

TOWN OF MALABAR

ORDINANCE NO. 2007-04

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING ARTICLE V OF THE LAND DEVELOPMENT CODE OF THE TOWN; AMENDING SECTIONS 1.5.30 RELATING TO SITE LIGHTING EXEMPTIONS; PROVIDING FOR AN EXEMPTION FOR EXISTING COMMERCIAL BUSINESSES; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, The Town Council has been made aware that new sections 1.5.28 – 1.5.31 added to Article V of the Land Development Code of the Town have had an unintentional impact on existing commercial businesses when there is no abutting residential use to such existing commercial establishments; and

WHEREAS, The Town Council did not intend to create such impacts on existing commercial businesses;

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

SECTION 1. Section 1-5.30 shall be amended to add a new subsection 12 which shall read as follows:

“12. Any lawful commercial business existing prior to January 12, 2006 which does not abut any residential district is hereby exempted from the requirements of section 1-5.31 (vi) of this Code, provided, however, that site lighting on such a commercial business establishment is required to comply with the shielding requirements of section 1-5.31 of this Code.”

SECTION 2. CODIFICATION. It is the intention of the Town Council of the Town of Malabar, Brevard County, Florida and it is hereby provided that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the town of Malabar, Florida; that the sections of their Ordinance may be renumbered or re-lettered to accomplish such intention; and the word “Ordinance” may be changed to “Section,” “Article” or other appropriate designations.

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 All ordinances or parts thereof in conflict herewith are hereby repealed to the extent of such conflict with this Ordinance.

SECTION 5. EFFECTIVE DATE. The ordinance shall take effect immediately upon its adoption.

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

Council Member Nancy Borton	<u>Aye</u>
Council Member Brian Vail	<u>Aye</u>
Council Member Charles D. (Chuck) McClelland	<u>Aye</u>
Council Member Roberta (Bobbi) Moccia	<u>Aye</u>
Council Member Patricia Dezman	<u>Aye</u>

This ordinance was then declared to be duly passed and adopted this 4th day of June, 2007.

TOWN OF MALABAR

BY: Thomas M. Eschenberg

Mayor Thomas M. Eschenberg, Chair

First Reading: 05/21/2007

Second Reading: 06/04/2007

ATTEST:

Susan Kabana

Susan Kabana, CMC
Town Clerk/Treasurer

Approved as to form and content:

Karl W. Bohne, Jr.

Karl W. Bohne, Jr.
Town Attorney