

**TOWN OF MALABAR  
TOWN COUNCIL MEETING  
MONDAY JUNE 15, 2015  
7:30PM  
2725 MALABAR ROAD  
MALABAR, FLORIDA**

**REVISED**

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**AGENDA**

- A. CALL TO ORDER, PRAYER AND PLEDGE**
- B. ROLL CALL**
- C. ADDITIONS/DELETIONS/CHANGES**

- 1. Approval of Minutes**                      Regular Council Minutes – 6/1/15
  - Exhibit:**                                      Agenda Report No. 1
  - Recommendation:**                      Request Approval of Minutes

- D. PUBLIC COMMENTS:** Comments at this point may address items NOT on the Agenda. Comments related to subsequent Agenda Items may be made as those items come up. Public comments do not require a Council response. (Speaker Card is Required) **Five (5) Minute Limit per Speaker.**

- E. ORAL REPORTS – BOARDS**

- F. PRESENTATION: Ike Heckler with Proposed Residential Project**

- G. ACTION ITEMS:  
RESOLUTIONS: 1**

- 2. Budget Adjustment – Reso. 11-2015**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET ADJUSTMENT IN THE FISCAL YEAR 2014-2015; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

- Exhibit:**                                      Agenda Report No. 2
  - Recommendation:**                      Request Approval of Reso 11-2015

**MISCELLANEOUS: 4**

- 3. Voting Delegate at FLC Annual Conference**
  - Exhibit:**                                      Agenda Report No. 3
  - Recommendation:**                      Discussion and Action
- 4. Executive Insurance for Council, Mayor, Administrator and Clerk AD&D**
  - Exhibit:**                                      Agenda Report No. 4
  - Recommendation:**                      Discussion and Action
- 5. Administrator Evaluation**
  - Exhibit:**                                      Agenda Report No. 5
  - Recommendation:**                      Discussion and Action
- 6. Appoint Administrator Selection Committee Members**
  - Exhibit:**                                      Agenda Report No. 6
  - Recommendation:**                      Discussion and Action

7. Chapter 8 of Code re: Open Burning

Exhibit: Agenda Report No. 7

Recommendation: Discussion and Direction

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, RELATING TO FIRE PREVENTION AND PROTECTION; AMENDING CHAPTER 8, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN; PROVIDING FOR AMENDMENTS RELATED TO BURN PERMITS, YARD TRASH FIRES AND LAND CLEARING FIRES; PROVIDING FOR SEVERABILITY, REPEAL AND CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

8. Off-street Parking Article IX of Land Development Code

Exhibit: Agenda Report No. 8

Recommendation: Discussion and Direction

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING ARTICLE IX OF THE LAND DEVELOPMENT CODE RELATING TO OFF STREET PARKING; PROVIDING FOR COMPUTATION OF PARKING SPACES, ADDING A PROHIBITION OF NON-CONTIGUOUS AND OFF SITE PARKING; PROVIDING FOR OFF STREET LOADING; PROVIDING FOR SURFACING REQUIREMENTS; AMENDING ARTICLE XX PROVIDING FOR DEFINITIONS; PROVIDING FOR CONFLICT, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

**ACTION: ORDINANCE FOR FIRST READING**

9. Approve Ord. 2015-05 Florida Building Codes

Exhibit: Agenda Report No. 9

Recommendation: Request Approval of Ord 2015-05 for 1<sup>st</sup> Reading

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, RELATING TO BUILDING CODES; AMENDING CHAPTER 6, SECTION 6-1 OF THE CODE OF ORDINANCES OF THE TOWN; PROVIDING FOR ADOPTION OF CERTAIN MODEL BUILDING AND CONSTRUCTION CODES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR AN EFFECTIVE DATE.

I. REPORTS – MAYOR AND COUNCIL MEMBERS

J. PUBLIC COMMENTS: General Items (Speaker Card Required)

K. ANNOUNCEMENTS:

- Two (2) vacancies on the Board of Adjustment
- Three (3) vacancies on the Park and Recreation Board
- One (1) vacancy on the Trails & Greenways Committee
- One (1) vacancy on the Planning & Zoning Board

L. ADJOURNMENT:

If an individual decides to appeal any decision made by this board with respect to any matter considered at this meeting, a verbatim transcript may be required, and the individual may need to insure that a verbatim transcript of the proceedings is made (Florida Statute 286.0105). The Town does not provide this service. In compliance with F.S. 86.26 and the Americans with Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the Town's ADA Coordinator at 321-727-7764 at least 48 hours in advance of this meeting.

**TOWN OF MALABAR  
AGENDA ITEM REPORT**

**AGENDA ITEM NO: 1**  
**Meeting Date: June 15, 2015**

**Prepared By: Debby Franklin, C.M.C., Town Clerk/Treasurer**

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**SUBJECT: Approval of Minutes**

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**BACKGROUND/HISTORY:**

Attached are the summary minutes for the following meeting:

- Regular Town Council Meeting – 6/1/2015
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**FINANCIAL IMPACT:**

N/A

**ATTACHMENTS:**

Draft Minutes of the following meeting:

- Regular Town Council Meeting – 6/1/2015

**ACTION OPTIONS:**

The Town Clerk requests approval of the minutes.

**MALABAR TOWN COUNCIL REGULAR MEETING**  
**June 1, 2015                      7:30 PM**

This meeting of the Malabar Town Council was held at Town Hall at 2725 Malabar Road.

**A.     CALL TO ORDER:**

The meeting was called to order at 7:30 pm by Council Chair Mayor Carl Beatty. CM Grant Ball led the prayer and pledge.

**B.     ROLL CALL:**

COUNCIL CHAIR:	MAYOR CARL BEATTY
VICE-CHAIR:	MARISA ACQUAVIVA, excused
COUNCIL MEMBERS:	GRANT BALL
	BRIAN VAIL
	DON KRIEGER
	DICK KORN
TOWN ADMINISTRATOR:	BONILYN WILBANKS, excused
TOWN ATTORNEY:	KARL BOHNE
TOWN CLERK/TREASURER:	DEBBY FRANKLIN, excused
DEPUTY TOWN CLERK	CYNTHIA KELLEY

For the Record, the Fire Chief Christopher Robinson is also present.

**C.     ADDITIONS/DELETIONS/CHANGES:** Mayor Beatty stated there were several things that needed to be added. The City of Melbourne is requesting a donation for fireworks this year; the fire ordinance and the interviews. CM Korn asked if we were going to discuss the sale of surplus items. Mayor Beatty stated it could be added; this will be heard after the attorney is excused as he doesn't need to be involved in this. The surplus items will be heard as Item 4A and the City of Melbourne's donation request will be heard as Item 4B.

Sargent Al Tolley from the BCSO came forward and gave Council a brief overview of what has taken place in Malabar over the last month. He also provided information on Grant Valkaria as well.

CM Vail asked if they will be stepping up the patrols as the kids are out of school now; he foresees some mischievous activities taking place while the parent are working. Sgt. Tolley stated that they will be patrolling a little more in the area.

CM Korn made mention of a patrolman who had his personal phone number posted on Facebook; he asked St. Tolley if there was anything we could do to assist in this. Sgt. Tolley stated that information is very easy to get information on law enforcement officers and fire personnel. Without a court order or injunction, there is nothing that can be done.

Mayor Beatty stated that there is an issue at the Yellow Dog Café with the cross walk and traffic. Sargent Tolley stated that most of the traffic stops are at this area. There is someone pulling people over at the north end as well as the south end of town. Ball asked what the comments are from the people being stopped. Tolley stated that they are trying to educate the people with the new cross walk. Korn asked how to expedite the continuous green light; it has to be funded. He stated that Council has that power; just keep on it as the squeaky wheel gets things done.

**D. MINUTES:**

- |    |                            |                                    |
|----|----------------------------|------------------------------------|
| 1. | <b>Approval of Minutes</b> | Regular Town Council Mtg – 5/18/15 |
|    | <b>Exhibit:</b>            | Agenda Report No. 1                |
|    | <b>Recommendation:</b>     | Request Approval of Minutes        |

**MOTION: CM Vail / CM Ball moved to approve the minutes of May 18, 2015 as presented.**

Discussion: none

**VOTE: All Ayes.**

Motion carried 4 to 0.

