

ORDINANCE 2012-57

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES OF THE TOWN; CREATING NEW SECTION 13-1; PROVIDING FOR A TOWN SPEED LIMIT ON CERTAIN STREETS AND ROADS IN THE TOWN; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Florida Statutes, Section 316.183 (2) provides, in part:

“On all streets or highways, the maximum speed limits for all vehicles must be 30 miles per hour in business or residence districts, and 55 miles per hour at any time at all other locations. However, with respect to a residence district, a county or municipality may set a maximum speed limit of 20 or 25 miles per hour on local streets and highways after an investigation determines that such a limit is reasonable. It is not necessary to conduct a separate investigation for each residence district”; and,

WHEREAS, Florida Statutes, Section 316.189 (1) provides, in part:

“MUNICIPAL SPEED. — The maximum speed within any municipality is 30 miles per hour. With respect to residence districts, a municipality may set a maximum speed limit of 20 or 25 miles per hour on local streets and highways after an investigation determines that such a limit is reasonable. It shall not be necessary to conduct a separate investigation for each residence district”; and,

WHEREAS, The Town authorized an investigation to determine if setting a maximum speed limit of 20 miles per hour on certain local streets, roads and highways in residential districts is reasonable; and'

WHEREAS, The investigation provided support to set a maximum speed limit of 20 miles per hour on certain local streets, roads and highways in residential districts in the Town and the Town Council accepted the investigation on this date; and

WHEREAS, The Town Council finds that setting a maximum speed limit of 20 miles per hour on certain local streets, roads and highways in residential districts is reasonable.

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

SECTION 1. A new Section 13-1 is hereby added to Chapter 13 of the Code of Ordinances of the Town to read as follows:

“Sec. 13-1. Maximum Speed Limit on Certain Streets and Roads.

There is hereby established in the Town of Malabar a maximum speed limit of 20 miles per hour on all residential streets located in the following residential zoning districts: RS-10, RS-15, RM-4, RM-6, RM-H and RLC.”

SECTION 2. Codification. This ordinance shall be forwarded to the Municipal Code Corporation for incorporation into the Malabar Code of Ordinances.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4. In the event a court of competent jurisdiction shall hold or determine that any part of this ordinance is invalid or unconstitutional, the remainder 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 6. This ordinance shall become effective immediately upon its adoption after the second public hearing.

This ordinance was moved for adoption by Council Member Acquaviva and was seconded by Council Member Beatty and, upon being put to a vote, the vote was as follows:

Council Member Carl Beatty	Aye
Council Member David White	Aye
Council Member Steven (Steve) Rivet	Excused
Council Member Jeffrey (Jeff) McKnight	Aye
Council Member Marisa Acquaviva	Aye

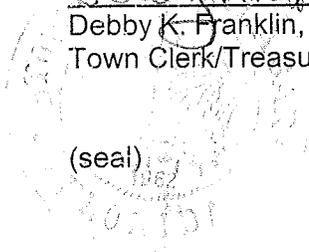
This ordinance was then declared duly passed and adopted this 24th day of September, 2012.

TOWN OF MALABAR

By: Phillip R Crews
Mayor Phillip R. Crews
Council Chair

First Reading: 9/12/12
Second Reading: 9/24/12

ATTEST:
Debby K. Franklin
Debby K. Franklin, C.M.C.
Town Clerk/Treasurer



APPROVED as to form and content:

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

**Factors Regarding Proposal to Lower Briar Creek Boulevard Speed Limit to 20 mph
Brook Hollow Traffic Investigation Summary_With TOM Modifications (2).Doc
September 6, 2012**

FACTORS FOR CONSIDERATION FOR TRAFFIC INVESTIGATION:

The following is a summary of current factors identified that support Town of Malabar lowering of the speed limit from 30 mph to 20 mph on Briar Creek Boulevard in the Brook Hollow subdivision. The primary objective in considering this lowering of speed limit is public safety.

Character of Area (Residential versus Commercial)

- Briar Creek Boulevard connects with Port Malabar Boulevard, in Palm Bay (with a stop sign for Briar Creek Boulevard only) and is blocked at locked gate in Brook Hollow, where the road runs unpaved to Malabar Road at a second locked gate
 - Briar Creek Boulevard is the only road in and out of Brook Hollow subdivision of Malabar
 - Brook Hollow
 - 100% residential zoning
 - individual properties = 130 (128 single family homes & 2 vacant lots)
 - no commercial properties require access via any road in Brook Hollow
 - most homes occupied year round (some seasonal) / few homes unoccupied
 - most homes have multiple household members
 - most occupants are home owners / some renters
 - residents comprised of diverse demographics (socio economic & age – young families and retired)
 - many residents have pets
 - homes all have driveways with two or three car garages
 - homes are at least 1600 sq. ft. and lots are typically ¼ acre
 - subdivision is bordered on all sides by park land and wildlife encounters are frequent along Briar Creek Boulevard
 - homes on the subdivision perimeter all border parkland
 - Environmentally Protected Parks Bordering or close to Briar Creek Boulevard*
 - Palm Bay's Boundary Canal Trail (two mile paved trail, part of the South Brevard Linear Trail plan)
 - Palm Bay's Turkey Creek Sanctuary (a 117 acre park of diverse habitat that includes a 1.5 mile boardwalk, jogging trails, canoe decks and nature center)
 - A canoe / kayak launch site for Turkey Creek is located on Briar Creek Boulevard, near the intersection with Port Malabar Boulevard
 - Malabar's Cameron Wildlife Preserve (100 acre natural conservation area with existing equestrian and off-road bicycle and walking trails)
 - Brevard County's Malabar Scrub Sanctuary (395 acres of endangered Scrub Jay habitat with multi-use trails for biking, walking and bird watching)
- * Trail information referenced from American Trails website:
<http://www.americantrails.org/awards/CRT08awards/FLboundary08.html>

