

ORDINANCE NO. 2008-19

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING THE COMPREHENSIVE PLAN OF THE TOWN BY ADDING A NEW CHAPTER 11, PUBLIC SCHOOL FACILITIES ELEMENT; AMENDING CHAPTER 8 INTERGOVERNMENTAL COORDINATION ELEMENT; AMENDING CHAPTER 9 CAPITAL IMPROVEMENTS ELEMENT; PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Malabar, in 1988, adopted the Comprehensive Plan for the Town in accordance with Florida Statutes; and

WHEREAS, the Town Council has updated and amended the Comprehensive Plan regarding public schools by adopting Ordinance 2006-13; and

WHEREAS, the Town Council has identified changes and amendments that are necessary to the Comprehensive Plan through the signing of the Interlocal Agreement for Public School Facility Planning and School Concurrency; and

WHEREAS, the Town's Local Planning Agency on November 19, 2008 held a duly noticed public hearing on the proposed changes and made recommendations to the Town Council; and

WHEREAS, public hearings on the proposed amendments hereinafter described were duly advertised and held by the Town Council of the Town of Malabar on December 1, 2008 and December 15, 2008 and at such hearings interested parties commenting on the proposed plan amendments were heard; and

WHEREAS, the Town of Malabar and its Local Planning Agency have complied with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act in preparing and noticing these proposed amendments to the Comprehensive Plan; and

WHEREAS, the Department of Community Affairs has reviewed the Public School Facilities Element and determined we needed to state in our CIE Policy 9-1.5.1 that the Town adopts the level of service consistent with the Interlocal Agreement for Public School Facility Planning and School Concurrency as amended in July, 2008; and

WHEREAS, the Town of Malabar chooses to adopt with changes.

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

SECTION ONE: This ordinance is adopted in conformity with and pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act, Sections 163.3161 through 163.3217, Florida Statutes (2007).

SECTION TWO: Amendments to the Town of Malabar Comprehensive Plan hereinafter described are hereby adopted and approved.

SECTION THREE: TEXT AMENDMENT ADDING CHAPTER 11, A PUBLIC SCHOOL FACILITIES ELEMENT (PSFE)

Amend the Town of Malabar Comprehensive Plan by adding a new Chapter 11 Public School Facilities Element Goals and Objectives, attached hereto as **Exhibit A**. The Interlocal Agreement for Public School Facility Planning and School Concurrency as based on the Brevard County Public School Concurrency Data and Analysis Report Updated July 2008 is included and made a part of this chapter by reference. Full text is attached as referenced.

SECTION FOUR: TEXT AMENDMENT TO INTERGOVERNMENTAL COORDINATION ELEMENT

Amend the Town of Malabar Comprehensive Plan Goals, Objectives and Policies, Chapter 8, Intergovernmental Coordination, by adding Objective 8-1.5 and related policies as follows:

Objective 8-1.5: Beginning with an effective date of 2008, the Town and the Brevard County School Board have established a formal process for more effective coordination, sharing information on plans, projects, and developments which affect public school facilities or public school sites.

Policy 8-1.5.1 The Town agrees to be a party to the Interlocal Agreement for Public School Facility Planning and School Concurrency with the Brevard County School Board and shall work with the School Board to implement the terms of the agreement.

Policy 8-1.5.2 The Town shall notify the School Board of all proposed residential development projects as a part of the review process for school concurrency.

Policy 8-1.5.3 The Town shall work with the School Board to maintain the Interlocal Agreement for Public School Facility Planning and School Concurrency. Full text of Chapter 8 is attached as **Exhibit "B."**

SECTION FIVE: TEXT AMENDMENT TO THE CAPITAL IMPROVEMENTS ELEMENT

Amend the Town of Malabar Comprehensive Plan Goals, Objectives and Policies, Chapter 9, Capital Improvements, as follows: Policy 9-1.5.1 that the Town adopts the level of service consistent with the Interlocal Agreement for Public School Facility Planning and School Concurrency as amended in July, 2008 and approved on September 28, 2008.

Amend the Town of Malabar Comprehensive Plan Goals, Objectives and Policies, Chapter 9, Capital Improvements, by adding Objective 9-1.6 and related policies, as follows:

Objective 9-1.6: The Town shall work with the School Board to ensure that capital improvements are provided, when needed, to maintain the adopted Level of Service standards for public schools, to meet the future public school facility needs of the Town.

Policy 9-1.6.1: By December 1 of each year, the Town shall adopt as part of its Capital Improvement Element the School Board of Brevard County's Five-Year Work Program. The Town hereby adopts by reference the School Board of Brevard County's Five-Year Work Program for the planning period 2008-09 through 2012-13, the School District Program approved on September 28, 2008 as part of the School District budget, including planned facilities and funding sources to ensure a financially feasible capital improvements program and

to ensure the level of service standards will be achieved by the end of the five-year period. Full text of Chapter 9 is attached as **Exhibit "C."**

SECTION SIX: ADOPTION OF BREVARD COUNTY SCHOOL BOARD FIVE-YEAR WORK PROGRAM. The Town adopts the Five-year Work Program covering 2008-09 through 2012-2013. The Work Program is attached as **Exhibit "D."**

SECTION SEVEN: The Town Clerk is hereby authorized and directed to forward this ordinance to the Florida Department of Community Affairs and all other applicable agencies within ten working days after adoption.

SECTION EIGHT: CONFLICTS. Any and all Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflicts.

SECTION NINE: SEVERABILITY. If any provisions of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this and the provision of this Ordinance are declared severable.

SECTION TEN: EFFECTIVE DATE. The effective date of this Comprehensive Plan amendment shall be the date a final order is issued by the Florida Department of Community Affairs determining this adopted amendment to be in compliance in conformance with 163.3184(9), Florida Statutes, or until the Administration Commission issues a final order determining the amendment to be in compliance in accordance with 163.3184(10), Florida Statutes, which ever occurs earlier. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the Department of Community Affairs, Bureau of Local Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

The foregoing Ordinance was moved for adoption by Council member Vail. The motion was seconded by Council member Borton 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 Steve Rivet	<u>Aye</u>
Council Member Jeffrey (Jeff) McKnight	<u>Aye</u>
Council Member Patricia (Pat) Dezman	<u>Aye</u>

PASSED ON FIRST READING December 01, 2008 for TRANSMITTAL.

PASSED AND ADOPTED ON SECOND READING May 4, 2009.

TOWN OF MALABAR

BY: Thomas Eschenberg
Mayor Thomas M. Eschenberg, Chairperson

PH at P&Z: 11/19/08
PH Transmittal: 12/01/08
PH Adoption Reading: 05/04/2009

ATTEST: Debby K. Franklin
Debby Franklin, Town Clerk

Approved as to form and content:
Karl Bohne
Karl W. Bohne, Jr., Town Attorney