**MOTION: CM Vail / CM Ball moved to approve the minutes from 05/26/15 Workshop as presented.**

Discussion: none

**VOTE: All Ayes.**

Motion carried 4 to 0.

**E. PUBLIC COMMENTS:** Comments at this point may address items NOT on the Agenda. Comments related to subsequent Agenda Items may be made as those items come up. Public comments do not require a Council response. (Speaker Card is Required) **Five (5) Minute Limit per Speaker.**

David Kerns of Palm Bay, came forward and addressed Council. He asked if anyone knows who the State Representative is. He is running for District 53; thinks the train coming in with what is already here will be an issue. He is here with petitions and would appreciate any signatures.

**ATTORNEY REPORT:**

Attorney Bohne stated that we need to select a representative for the mediation of the law suit on June 23, 2015. He stated that he will be in attendance along with TA Wilbanks and the attorney(s) for the other side as well. Attorney Bohne asked if Council wanted a representative there. This person will be able to report back to Council. If we can come up with a solution, it will be brought back to Council for their blessing. Mayor Beatty stated that he is available. CM Vail asked if anyone would be volunteering for this. CM Krieger stated that we will be having a meeting with Mr. Connor and then a Council meeting on the 15<sup>th</sup> of this month. Why not meet with Mr. Connor and then decide who should be at the meeting on the 15<sup>th</sup>?

Mayor Beatty stated that if we choose a person this evening, Mr. Connor can prepare that person for the mediation meeting. CM Korn stated that the week before is very busy for him but he could go if needed. He volunteered to be the back-up person if Mayor Beatty couldn't make the meeting for any reason.

Attorney Bohne stated that we are not obligated to settle the case; we are obligated to meet and see if this can be resolved. Any offer made will be brought back to Council for discussion and vote.

It is the general consensus of Council to have Mayor Beatty as the representative and CM Korn as the back-up person if Mayor Beatty cannot make the meeting for any reason.

**F. ACTION ITEMS:**  
**ORDINANCE: 1<sup>ST</sup> Reading**

**2. Amend Chapter 8 of Malabar Code re: Open Burning – Ordinance 2015-02**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 8 FIRE PREVENTION AND PROTECTION; AMENDING ARTICLE II STANDARDS; AMENDING ARTICLE III, SECTION 8-73(B) RELATING TO BURN PERMITS; AMENDING SECTION 8-83(D) DELETING THE WORD "PROHIBITED"; AMENDING SECTION 8-83 BY DELETING SUB-PARA (e); AMENDING SECTION 8-83 TO ADD "YARD TRASH FIRES" AS PROHIBITED; PROVIDING FOR REPEAL, SEVERABILITY AND INCORPORATION INTO THE CODE OF ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 2

**Recommendation:** Request Approval of 1<sup>st</sup> reading of Ord 2015-02

Mayor read by title only.

**MOTION: CM Vail / CM Korn moved to approve Ord. 2015-02 as presented.**

Discussion: Mayor Beatty stated that it should be referred to as what the Fire Marshal has down as the permitted use and the Fire Chief has the power to over-ride. He doesn't want to see it as case by case. CM Vail stated that we are giving the ability to burn yard trash as a case by case basis; it would be inspected by the fire department and blessed if the burn can take place. This would be decided by the Fire Chief or his representative. Mayor Beatty stated that it would be based on the code. Chief Robinson stated that the criteria is already there with the State of Florida. There is no need to change anything. CM Korn stated there are two things that he doesn't see here. What is the procedure for obtaining a permit; a new sign at the fire department that states whether it is a good day to burn or not. Chief Robinson stated that the sign will follow the State of Florida. CM Vail stated that there are many pages that go into the code for Malabar. CM Ball stated that this will be approved as long as it isn't a hazard for burning. CM Vail stated what he's asking is where to you go to obtain a burn permit. Chief Robinson stated they refer people to Town Hall for the paperwork. Attorney Bohne stated that there are regulations and it will be a case by case basis. CM Korn asked if this covers a barrel burn. Chief Robinson stated that a contained fire does not need to have a permit.

CM Krieger stated that we have the ordinance; does Attorney Bohne have the pages with the cross-outs. He wants to make sure they are saying the same thing. CM Krieger stated he wanted the enclosed fires to be mentioned; properly enclosed and protected. He wants people to know what doesn't require a permit as well as what does require a permit. They can't do anything in violation. CM Korn stated he had a suggestion; have an article written by fire personnel and put it in the Mailboat. CM Krieger wants the language in the ordinance. CM Vail stated that we need to get the code fine-tuned and then we can let the public know and educate them.

Attorney Bohne stated that there was a discussion at a previous Council meeting concerning Section 8-83; it discusses what types of burning can be done. Yard trash was moved to 8-83; which can be burned. Household trash was moved to 8-78; which cannot be burned. This is only being done to move things around to the right areas of the ordinance. The TC moved the two items that were being changed. CM Vail stated that the first page covers the burning of household trash, rubber trash and such. It is on the cover page of the ordinance. Attorney Bohne stated that we need to put the word "tires" back into the ordinance. CM Krieger stated that in section 8-80, he sees the words will and shall; he is looking for the word may. We are not touching on this area. CM Krieger stated that we are piece-milling instead of looking at the whole. Attorney Bohne defended this; at the time, this is what Council wanted. If you want additional things, now would be the time to let us know. CM Krieger stated that if you check the minutes from the previous meeting that this was discussed, he made a few suggestions and they are not here. CM Korn asked CM Krieger if he wants the wording to say "may" instead of

shall. CM Korn asked Attorney Bohne if the resident would be charged or not. Attorney Bohne stated that they would be charged as that is how the code is written.

**MOTION: CM Krieger / CM Vail to table this until the minutes are reviewed for the suggestions from CM Krieger. VOTE: All Ayes.**

**MISCELLANEOUS:**

**3. Action on 5/26/15 Workshop Items 1–4.**

**Exhibit:** Agenda Report No 3

**Recommendation: Discussion and Action**

Discussion: Mayor Beatty stated that one of the questions that came up at the workshop was when the applications are received, are they public records. Attorney Bohne stated that they are public records. CM Vail stated that we need to wait until the closing date; once it's closed, then the applications can be reviewed all at the same time. Attorney Bohne stated that Council can give the Committee information as to how to do this. CM Krieger stated that if the applications come in and they are available to staff, he wants them available to him. CM Vail stated that the Committee shouldn't be discussing the applications until after the closing date. CM Krieger stated that we could go a different route and have the applications sent to the attorney. Attorney Bohne stated he is an agent to the Town; they would still be considered as public records. CM Korn asked if they had to be opened. Kelley, Attorney Bohne and CM Vail stated that they have to be opened and date stamped.

In reviewing the ad for the Town Administrator's position, Attorney Bohne stated he didn't know what a bachelor's degree in an appropriate field meant; what is the work relating to? CM Ball stated that we were trying to write the ad so it won't disqualify someone from applying for the position. CM Korn asked if he (Bohne) would feel better with the word "applicable". CM Krieger stated to list appropriate degrees and education.

Attorney Bohne stated that you are looking for someone with managerial experience. CM Krieger stated why not a have a managerial degree. CM Korn stated management related education, training or experience. Council, after hearing CM Korn's thought, decided to remove bachelor's degree and replace it with the following wording: "Management related education, training or experience". Upon further discussion, Council removed equivalent combination of training and replaced it with the following wording: "Managerial operations".

DTC Kelley was having trouble keeping up with the change in wording so CM Vail read the ad, from the beginning, to make sure the correct wording is on record. The following is what was read into the minutes:

**TOWN OF MALABAR  
EMPLOYMENT OPPORTUNITY  
FOR TOWN ADMINSTRATOR**

Town Administrator – Town of Malabar. (pop. 2,766) Malabar, is located within the Space Coast area, south of Melbourne and has an annual budget of \$1.5 million with 18 full-time and part-time employees. Collaborative management style with people skills is required. Provides daily supervision and direction to all Town Departments. Management related education, training or experience. Minimum of five years' experience in municipal government or managerial operations. Excellent benefits, salary DOQ. Telephone interviews will be conducted between July 16-19, 2015. Submit resumé with salary history, professional and personal references and cover letter to: Town Clerk, 2725 Malabar Road, Malabar, FL 32950; fax: (321) 722-2234. Open until July 15, 2015. The Town of Malabar is an EOE.