Types of Vehicles Using Street

- primary use via resident owned: cars, pickup trucks, SUVs, motorcycles
- motorhomes and boat / recreational trailers cannot be stored on properties unless stored within garage
- secondary use by service vehicles: FedEx, UPS, HVAC, lawn maintenance, pest control, pool maintenance, tree maintenance
- school buses

Traffic Volumes and Type of Traffic (is it mainly for residential uses as opposed to commercial uses);

- Heaviest traffic activity during work drive times (weekday mornings and afternoons)
- Commercial traffic (primarily between 9:00 AM & 5:00 PM, weekdays)

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Emergency Access

- Law enforcement via Brevard County MSTU
- Fire & Ambulance via Malabar Fire Department (primarily via Port Malabar Blvd., Palm Bay
- Fire department emergency access is also available via unpaved portion of Briar Creek Blvd. – from Malabar Road, Malabar (with Malabar Fire Department having keys to locked gates at each end of unpaved road

Anticipated Liability to Town of Malabar as Result of Proposed Speed Limit Reduction

- No unreasonable liability is anticipated in the proposed 10 mph speed limit reduction
- Speed reduction anticipated to diminish likelihood of future traffic related fatalities experienced in the past
- Road length subject to speed reduction is less than ¾ of a mile - minimal impact to drive times

Pedestrian Use

- within Town of Malabar, along Briar Creek Blvd., sidewalk exists only on one side of road and only within Brook Hollow (pedestrians walking from Brook Hollow toward Port Malabar road must walk in road shoulders until reaching sidewalk at Glen Brook at Palm Bay (assisted living facility)
- numerous residents enjoy the rural residential atmosphere of Brook Hollow by walking along Briar Creek Boulevard
- many residents walk with their pets (especially early morning or evening)
- a community common area pond, picnic area and wooded buffer are centrally located Briar Creek Boulevard – this area is a frequent destination of pedestrians

Farm Equipment Use

- minimal - limited to lawn, road, or tree maintenance

Bicycle Use

- trail bikes – in the park areas bordering Brook Hollow are popular bike trails – cyclists frequent the area and often ride or cross Briar Creek Boulevard when heading from one trail to another
- touring bikes – many local residents enjoy cycling along Briar Creek Boulevard

Non-pedestrian Use (primarily horse traffic);

- many residents of Malabar enjoy horseback riding and Brook Hollow's proximity to Malabar's Cameron Wildlife Preserve and various trails result in equestrian activity along Briar Creek Boulevard

Traffic to Other Residential Streets as Result of Proposed Speed Limit Reduction

- No traffic is anticipated to be diverted as a result of the proposed speed limit reduction since no alternate roads exist

Observation of Compliance with Current Speed Limits

- Town of Malabar had Brevard County Sheriff's Department position speed display device along Briar Creek Boulevard, near intersection with Hollow Brook Lane
- Numerous events of vehicle speed exceeding the posted 30 mph were recorded

Consideration of Special Attributes of Subdivision

- As was evidenced by a traffic study done by the Town of Malabar regarding Atz Road and Hall Road, when the evidence shows that 87% of drivers are exceeding the speed limit, the traffic engineering study reported that the town may want to increase the speed limit. However, Malabar's position has been to say that due to the high density nature of the subdivision and the fact that it is a no outlet street, the reduced speed is warranted.

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- Town of Malabar desires to have a common ordinance that addresses differences in residential zonings in higher densities

Cost for New Speed Limit Signs

- Town of Malabar has researched the cost of new speed limit signage to be \$100 (4 signs at \$25 each)

Road conditions, including width, length, lighting, road grade, sight distance, nearness to intersections, through streets, dead ends; weather effect on the roads; and road material;

- The Town of Malabar paved section of Briar Creek Boulevard is less than $\frac{3}{4}$ of a mile in length
- Town of Malabar right of way is 100' (50' each side of center line)
- Road is paved, properly based and properly graded with sufficient drainage
- Storm water culverts under Briar Creek Boulevard are functional and are not known to have any structural issues at this time
- Briar Creek Boulevard effectively "dead ends" at its furthest paved point within Brook Hollow, at a locked gate to an unpaved section leading to another locked gate a Malabar Road
- Within Town of Malabar, intersections to streets intersecting with Briar Creek Boulevard are now addressed with multi-way stop signs at: Hollow Brook Lane, Holloway Trail, Falls Trail and Pemberton Trail. Steeplechase Circle, a shallow cul-de-sac servicing only three homes, is the only intersecting road without a stop sign

Other Traffic Control Devices in Area

- Town of Malabar recently authorized, Town purchased and installed a new "No Outlet" sign along Briar Creek Boulevard
- New signage is expected to accompany the new speed hump installation
- Town of Malabar recently authorized, Town purchased and will soon apply new reflective safety paint lines along Briar Creek Boulevard
- Town of Malabar recently authorized, pending full funding by Brook Hollow Community Association, Inc., the future municipal installation and associated signage of a speed hump to be centered at the Briar Creek Boulevard curve between the town border with City of Palm Bay and the entrance to Brook Hollow, near Hollow Brook Lane

Other Traffic Related Observations

- Park property bordering Briar Creek Boulevard is part of an otherwise significant contiguous wooded park area (greenway) close to the densely populated areas of Melbourne and Palm Bay – wildlife crossing Briar Creek Boulevard may otherwise be unaccustomed to vehicle traffic and more vulnerable at higher speed limits – lowering of the speed limit is expected to also have a positive environmental impact