS, a local government agency has the authority to amend their Zoning Codes to better accommodate the needs of the municipality; and

WHEREAS, on August 26, 2015, the Malabar Planning and Zoning Board held a publicly advertised meeting to discuss and recommend such amendments to the Town Code; and

WHEREAS, Town Council has determined that the proposed amendments serve the public health, safety and welfare of the citizens of the Town of Malabar, Florida.

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

SECTION 1. Article III, Section 1-3.1, Subsection "O" of the Town Land Development Code is hereby amended to provide additional language and Table 1-3.1, which shall read as follows:

"O" - R/LC "Residential and Limited Commercial. " The R/LC district is established to implement comprehensive plan policies for managing development on land specifically designated for mixed use Rural Residential and Limited Commercial development on the Comprehensive Plan Future Land Use Map (FLUM). Such Development is intended to accommodate neighborhood shops with limited inventory or goods as well as single family and multiple family structures with a maximum density up to six (6) units per acre. A building(s) or portions of a building may have residential or commercial uses(s), or a combination of both. Residential/ Limited Commercial activities shall generally cater to the following markets:

- Local residential markets within the town as opposed to regional markets; or
- Specialized markets with customized market demands.
- A Malabar Vernacular Style is required for all development along arterial roadways.

Areas designated for mixed use Residential and Limited Commercial development are not intended to accommodate commercial activities, such as large-scale retail sales and/or service facilities or trade activities. These types of commercial activities generally serve regional markets, and the intensity of such commercial activities is not generally compatible with residential activities located within the same structure or located at an adjacent or nearby site. Such stores would usually differ from limited commercial shops; would generally carry a relatively larger inventory; and require substantially greater parking area. Uses, which are not intended to be accommodated within the limited commercial area, include the following: large-scale discount stores; health spas; supermarket; department stores; large scale wholesaling and warehousing activities; general sales, services or repair of motor vehicles, heavy equipment, machinery or accessory parts, including tire and battery shops and automotive service centers; commercial amusements; and fast food establishments primarily serving in disposal containers and/or providing drive-in facilities.

Development of an R/LC parcel shall be intended for one unit per lot, until mixed use is initiated by the property owner. Only then shall single family or multiple family residential uses and commercial uses be mixed with a density no greater than six (6) units per acre in the R/LC district. Such residential uses may be located either within a freestanding structure or within a structure housing both Residential and Limited Commercial activities. Such development is intended to accommodate limited commercial goods and services together with rural residential activities on specific sites designated "R/LC". This residential land use shall permit multiple family residential development, limited commercial development separately where current Infrastructure allows, or as a combination of these uses as regulated by Table 1-3.1 and Table 1-3.3(A).

Residential Dwelling unit(s) shall not exceed commercial use(s) by more than one as regulated by Table 1-3.1.

Commercial use(s) shall not exceed residential dwelling unit(s) by more than one as regulated by Table 1-3.1.

Table 1 3.1. Permitted Combinations of R/LC Land Uses

<u>Total Units/ Uses</u>	<u>Residential</u>	<u>Limited Commercial</u>
<u>1</u>	<u>1</u>	<u>0</u>
<u>1</u>	<u>0</u>	<u>1</u>
<u>2</u>	<u>1</u>	<u>1</u>
<u>3</u>	<u>2</u>	<u>1</u>
<u>3</u>	<u>1</u>	<u>2</u>
<u>4</u>	<u>2</u>	<u>2</u>
<u>5</u>	<u>3</u>	<u>2</u>
<u>5</u>	<u>2</u>	<u>3</u>
<u>6</u>	<u>3</u>	<u>3</u>

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 after the adoption of this Ordinance.

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

- Council Member Marisa Acquaviva
- Council Member Brian Vail
- Council Member Jim Clevenger
- Council Member David Scardino
- Council Member Mary Hofmeister

Aye
Aye
Aye
Aye
Aye

This ordinance was then declared duly passed and adopted this 4 day of December 2023.

TOWN OF MALABAR
Patrick T. Reilly
 Mayor Patrick T. Reilly, Council Chair

ATTEST:
Richard W. Kohler
 Richard W. Kohler, Town Clerk

(seal)



Approved for Legal Sufficiency:
Karl Bohne, Jr.
 Karl Bohne, Jr, Town Attorney

First Reading: 09/11/2023

Vote: 4 to 0.

Second Reading: 12/04/2023

Vote: 5 to 0.