This above is the wording for the ad that will be provided to the Town Clerk tomorrow morning to place the ad in the newspapers and on the various agency websites.

- 1.) Requirements for TA
- 2.) Duties/Responsibilities
- 3.) Wording for Job Posting/Time-frame
- 4.) Create time-line for review process

**MOTION: CM Vail/ CM moved to approve the advertisement for Town Administrator as amended. VOTE: All Ayes.**

Mayor Beatty stated that Mayor Crews has accepted the position to do the phone interviews. It is the consensus of Council to have Mayor Crews and Mayor Beatty complete the phone interviews. Attorney Bohne stated that since this is an action item, a motion would be needed from Council.

**MOTION: CM Krieger / CM Ball moved to assign the task of phone interviews to Mayor Beatty and Mayor Crews. VOTE: All Ayes.**

Attorney Bohne stated that he was not familiar with what items 1-4 on the agenda meant. Kelley advised him that the four items were: Requirements for the TA; Duties/responsibilities; wording for job posting/time frame and create a time-line for review process. After hearing this, Attorney Bohne stated that staff is asking Council to approve the draft time-line that is in the packet. He asked DTC Kelley if this is correct; she stated that it was. CM Vail stated that items 1 through 4 had been addressed in the job advertisement. Council, after Attorney Bohne suggested they look at the draft time-line provided, reviewed it and had discussion.

The question was raised by CM Krieger that there are two joint workshops in June; he didn't think the second workshop was really outlined as being needed. DTC Kelley asked if she could speak to this; Mayor Beatty stated yes. DTC Kelley stated that the first workshop on June 22<sup>nd</sup> is to meet with the Selection Committee and let them know what you, as Council, expect from them and to start working on the questions for the interview process. The workshop on June 29<sup>th</sup> is to meet and finalize the interview questions with the Selection Committee. DTC Kelley also stated that there is another workshop scheduled for August 10<sup>th</sup>; it's the same night as the SCLC dinner. CM Vail asked if the Selection Committee will be meeting on their own. DTC Kelley stated that it would be up to Council as to what they want to do. It was decided, after much discussion, to leave all scheduled workshops on the calendar; if they aren't needed, they can be cancelled but staff needs to know so we have time to prepare the necessary documents for the meetings and to post them as well.

**MOTION: CM Vail / CM Ball moved to approve the draft time-line. VOTE: All Ayes.**  
Motion carried 4 to 0

Attorney Bohne excused at 8:50 pm. Upon realizing he left his keys, Attorney Bohne came back into the building. CM Krieger asked him not to leave as he had a question. It was asked what the procedure is for the contract. Attorney Bohne stated that the contract, once Council agrees with it, will be drawn up. When you have a candidate that you would like to offer the position to, the negotiations will be begin.



Attorney Bohne was excused, again, at 9:05 pm.

**RESOLUTIONS: 1**

**4. Budget Adjustment – Reso. 11-2015**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET ADJUSTMENT IN THE FISCAL YEAR 2014-2015; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 4

**Recommendation:** Request Approval of Reso 11-2015

Mayor read by title only.

**MOTION: CM Vail / CM Ball moved to approve Reso. 11-2015 as presented.**

CM Vail stated we are taking funds from training to cover operating costs. The training funds have not been used and they are needed to cover these other expenses. CM Krieger asked what operating costs consist of. CM Ball stated he is not comfortable moving funds until he knows what they are for.

**MOTION: CM Korn / CM Krieger moved to table this until next the meeting with more information as to what operating expense are.**

**THESE TWO ITEMS WERE ADDED TO THE AGENDA AT THE TOP OF THE MEETING:**

**4A. CITY OF MELBOURNE FOURTH OF JULY FUNDS**

Mayor Beatty advised Council that we made a donation of \$200 last year for the fireworks show that is put on by the City of Melbourne. CM Ball asked why we are doing this. CM Vail stated that, prior to Palm Bay getting so big, people went to Melbourne or were on their boats to see the fireworks show put on by Melbourne. CM Korn stated he is not comfortable with this; we are not Melbourne. Mayor Beatty stated that we gave a donation \$200 last year and nothing the year before. He stated he would have a letter drawn up and signed. CM Krieger stated TA would draft the letter and have Council review it at the next meeting. Mayor Beatty stated that the letter he received was to him from Mayor Meehan of the City of Melbourne. We don't need to jump through hoops; we will respectfully decline with a letter that comes from him.

**MOTION: CM Korn / CM Ball moved to wish them well but not to make a donation.**

**VOTE: All Ayes.** Motion carried 4 to 0.

**4B. SALE OF SURPLUS ITEMS**

CM Korn brought this to Council because it would seem that some of us discovered a bid opening that was taking place on Friday; he saw it was posted on the Town's website the night before. He stated that we don't know what we have listed as surplus. He had a conversation with TC Franklin this afternoon stating that Council wanted a list in January and then Council would decide how to dispose of it. He worked it out that a list would be provided to Council.

**MOTION: CM Korn / CM Krieger moved to not have a surplus sale until a comprehensive inventory list is provided to Council.**

Discussion: CM Korn stated that there was a misunderstanding; we hashed this out in January and there was a misunderstanding. We need to take the misunderstanding out of it. CM Krieger stated he didn't think there was a misunderstanding; apparently members of staff think, with previous Councils, there is a surplus list and they can have an auction. He just came back and heard about it and it was already done. CM Korn stated that it was all over for everyone. CM Krieger asked, with something of this nature, doesn't it need to have a public notice? Mayor Beatty stated that the list of inventory is half of the equation; we need to have a policy, nothing happens until we have both.

CM Korn stated that we need to make a decision tonight; there are five bids on hold for the two items that were on the list. We need to let them know that they can purchase the items or that the auction has been cancelled. As of right now, he (Korn) would say it is cancelled. CM Krieger asked CM Korn to amend his motion to say that there will be no sale until a comprehensive inventory list is provided to determine what is surplus. Mayor Beatty stated that an inventory list and policy is needed; we need both as they go hand in hand. He also stated that as far as the above sale, cancel it.

CM Krieger stated you can't have surplus until you have inventory. CM Korn is asking Council to agree with him to have a list of surplus items at the next Council meeting. Then we will figure out how to dispose of the items. CM Korn wants a list of items that are no longer used by the Town. CM Ball agrees with both CM Korn and CM Krieger. He stated that you have to have an inventory list with a value. It is not decided by staff, it is decided by Council. We should have a list of inventory. We need to have a list of everything. We need to know the items that the Town owns now. Mayor Beatty stated that in January, we determined that we didn't have a policy for surplus items. The TA was going to bring information from Grant Valkaria as to what they do with surplus item. CM Ball stated that we need to have a value on the list; otherwise, you're going to be nickeling/diming staff on staplers, coffee mugs and such. CM Korn asked what Council wants to do with the bid that was going to happen on Friday; we have sealed bids and they were called and told the bid is on hold.

**AMENDED MOTION: CM Korn/ CM Krieger moved to not have a surplus sale until we have a comprehensive inventory list and a policy in place.**

Mayor Beatty stated that the bid that is on hold is now cancelled.

**VOTE: All Ayes.** Motion carried 4 to 0

CM Korn asked if we need to have a time on the list being provided to Council. Mayor Beatty stated he wants to have information on the list of what the item is, how much it was purchased for, when it was purchased and if it is in working condition or not. CM Vail stated that it sounds like we need a workshop. CM Ball stated we need to put a value on the property. The purchase price will be the determining factor. The general consensus of Council for the value is \$300; have the list as soon as possible. CM Ball stated it won't happen in the next two months; Council would like to have a preliminary list by August 14<sup>th</sup>.

#### **H. PROCLAMATIONS: Flag Day June 14 & National Flag Week June 14-20**

I. **STAFF REPORTS: CLERK** – Free CPR class at Fire Department 6/20/15 at 9 am; call department for more information, if needed.

