

## ORDINANCE NO. 2009-20

**AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING THE TOWN OF MALABAR CODE OF ORDINANCES; AMENDING SECTION 10-262 (b); PROVIDING FOR A DAMAGE AND CLEAN UP DEPOSIT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.**

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

**SECTION 1.** Section 10-262 (b) is amended by adding a new subsection 22 which new subsection shall read as follows:

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“(22) *Damage and Clean-up deposit.* An applicant for a special activity permit for an event on Town property or an event that may impact a Town right-of-way shall post a refundable damage and clean-up deposit with the Town in an amount to be determined by the Town Council. The deposit may be used to off-set any costs incurred by the Town as a result of the Town providing for repair to or clean up of Town property at the expiration of the special event. Prior to the Town incurring such costs the Town shall provide written notification to the applicant that it has 24 hours from the date of the notice to make repairs to or clean up the area or property identified by the Town in the notice. The notice shall also state that if the applicant fails to make the repairs to or clean up the area or property to the satisfaction of the Town then the Town will provide the necessary repair or clean up services and deduct the cost from the damage and clean up deposit posted with the Town. Any unused portion of the damage and clean up deposit shall be returned to the applicant within 10 days of the repair or clean up provided by the Town or the Town’s determination that the repair or clean up efforts of the applicant are satisfactory, which ever is later. “

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All ordinances or parts thereof in conflict herewith are hereby repealed to the extent of such conflict with this Ordinance.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

It is the intention of the Town Council, Town of Malabar, Brevard County Florida, and it is hereby provided that the provisions of this Ordinance shall become and made a part of the Code of Ordinances of the Town of Malabar, Florida.

### **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	<u>  Aye  </u>
Council member Brian Vail	<u>  Aye  </u>
Council member Steve Rivet	<u>  Aye  </u>
Council member Jeffrey (Jeff) McKnight	<u>Excused</u>
Council member Patricia (Pat) Dezman	<u>Excused</u>

This Ordinance was then declared to be duly passed and adopted this   2   day of February, 2009.

TOWN OF MALABAR

BY:   Thomas M. Eschenberg    
Mayor Thomas M. Eschenberg

First Reading:   1/5/09    
Second Reading:   2/2/09  

ATTEST:

  Debby Franklin    
Debby K. Franklin  
Town Clerk/Treasurer

Approved as to form and legal  
Sufficiency by:

  Karl Bohne    
Karl W. Bohne, Jr.  
Town Attorney