

ORDINANCE NO. 2008-09

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE OF THE TOWN; AMENDING SECTION 1-7.5 OF ARTICLE VII; PROVIDING FOR REVIEW AND RECOMMENDATION OF SITE PLAN EXTENSIONS BY THE PLANNING AND ZONING BOARD; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. Section 1-7.5 of Article VII of the Land Development Code of the Town is hereby amended in full to read as follows:

“ Section 1-7.5. Termination, extension and transferability.

The site plan approval shall terminate twelve (12) months thereafter, if construction has not been started as evidenced by steady and continuous progress, including the pouring of footings by said termination date. Extensions may be granted by the Town Council at its sole and absolute discretion. Any request for extension shall be made in writing prior to the expiration of the site plan and such request for extension shall be reviewed by the Planning and Zoning Board which shall make a recommendation on the request for extension to the Town Council. In the event the property receiving site plan approval shall be sold, transferred, leased, or the ownership thereof changes in any way whatsoever, the site plan approval shall be transferrable.”

SECTION 2. CODIFICATION. It is the intention of the Town Council of the Town of Malabar, Brevard County, Florida, that the provisions of Section 1 of this ordinance become part of the Land Development Code 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 Town’s Land Development Code, as approved by Town Council.

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 Dezman 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 (Chuck) McClelland	<u>Aye</u>
Council Member Jeffrey (Jeff) McKnight	<u>Aye</u>
Council Member Patricia (Pat) Dezman	<u>Aye</u>

PASSED AND ADOPTED by the Town Council, Town of Malabar, Brevard County, Florida this 8th day of September, 2008.

TOWN OF MALABAR

BY: Thomas M. Eschenberg
Mayor Tom Eschenberg, Chair

1st Reading: 08/04/08
2nd Reading: 09/08/08

ATTEST: Debby K. Franklin
Debby Franklin, Town Clerk

Approved as to form and content:

Karl W. Bohne, Jr.
Karl W. Bohne, Jr.
Town Attorney