#### **J. REPORTS – MAYOR AND COUNCIL MEMBERS**

1. Mayor Beatty – nothing at this time
2. Grant Ball – nothing at this time
3. Brian Vail – nothing at this time
4. Don Krieger – permits are good for a certain amount of time with improvements made; is someone keeping up with this? Mayor Beatty stated Building Official keeps track of that. Krieger would like to see something to show this information. Ball would like to know how many we have, what's completed, and such.

CM Krieger stated that the P&Z Board had made a recommendation to Council a while ago regarding the franchise agreement with Palm Bay for the water/sewer. This was to be a protection for the citizens of Malabar so they are not made to hook up to sewer when it comes to Malabar. We need to ask the TA if the documentation was ever provided by them; if it was, it needs to go to the attorney for review and a new franchise agreement must be written. This was discussed at a previous meeting and the minutes should be looked at to see what exactly the P&Z Board's recommendation was to Council. CM Korn asked who would be speaking to the TA about this. CM Krieger stated he would make contact with the TA.

5. Dick Korn – reported to Council that he had a message from the Town Clerk regarding the contract for the new Town Administrator. The contract that was used for the current Town Administrator was the one used for Ed Booth. There was not a thought through contract for the current Town Administrator. The second life insurance policy for the Town Administrator has been taken out; it was an over-sight as it was given to Ed Booth because he was retired military and had excellent health insurance. He also asked if the Town Administrator, being hired with a contract, is considered as a contract employee or as an employee to the Town. Mayor Beatty stated that a person hired by contract is not the same as an employee for the Town. CM Korn urged all of Council to review the contract that was sent by TC Franklin, the one that has the red wording, and make their notes. CM Krieger stated he hadn't seen the contract. CM Korn asked that DTC Kelley put a copy of the draft contract in each of Council's mailbox. DTC Kelley advised Council that this was not included in their packet for tonight's meeting; it was sent under separate cover.

6. Marisa Acquaviva is excused

**K. PUBLIC COMMENTS: General Items (Speaker Card Required)**

**L. ANNOUNCEMENTS:**

- Two (2) vacancies on the Board of Adjustment
- Three (3) vacancies on the Park and Recreation Board
- One (1) vacancy on the Trails & Greenways Committee
- One (1) vacancy on the Planning & Zoning Board

**M. ADJOURNMENT:**

There being no further business to discuss, Chair asked for a motion.

**MOTION: CM Ball/ CM Korn moved to adjourn. VOTE: All Ayes.** The meeting adjourned at 9:50 PM.

BY: \_\_\_\_\_  
Mayor Carl Beatty, Council Chair

(seal)

TRANSCRIBED BY:

\_\_\_\_\_  
Cynthia D. Kelley, C.M.C.  
Deputy Town Clerk

ATTEST BY:

\_\_\_\_\_  
Debby K. Franklin, C.M.C.  
Town Clerk/Treasurer

Date Approved: \_\_\_\_\_

DRAFT

# TOWN OF MALABAR

## AGENDA ITEM REPORT

AGENDA ITEM NO: 2  
Meeting Date: June 15, 2015

Prepared By: Debby Franklin, Town Clerk/Treasurer

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**SUBJECT: Budget Transfers for FY 2014/2015 (Reso 11-2015)**

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**BACKGROUND/HISTORY:**

These changes are being made to provide funds for the appropriate line items within the same Department for expenses that have occurred since October 1, 2014 and up to March 31, 2015 that were not anticipated at budget time or that came in more than what was budgeted for.

We follow the Uniform Accounting System Manual (UAS) for how we define each option code. Operating Expenses deal with items used in the operation of the particular department. It does not include pens and paper but can include fuel, uniforms, water, cleaning items, software, recording tapes and similar items.

We use the UAS as a guideline when we complete the definition page for each department in the budget book.

**FINANCIAL IMPACT:**

NONE

**These adjustments do not represent any budget increases.**

**ATTACHMENTS:**

UAS pages showing definition of option code for operating supplies  
Resolution No. 11-2015  
Budget Transfer Authorizations.

**ACTION OPTIONS:**

Staff requests approval of Resolution 11-2015.



REPRESENTING  
**ALEX SINK**  
CHIEF FINANCIAL OFFICER  
STATE OF FLORIDA

2  
0  
1  
1

Edition

# UNIFORM ACCOUNTING SYSTEM MANUAL

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For Florida Municipalities

State of Florida

Department of Financial Services

Bureau of Local Government

DEPARTMENT OF FINANCIAL SERVICES

# **Bureau of Local Government**

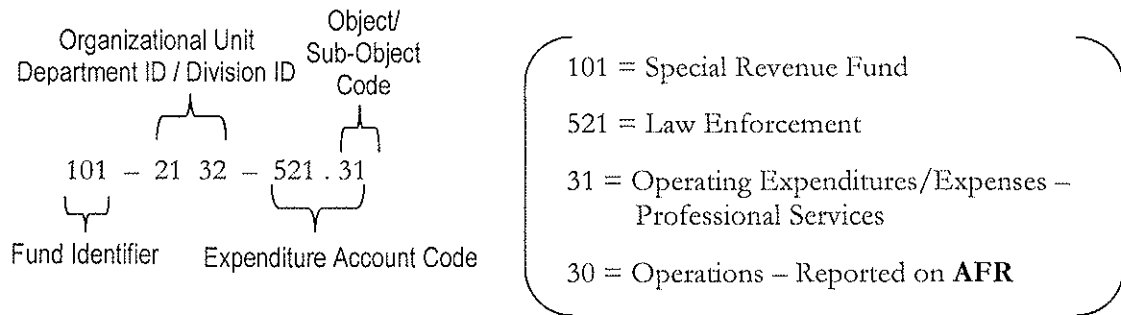
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Department of Financial Services  
Division of Accounting & Auditing  
Bureau of Local Government  
200 East Gaines Street  
Tallahassee, FL 32399-0354  
Phone 850.413.5571 • Fax 850.413.5548

# Object & Sub-Object Classification Introduction

The eleventh and twelfth digits of the expenditure account designate the object classification. The object code is made up of sub-object codes that may be used at the budgetary level.

Example:



All reporting entities are required to use the object codes as outlined below when reporting the AFR to the Department of Financial Services:

- 10**      **Personal Services**  
Includes Sub-Object Codes 11 - 29
- 30**      **Operating Expenditures/Expenses**  
Includes Sub-Object Codes 31 - 59
- 60**      **Capital Outlay**  
Includes Sub-Object Codes 61 - 68
- 70**      **Debt Service**  
Includes Sub-Object Codes 71 - 73
- 80**      **Grants and Aids**  
Includes Sub-Object Codes 81 - 83
- 90**      **Other Uses**  
Includes Sub-Object Codes 91 - 99



**49 OTHER CURRENT CHARGES AND OBLIGATIONS**

Includes current charges and obligations not otherwise classified.

**51 OFFICE SUPPLIES**

This object includes materials and supplies such as stationery, preprinted forms, paper, charts, and maps.

 **52 OPERATING SUPPLIES**

All types of supplies consumed in the conduct of operations. This category may include food, fuel, lubricants, chemicals, laboratory supplies, household items, institutional supplies, computer software, uniforms and other clothing. Also includes recording tapes and transcript production supplies. Does not include materials and supplies unique to construction or repair of roads and bridges.

**53 ROAD MATERIALS AND SUPPLIES**

Those materials and supplies used exclusively in the repair and reconstruction of roads and bridges.

**54 BOOKS, PUBLICATIONS, SUBSCRIPTIONS, AND MEMBERSHIPS**

Includes books, or sets of books if purchased by set, and not purchases for use by libraries, educational institutions, and other institutions where books and publications constitute capital outlay when the purchases exceed the capitalization threshold. This object also includes subscriptions, memberships, and professional data costs.

**55 TRAINING**

Includes training and educational costs

Code introduced in 2009 (FY08-09)

**59 DEPRECIATION**

Depreciation of general fixed assets should not be recorded in the accounts of governmental funds. Depreciation of general fixed assets may be recorded in cost accounting systems or calculated for cost finding analyses; and accumulated depreciation may be recorded in the general fixed assets account group. Depreciation of fixed assets accounted for in a proprietary fund should be recorded in the accounts of that fund. Depreciation is also recognized in those trust funds where expenses, net income, and/or capital maintenance are measured.

