

ORDINANCE NO. 2008-15

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING ARTICLE XIX OF THE LAND DEVELOPMENT CODE RELATING TO POLITICAL SIGNS; PROVIDING FOR A REGISTRATION FORM; PROVIDING FOR COMPLIANCE WITH STATE LAW CONCERNING THE PLACEMENT OF POLITICAL OR CAMPAIGN SIGNS, ADVERTISEMENTS AND/OR POSTERS IN A STATE OR COUNTY ROAD RIGHT OF WAY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION INTO THE LAND DEVELOPMENT CODE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, it is necessary for the town to consider both the current need and the long term impact that political signs have on aesthetics in the Town before, during and after a political campaign and election; and

WHEREAS, limited regulation of political signs is permissible under the United States Constitution and Florida Law and such regulation as provided for in this ordinance is in the best interest of the health, safety and welfare of the Town and in the best interest of the public.

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

SECTION 1. ARTICLE XIX, Section 1-19.10 B (3) of the Land Development Code of the Town of Malabar is hereby amended to read as follows:

“Section 1-19.10. Temporary permits.

...

(3) Any political candidate, or person, firm, entity or corporation acting on behalf of a political candidate or political action committee desiring to erect a political or campaign sign, advertisement and/or poster in the Town must complete and file a Political Sign Registration form with the Town, on a form provided by the Town, prior to the erection of such political or campaign sign, advertisement and/or poster. Failure to complete and file such a form with the Town will result in removal of such political or campaign signs, advertisements and/or posters erected in violation of the registration requirement. A permit fee for political or campaign signs, advertisements and/or posters will not be required, provided that said signs, advertisements and/or posters are subject to the following regulations:

a. Such signs, advertisements and/or posters shall be removed within five (5) days following the election. If the candidate or political action committee fails to remove said sign, advertisement and/or poster, within the required five (5) days, the town may remove said signs, advertisements and/or posters. These signs, advertisements and/or posters, will be held by the town for a period of thirty (30) days. During this period, and during regular town business hours, the political candidate or person, firm, entity or corporation acting on behalf of a political candidate or political action committee may claim their signs, advertisements and/or posters but shall pay a service charge of five dollars (\$5.00) to the town for each sign claimed. Any signs not claimed within thirty (30) days shall become the property of the town.

b. Only one (1) stationary sign, advertisement and/or poster per candidate or referendum issue shall be permitted on any one (1) parcel of land, except should there be more than one (1) owner or occupant of said parcel, each owner or occupant shall be permitted one (1) sign, advertisement and/or poster per candidate or per issue of dimensions herein specified.

c. Said sign, advertisement and/or poster shall not exceed sixteen (16) square feet on aggregate area and if detached, shall not be erected in such a manner as to constitute a roof sign. Notwithstanding the provisions of this subparagraph, a sign, advertisement and/or poster may be placed upon any legally existing sign structure but not so as to cover an existing sign.

d. Political or campaign signs, advertisements and/or posters may be allowed in a public or private right-of-way but shall be located no closer than 3 feet from the edge of pavement or in the case of a dirt road no closer than 3 feet from the edge of the dirt or no closer than five feet from the edge of a sidewalk, bike-path, or ped-way. Furthermore, any such sign, advertisement and/or poster allowed in a public or private right of way may not be placed any sooner than 81 days before the election. Such signs, advertisements and/or posters shall not be placed closer than 50 feet to a sign of the same candidate, referendum or political issue. Notwithstanding the provisions of this subsection, no political or campaign sign, advertisement and/or poster shall be erected, posted, placed, painted, tacked, nailed, or otherwise displayed, placed or located on or above any state or county right-of-way.

- e. No political or campaign sign, advertisement and/or poster shall be:
 - (i). Located such that it obstructs, impedes, or otherwise creates a hazardous condition for safe and normal flow of pedestrian or motor vehicle traffic.
 - (ii). Erected on private property without the consent of the property owner.
 - (iii). Placed on any tree, utility pole, fences or fence post.
 - (iv). Placed in or on government-owned property such as a park”

SECTION 2. CONFLICTS.

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

SECTION 3. CODIFICATION.

It is the intention of the town council of the Town of Malabar, Brevard County, and it is hereby provided that the provisions of this ordinance shall become part of the Land Development Code of the Town of Malabar.

SECTION 4. SEVERABILITY.

Should any section, clause or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the remaining provisions or parts of this ordinance.

SECTION 5. EFFECTIVE DATE.

This ordinance shall take effect immediately upon its adoption.

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

Council Member Nancy Borton Excused

Council Member Brian Vail Aye

Council Member Steve Rivet Aye

Council Member Jeffrey (Jeff)McKnight Aye

Council Member Patricia (Pat) Dezman Excused

This ordinance was then declared to be duly passed and adopted this 15th day of December, 2008.

TOWN OF MALABAR

BY: Thomas Eschenberg

Mayor Tom Eschenberg, Chairperson

P&Z Public Hearing: 11/12/08

First Reading: 11/17/08

Second Reading: 12/15/08

ATTEST: Debby Franklin

Debby Franklin
Town Clerk/Treasurer

Approved as to form and content:

Karl Bohne

Karl W. Bohne, Jr., Town Attorney