RESOLUTION 11-2015

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET ADJUSTMENT IN THE FISCAL YEAR 2014-2015; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is necessary from time to time to amend the budget to record adjustments approved by Council and to accurately reflect the departmental expenditures.

NOW, THEREFORE BE IT RESOLVED BY THE TOWN OF MALABAR OF BREVARD COUNTY, FLORIDA that;

SECTION 1. Amend the Budget Amount in Protective Inspections (524) Department. Transfer from and to the Accounts indicated on the attached Budget Transfer Authorizations to accurately record the revisions to the Protective Inspections Department.

SECTION 2. Amend the Budget Amount in Streets and Roads (541) Department. Transfer from and to the Accounts indicated on the attached Budget Transfer Authorizations to accurately record the revisions to the Streets and Roads Department.

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

SECTION 4. Effective Date. This Resolution shall take effect immediately upon passage.

This Resolution was moved for adoption by Council Member \_\_\_\_\_ . The motion was seconded by Council Member \_\_\_\_\_ and, upon being put to a vote, the vote was as follows:

Council Member Grant Ball	_____
Council Member Brian Vail	_____
Council Member Don Krieger	_____
Council Member Dick Korn	_____
Council Member Marisa Acquaviva	_____

This Resolution was then declared to be duly passed and adopted this 15th day of June, 2015.

TOWN OF MALABAR  
By:

(seal)

\_\_\_\_\_  
Mayor Carl A. Beatty,  
Council Chair

ATTEST:

\_\_\_\_\_  
Debby K. Franklin, C.M.C.  
Town Clerk/Treasurer

Approved as to Form and Content:

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

**TOWN OF MALABAR  
BUDGET TRANSFER AUTHORIZATION  
Fiscal Year 2014/2015**

<b>Department: 524 Protective Inspections</b>							
<b>Account No.</b>	<b>Description</b>	<b>Approved Amended Budget</b>	<b>Balance thru 04/30/2015</b>	<b>Transfer Dec</b>	<b>Transfer Inc.</b>	<b>Amount Left to Spend</b>	<b>New Budget Total</b>
524.3410	Contractual Services Software Training	400	400.00	100.00		300.00	300
524.5210	Operating Expenses	100	138.84		100.00	62.00	200
	<b>CheckSum</b>	<b>500</b>		<b>100.00</b>	<b>100.00</b>		<b>500</b>

**DEPARTMENT EXPLANATION: (Give reason for transfer from each account.)**

Transfers from (524.3410) to (524.5210) to cover additional expenses in operating expenses such as copy charges for plans, binders, property file folders and envelopes.

Town Clerk/Treasurer: \_\_\_\_\_ Date: 06/1/2015 Approved by Town Administrator: \_\_\_\_\_ Date: 05/26/2015  
 Approved by Council at RTCM 06/15/2015 RESO. No. 11-2015

**TOWN OF MALABAR  
BUDGET TRANSFER AUTHORIZATION  
Fiscal Year 2014/2015**

<b>Department: 541 Streets and Roads</b>							
<b>Account No.</b>	<b>Description</b>	<b>Approved Amended Budget</b>	<b>Balance thru 04/30/2015</b>	<b>Transfer Dec</b>	<b>Transfer Inc.</b>	<b>Amount Left to Spend</b>	<b>New Budget Total</b>
541.4611	Repair & Maintenance-Culverts	15,000	15,000.00	5,000.00		10,000.00	10,000
541.4670	Repair/Maintenance-Striping	10,000	7,623.00	2,000.00		377.00	8,000
541.4600	Repairs & Maintenance-Equipment	36,000	40,102.10		5,000.00	897.90	41,000
541.4100	Communication & Freight Services	735.00	952.37		1,000.00	782.63	1735.00
541.5210	Operating Supplies	3,500	4,348.40		1,000.00	151.60	4500.00
	<b>CheckSum</b>	<b>65,235</b>		<b>7,000.00</b>	<b>7,000.00</b>		<b>65,235</b>

**DEPARTMENT EXPLANATION: (Give reason for transfer from each account.)**

Transfers from (541.4611 & 541.4670) to (541.4600, 541.4100 & 541.5210) to properly record where actual expenses occurred such as safety products mower parts, shop supplies uniforms, work boots.

Town Clerk/Treasurer: \_\_\_\_\_ Date: 06/1/2015 Approved by Town Administrator: \_\_\_\_\_ Date: 05/26/2015  
 Approved by Council at RTCM 06/15/2015 RESO. No. 11-2015

# TOWN OF MALABAR

## AGENDA ITEM REPORT

AGENDA ITEM NO: 3  
Meeting Date: June 15, 2015

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

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**SUBJECT: Appoint Voting Delegate for the Florida League of Cities Annual Conference in August**

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**BACKGROUND/HISTORY:**

This information is needed to send to the League in preparation for the annual conference. Last year Mayor Carl Beatty was the voting delegate as he represents the SCLC as Malabar's Delegate.

**FINANCIAL IMPACT:**

n/a

**ATTACHMENTS:**

FLC memo

**ACTION:**

Staff requests Action



6/15/15

301 South Bronough Street • Suite 300 • P.O. Box 1757 • Tallahassee, FL 32302-1757 • (850) 222-9684 • Fax (850) 222-3806 • www.floridaleagueofcities.com

TO: Municipal Key Official  
FROM: Michael Sittig, Executive Director  
DATE: May 20, 2015

SUBJECT: 89th Annual FLC Conference – *Florida Cities: A Public Conversation*  
VOTING DELEGATE INFORMATION  
August 13-15, 2015 – World Center Marriott, Orlando

As you know, the Florida League of Cities' Annual Conference will be held at the World Center Marriott, Orlando, Florida on August 13-15. This year the theme for this year's conference is *Florida Cities: A Public Conversation*, which will provide valuable educational opportunities to help Florida's municipal officials serve their citizenry more effectively.

It is important that each municipality designate one official to be the voting delegate. Election of League leadership and adoption of resolutions are undertaken during the business meeting. Voting delegates will also adopt the FLC 2016 Legislative Action Agenda because the 2016 Legislative Session will begin early next year. One official from each municipality will make decisions that determine the direction of the League.

In accordance with the League's by-laws, each municipality's vote is determined by population, and the League will use the Estimates of Population from the University of Florida for 2014.

Conference registration materials will be sent to each municipality in the month of June. Materials will also be posted on-line. Call us if you need additional copies.

If you have any questions on voting delegates, please call Gail Dennard at the League (850) 701-3619 or (800) 616-1513, extension 3619. **Voting delegate forms must be received by the League no later than August 7, 2015.**

Attachments: Form Designating Voting Delegate

# TOWN OF MALABAR

## AGENDA ITEM REPORT

AGENDA ITEM NO: 4  
Meeting Date: June 15, 2015

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

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**SUBJECT:** Continue with Executive Insurance or Decline

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**BACKGROUND/HISTORY:**

This information is provided to assist you in determining whether this insurance is necessary or desirable to continue. To date no one has ever received a payment. The annual premium for this is \$320.00

This insurance has been in place for the last 12 years. The question came up during last year's budget workshops.

**FINANCIAL IMPACT:**

\$320.00

**ATTACHMENTS:**

Policy information

**ACTION:**

Staff requests Action

\$ 320.00

NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH PA

RENEWAL WORKSHEET

MEMBER NAME: Town of Malabar

- CHANGES AS NOTED
- NO CHANGES

CERTIFICATE NUMBER: GTP 9026442-A  
 EFFECTIVE DATE: 10/1/2015 to 10/1/2016

EXECUTIVE TRAVEL ACCIDENT POLICY

CLASS I

CLASS II

Principal Sum

\$250,000.00

\$250,000.00

Hazard Applicable to Class

H-12: 24-Hour Accident Protection while  
 on a Trip - Business only (Inside or  
 outside City Limits)

H-20: 24-Hour Accident Protection -  
 Business and Pleasure

Number of Personnel

Elected Officials	6	Town Administrator	1
		Town Clerk/Treasurer	1





**AIG Domestic Accident & Health Division**

A Division of American International Companies\*

**NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA.**

Executive Offices: 70 Pine Street, New York, NY 10270  
(212) 770-7000

(a capital stock company, herein referred to as the Company)

Policyholder: Florida League of Cities, Inc.  
Policy Number: GTP 0009026442-A

For inquiries, information about coverage,  
or for assistance in resolving complaints:  
(302) 594-2000.

**BLANKET ACCIDENT INSURANCE POLICY**

This Policy is a legal contract between the Policyholder and the Company. The Company agrees to insure eligible persons of the Policyholder for whom premium is paid (herein called Insured Person(s)) against loss covered by this Policy subject to its provisions, limitations and exclusions. The persons eligible to be Insured Persons are all persons described in the Classification of Eligible Persons section of the Declarations section of this Policy.

This Policy is issued in consideration of the payment of the required premium when due and the statements set forth in the Declarations section.

This Policy begins on the Policy Effective Date shown in the Declarations section and continues in effect until the Policy Termination Date as long as premiums are paid when due, unless otherwise terminated as further provided in this Policy. If this Policy is terminated, insurance ends on the date to which premiums have been paid. After the Policy Termination Date, this Policy may be renewed for additional periods of time by mutual written consent of the Company and the Policyholder at the premium rates in effect at the time of renewal.

This Policy is governed by the laws of the state in which it is delivered.

The President and Secretary of National Union Fire Insurance Company of Pittsburgh, Pa. witness this Policy:

President

Secretary

**PLEASE READ THIS POLICY CAREFULLY.**

**THIS IS AN ACCIDENT ONLY POLICY. IT DOES NOT COVER SICKNESS OR DISEASE.**

## DECLARATIONS

### 1. Identification of Policyholder:

Name of Policyholder: Florida League of Cities, Inc.  
Address of Policyholder: P.O. Box 530065, Orlando, FL 328530065  
Type of Business or Purpose of Organization: Affiliation  
Covered Affiliates(s) or Subsidiary(ies): None  
Policy Number: GTP 0009026442-A

**Newly Acquired Corporations, Partnerships, or Sole Proprietorships.** The premium for this Policy applies only to the Policyholder as constituted on the Policy Effective Date (or any renewal date of this Policy). However, any corporation, partnership, or sole proprietorship acquired by the Policyholder after the Policy Effective Date (or the renewal date) will be considered a part of the Policyholder, or a Covered Affiliate or Subsidiary, as of the date of the acquisition, but only if the following conditions are both met by the Policyholder within a reasonable time after the acquisition date: (1) it must report to the Company, in writing, the name of the newly acquired entity and all underwriting information the Company deems necessary to determine any additional premium required; and (2) it must agree to, and must pay, any required additional premium (or an appropriate portion thereof as agreed upon with the Company). If both conditions are not met within a reasonable time after the acquisition date, the newly acquired entity will not be considered a part of the Policyholder, or a Covered Affiliate or Subsidiary, and the employees from the newly acquired entity will not be considered as employees of the Policyholder or a Covered Affiliate or Subsidiary for Policy purposes, until the date both conditions are met.

### 2. Classification of Eligible Persons:

Class	Description of Class
I	All Elected Officials of Participating Member Entities of the Policyholder for whom premium has been paid and whose names are on file with the Policyholder.
II	All City Managers, Assistant City Managers, City Clerks, Police Chiefs, Finance Directors, Personnel Directors, Public Works Directors, Recreation Directors, and Fire Chiefs of the Participating Member Entities of the Policyholder for whom premium has been paid and whose names are on file with the Policyholder.

### 3. Principal Sums, Hazards, Benefits and Other Riders and Endorsements for Eligible Persons:

Any Benefit shown in any row of the chart below applies only to an eligible person in a Class shown in that row, only with respect to an accident that occurs under the circumstances described in a Hazard shown in that row as to such person. Any other Rider or Endorsement shown in any row of the chart below applies only with respect to the Classes, Hazards, and Benefits shown in that row.

Section 3A.

Class(es)	Principal Sum
I	\$250,000.00
II	\$250,000.00

Section 3B.

Class(es)	Hazard(s)	Benefits and Benefit Riders	Other Riders and Endorsement(s)
I	H-12	B-1, B-2	
II	H-20	B-1, B-2	

Section 3C.

Other Riders and Endorsements to the Policy:

E-1, E-5, E-7

4. **Aggregate Limit:** \$1,250,000 per accident
5. **Hazards, Benefits and Benefit Riders, Other Riders and Endorsements, and Attachments Made Part of this Policy:**

a. The following Hazards are made part of the Policy as of the Policy Effective Date:

FORM NUMBER	HAZARD NUMBER	DESCRIPTION
C11875DBG	H-12	24 Hour Accident Protection While On A Trip (Business Only)
C11879DBG	H-20	24-Hour Accident Protection

b. Check one and only one:

- B-1 Accidental Death Benefit Only
- B-1 and B-2 Both Accidental Death and Accidental Dismemberment and Paralysis Benefits

## BENEFITS

**Principal Sum.** As applicable to each Hazard and Benefit for each Insured Person, Principal Sum means the amount of insurance in force under this Policy on that person for that Hazard and Benefit as described for the Insured Person's eligible class in the Principal Sums, Hazards and Benefits section of the Declarations section of this Policy.

**Reduction Schedule.** The amount payable for a loss will be reduced if an Insured Person is age 70 or older on the date of the accident causing the loss with respect to any Benefit provided by this Policy where the amount payable for the loss is determined as a percentage of his or her Principal Sum. The amount payable for the Insured Person's loss under that Benefit is a percentage of the amount that would otherwise be payable, according to the following schedule:

AGE ON DATE OF ACCIDENT	PERCENTAGE OF AMOUNT OTHERWISE PAYABLE
70 - 74	65%
75 - 79	45%
80 - 84	30%
85 and older	15%

Premium for an Insured Person age 70 or older is based on 100% of the coverage that would be in effect if the Insured Person were under age 70.

"Age" as used above refers to the age of the Insured Person on the Insured Person's most recent birthday, regardless of the actual time of birth.

**B-1. Accidental Death Benefit.** See the Principal Sums, Hazards and Benefits for Eligible Persons section of the Declarations section of the Policy for the applicability of this Benefit with respect to each class of Insured Persons and each hazard. If Injury to the Insured Person results in death within 365 days of the date of the accident that caused the Injury, the Company will pay 100% of the Principal Sum.

**B-2. Accidental Dismemberment and Paralysis Benefit.** See the Principal Sums, Hazards and Benefits for Eligible Persons section of the Declarations section of the Policy for the applicability of this Benefit with respect to each class of Insured Persons and each hazard. If Injury to the Insured Person results, within 365 days of the date of the accident that caused the Injury, in any one of the Losses specified below, the Company will pay the percentage of the Principal Sum shown below for that Loss:

<u>For Loss of</u>	<u>Percentage of Principal Sum</u>
Both Hands or Both Feet.....	100%
Sight of Both Eyes.....	100%
One Hand and One Foot.....	100%
One Hand and the Sight of One Eye.....	100%
One Foot and the Sight of One Eye.....	100%
Speech and Hearing in Both Ears.....	100%
One Hand or One Foot.....	50%
Sight of One Eye.....	50%
Speech or Hearing in Both Ears.....	50%
Thumb and Index Finger of Same Hand.....	25%
Quadriplegia.....	100%
Paraplegia.....	75%
Hemiplegia.....	50%

"Loss" of a hand or foot means complete severance through or above the wrist or ankle joint. "Loss" of sight of an eye means total and irrecoverable loss of the entire sight in that eye. "Loss" of hearing in an ear means total and irrecoverable loss of the entire ability to hear in that ear. "Loss" of speech means total and irrecoverable loss of the entire ability to speak. "Loss" of thumb and index finger means complete severance through or above the metacarpophalangeal joint of both digits.

"Quadriplegia" means the complete and irreversible paralysis of both upper and both lower limbs. "Paraplegia" means the complete and irreversible paralysis of both lower limbs. "Hemiplegia" means the complete and irreversible paralysis of the upper and lower limbs of the same side of the body. "Limb" means entire arm or entire leg.

If more than one Loss is sustained by an Insured Person as a result of the same accident, only one amount, the largest, will be paid.

**Exposure and Disappearance.** If by reason of an accident occurring while an Insured Person's coverage is in force under this Policy, the Insured Person is unavoidably exposed to the elements and as a result of such exposure suffers a loss for which a benefit is otherwise payable under this Policy, the loss will be covered under the terms of this Policy.

If the body of an Insured Person has not been found within one year of the disappearance, forced landing, stranding, sinking or wrecking of a conveyance in which the person was an occupant while covered under this Policy, then it will be deemed, subject to all other terms and provisions of this Policy, that the Insured Person has suffered accidental death within the meaning of this Policy.

## LIMITATIONS

**Limitation on Multiple Benefits.** If an Insured Person suffers one or more losses from the same accident for which amounts are payable under more than one of the following Benefits provided by this Policy, the maximum amount payable under all of the Benefits combined will not exceed the amount payable for one of those losses, the largest: Accidental Death Benefit, Accidental Dismemberment and Paralysis Benefit.

**Aggregate Limit.** The maximum amount payable under this Policy may be reduced if more than one Insured Person suffers a loss as a result of the same accident, and if amounts are payable for those losses under one or more of the following Benefits provided by this Policy: Accidental Death Benefit, Accidental Dismemberment and Paralysis Benefit. The maximum amount payable for all such losses for all Insured Persons under all those Benefits combined will not exceed the amount shown as the Aggregate Limit in the Declarations section of this Policy. If the combined maximum amount otherwise payable for all Insured Persons must be reduced to comply with this provision, the reduction will be taken by applying the same percentage of reduction to the individual maximum amount otherwise payable for each Insured Person for all such losses under all those Benefits combined. NOTE: If the Declarations section of this Policy states that an Aggregate Limit is restricted in its applicability to certain eligible classes or certain Hazards, this Aggregate Limit provision applies only to Insured Persons in those eligible classes or to whom that Hazard applies.

## GENERAL EXCLUSIONS

This Policy does not cover any loss caused in whole or in part by, or resulting in whole or in part from, the following:

1. suicide or any attempt at suicide or intentionally self-inflicted injury or any attempt at intentionally self-inflicted injury.
2. travel or flight in or on (including getting in or out of, or on or off of) any vehicle used for aerial navigation, whether as a Passenger, pilot, operator or crew member, unless specifically provided by this Policy.
3. declared or undeclared war, or any act of declared or undeclared war.
4. full-time duty in the armed forces, National Guard or organized reserve corps of any country or international authority. (Unearned premium for any period for which the Insured Person is not covered due to his or her active duty status will be refunded.) (Loss caused while on short-term National Guard or reserve duty for regularly scheduled training purposes is not excluded.)
5. the Insured Person being under the influence of drugs or intoxicants, unless taken under the advice of a Physician.
6. the Insured Person's commission of or attempt to commit a felony.

# TOWN OF MALABAR

## AGENDA ITEM REPORT

AGENDA ITEM NO: 5  
Meeting Date: June 15, 2015

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

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**SUBJECT:** Administrator Evaluation 2014/2015

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**BACKGROUND/HISTORY:**

This has been carried forward from previous meetings. It will need to be removed from the table before discussion can take place.

**FINANCIAL IMPACT:**

n/a

**ATTACHMENTS:**

Evaluations received

**ACTION:**

Staff requests Action



**TOWN OF MALABAR**  
**PERFORMANCE EVALUATION REPORT**

Last Name Wilbanks	First Name Bonilyn	Department Executive	Position Town Administrator	Evaluation Date 4/1/2015	
Date of Employment 4/23/2007	<input checked="" type="checkbox"/> Annual <input type="checkbox"/> Probationary	Period Covered 04/01/2014 -04/01/2015	Next Review Date 4/1/2016		
<b>PERFORMANCE FACTOR SCORES</b>					
5: Outstanding 4: Exceeds Requirements 3: Meets Acceptable Requirements, Satisfactory 2: Does Not Meet Minimum Acceptable Requirements 1: Far Below Acceptable Requirements					
<b>PERFORMANCE FACTORS</b>					
	<b>SCORE</b>	<b>X</b>	<b>WEIGHT</b>	<b>=</b>	<b>SCORE</b>
<b>QUALITY</b>					
1 Accuracy	4	X	5	=	20
2 Thoroughness	4	X	3	=	12
3 Judgment	4	X	5	=	20
4 Adaptability	4	X	3	=	12
5 Leadership	3	X	5	=	15
6 Oral Expression	4	X	3	=	12
7 Written Expression	5	X	3	=	15
<b>JOB KNOWLEDGE</b>					
8 Skills/Application of Knowledge	4	X	5	=	20
9 Mastery of Technical and/or Professional Techniques	5	X	5	=	25
10 Policy and Procedures	4	X	5	=	20
<b>WORK HABITS</b>					
11 Interest and Enthusiasm	3	X	5	=	15
12 Attitude and Loyalty	3	X	5	=	15
13 Personal Relations	4	X	4	=	16
14 Courtesy	3	X	4	=	12
15 Cooperation	4	X	3	=	12
16 Growth Potential	3	X	3	=	9
17 Amount of Work Performed	3	X	5	=	15
18 On Schedule	4	X	5	=	20
<b>SUPERVISORY CAPABILITY (SUPERVISORY ONLY)</b>					
19 Planning	4	X	5	=	20
20 Organization	4	X	3	=	12
21 Delegating	4	X	3	=	12
22 Controlling	3	X	4	=	12
23 Decision Making	4	X	5	=	20
24 Training Others	3	X	4	=	12
25 Developing Employees	3	X	3	=	9
26 Economy	4	X	3	=	12

**QUALITY POINT  
AVERAGE**

**TOTAL WEIGHTED SCORE (TWS)      394**

TWS divided by 76 (Non-Supervisory) =  
TWS divided by 106 (Supervisory) =      3.7

EVALUATOR'S COMMENTS

Quality: I feel Bonnie has done a great job this year improved in areas that were maybe problematic in the past! Kudos!

Job Knowledge: I feel Bonnie's Job Knowledge is Excellent. She is very articulate on her duties as IM - also keeps up & demands of the job & does all the continued education to keep her up to speed.

Work Habits: Although I will preface that I am not on the job everyday - I feel Bonnie goes out on the field, against town to problem solve complaints etc & I feel she has been more available this year in the office.

Overall: I feel Bonnie is doing a good job considering the political climate of this Council & Mayor. There have been changes and I feel she has gone with the flow as much as she can. It is a difficult situation at times & she has handled herself in a professional & courteous manner.

Maria Dequan  
Evaluator's Signature

4-16-15  
Date

IN SIGNING THIS REPORT, I DO NOT NECESSARILY AGREE WITH THE CONCLUSIONS OF THE RATER. I UNDERSTAND THAT I MAY WRITE ANY COMMENTS ON A SEPARATE PAGE ATTACHED HERETO.

Employee's Signature: BW: Banks

4/17/2015  
Date

Employee's Comment Sheet Attached

Yes

No

BW  
Employee's Initials

TOWN OF MALABAR

PERFORMANCE EVALUATION REPORT

Note: (Comments and supportive documentation must be provided for any instance of a rating of unsatisfactory on these items)

Safety Consciousness:

Satisfactory [ ] Unsatisfactory

Comments:

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Attendance:

Satisfactory [ ] Unsatisfactory

Comments:

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Punctuality:

Satisfactory [ ] Unsatisfactory

Comments:

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Appearance:

Satisfactory [ ] Unsatisfactory

Comments:

---

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Precision of Work Product:

Satisfactory [ ] Unsatisfactory

Comments:

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Evaluator's Signature: Mause Aquan

Date: 4-16-15

Employee's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**TOWN OF MALABAR**  
**PERFORMANCE EVALUATION REPORT**

Last Name Wilbanks	First Name Bonilyn	Department Executive	Position Town Administrator	Evaluation Date 4/1/2015	
Date of Employment 4/23/2007	<input checked="" type="checkbox"/> Annual <input type="checkbox"/> Probationary	Period Covered 04/01/2014 -04/01/2015	Next Review Date 4/1/2016		
<b>PERFORMANCE FACTOR SCORES</b>	5: Outstanding 4: Exceeds Requirements 3: Meets Acceptable Requirements, Satisfactory 2: Does Not Meet Minimum Acceptable Requirements 1: Far Below Acceptable Requirements				
<b>PERFORMANCE FACTORS</b>	<b>SCORE</b>	<b>X</b>	<b>WEIGHT</b>	<b>=</b>	<b>SCORE</b>
<b>QUALITY</b>					
1 Accuracy	3	X	5	=	15
2 Thoroughness	2	X	3	=	6
3 Judgment	3	X	5	=	15
4 Adaptability	3	X	3	=	9
5 Leadership	3	X	5	=	15
6 Oral Expression	4	X	3	=	12
7 Written Expression	4	X	3	=	12
<b>JOB KNOWLEDGE</b>					
8 Skills/Application of Knowledge	3	X	5	=	15
9 Mastery of Technical and/or Professional Techniques	3	X	5	=	15
10 Policy and Procedures	1	X	5	=	5
<b>WORK HABITS</b>					
11 Interest and Enthusiasm	3	X	5	=	15
12 Attitude and Loyalty	2	X	5	=	10
13 Personal Relations	2	X	4	=	8
14 Courtesy	4	X	4	=	16
15 Cooperation	3	X	3	=	9
16 Growth Potential	2	X	3	=	6
17 Amount of Work Performed	3	X	5	=	15
18 On Schedule	2	X	5	=	10
<b>SUPERVISORY CAPABILITY (SUPERVISORY ONLY)</b>					
19 Planning	3	X	5	=	15
20 Organization	3	X	3	=	9
21 Delegating	3	X	3	=	9
22 Controlling	2	X	4	=	8
23 Decision Making	3	X	5	=	15
24 Training Others	2	X	4	=	8
25 Developing Employees	2	X	3	=	6
26 Economy	3	X	3	=	9

**QUALITY POINT  
AVERAGE**

**TOTAL WEIGHTED SCORE (TWS)      287**

TWS divided by 76 (Non-Supervisory) =  
TWS divided by 106 (Supervisory) =      **2.7**

EVALUATOR'S COMMENTS

Quality: fair to good. She is very good with a Task she is in favor of. If it is the will of the Council but not hers she looks execution properly and then is always either a ready Job Knowledge: expense or delegation to someone else. Very knowledgeable about things she need to know. She is a very good source of information for me.

Work Habits: seem to be fine. she comes to RTM well prepared and is very responsive to individual Council members. There remains a strong tension and distrust of her among many other Town employees.

Overall: She seems to forget she is an "Administrator" for the Council and not the manager of the Town. Some of the fault of the Council itself is not being clear about their direction. In reviewing her resume' applicants from 8 years ago. What we have done not fit the description therein.

  
 Evaluator's Signature

4/6/15  
 Date

IN SIGNING THIS REPORT, I DO NOT NECESSARILY AGREE WITH THE CONCLUSIONS OF THE RATER. I UNDERSTAND THAT I MAY WRITE ANY COMMENTS ON A SEPARATE PAGE ATTACHED HERETO.

Employee's Signature: \_\_\_\_\_

\_\_\_\_\_  
 Date

Employee's Comment Sheet Attached

[ ] Yes

[ ] No

\_\_\_\_\_  
 Employee's Initials

TOWN OF MALABAR

PERFORMANCE EVALUATION REPORT

Note: (Comments and supportive documentation must be provided for any instance of a rating of unsatisfactory on these items)

Safety Consciousness:

Satisfactory [ ] Unsatisfactory

Comments: *has improved in this respect almost to a fault. She has used safety glasses as reason for action on machine which need be*

Attendance:

Satisfactory [ ] Unsatisfactory

Comments:

Punctuality:

Satisfactory [ ] Unsatisfactory

Comments:

Appearance:

Satisfactory [ ] Unsatisfactory

Comments: *Presents a very professional appearance both in dress and in meeting public*

Precision of Work Product:

[ ] Satisfactory  Unsatisfactory

Comments: *Does not seem to understand our form of government as "Administrative". She only does what Board/ Council asks for if comment to her. "Expense - Malabar - Topen Acta report" and other budget items. She is smart and knowledgeable and could do much better if she really wanted to be a "Malabarite"*

Evaluator's Signature: *[Signature]*

Date: *4/6/15*

Employee's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**TOWN OF MALABAR**  
**PERFORMANCE EVALUATION REPORT**

Last Name Wilbanks	First Name Bonilyn	Department Executive	Position Town Administrator	Evaluation Date 4/1/2015	
Date of Employment 4/23/2007	<input checked="" type="checkbox"/> Annual <input type="checkbox"/> Probationary	Period Covered 04/01/2014 -04/01/2015	Next Review Date 4/1/2016		
<b>PERFORMANCE FACTOR SCORES</b>	5: Outstanding 4: Exceeds Requirements 3: Meets Acceptable Requirements, Satisfactory 2: Does Not Meet Minimum Acceptable Requirements 1: Far Below Acceptable Requirements				
<b>PERFORMANCE FACTORS</b>	<b>SCORE</b>	<b>X</b>	<b>WEIGHT</b>	<b>=</b>	<b>SCORE</b>
<b>QUALITY</b>					
1 Accuracy	3	X	5	=	15
2 Thoroughness	3	X	3	=	9
3 Judgment	3	X	5	=	15
4 Adaptability	3	X	3	=	9
5 Leadership	3	X	5	=	15
6 Oral Expression	4	X	3	=	12
7 Written Expression	4	X	3	=	12
<b>JOB KNOWLEDGE</b>					
8 Skills/Application of Knowledge	3	X	5	=	15
9 Mastery of Technical and/or Professional Techniques	3	X	5	=	15
10 Policy and Procedures	3	X	5	=	15
<b>WORK HABITS</b>					
11 Interest and Enthusiasm	3	X	5	=	15
12 Attitude and Loyalty	3	X	5	=	15
13 Personal Relations	3	X	4	=	12
14 Courtesy	4	X	4	=	16
15 Cooperation	3	X	3	=	9
16 Growth Potential	3	X	3	=	9
17 Amount of Work Performed	3	X	5	=	15
18 On Schedule	3	X	5	=	15
<b>SUPERVISORY CAPABILITY (SUPERVISORY ONLY)</b>					
19 Planning	3	X	5	=	15
20 Organization	4	X	3	=	12
21 Delegating	3	X	3	=	9
22 Controlling	3	X	4	=	12
23 Decision Making	3	X	5	=	15
24 Training Others	3	X	4	=	12
25 Developing Employees	3	X	3	=	9
26 Economy	3	X	3	=	9

**QUALITY POINT  
AVERAGE**

**TOTAL WEIGHTED SCORE (TWS)**

331

TWS divided by 76 (Non-Supervisory) = 0.0  
 TWS divided by 106 (Supervisory) = 3.1

TOWN OF MALABAR

PERFORMANCE EVALUATION REPORT

Note: (Comments and supportive documentation must be provided for any instance of a rating of unsatisfactory on these items)

**Safety Consciousness:**

Satisfactory [ ] Unsatisfactory

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Attendance:**

Satisfactory [ ] Unsatisfactory

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Punctuality:**

Satisfactory [ ] Unsatisfactory

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Appearance:**

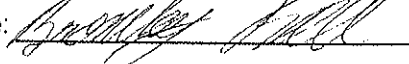
Satisfactory [ ] Unsatisfactory

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Precision of Work Product:**

Satisfactory [ ] Unsatisfactory

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Evaluator's Signature: 

Date: 4 MAY 2015


Employee's Signature: \_\_\_\_\_

Date: \_\_\_\_\_



**EVALUATOR'S COMMENTS**

<b>Quality:</b>	
<b>Job Knowledge:</b>	The Town of Malabar's Performance Evaluation Report Manual, Human Factor section, item "B. Error of central tendency", somewhat describes the grades that I have given to Bonnie. This is not meant to penalize her.
<b>Work Habits:</b>	In my seven months as a Malabar Town Council member, I have had limited exposure to Bonnie Wilbanks' daily activities. Therefore, I have given "acceptable" scores for many of the performance factors for which employees are evaluated. Scores other than "acceptable" have been given where I have had personal interaction or knowledge of the subject.
<b>Overall:</b>	

  
\_\_\_\_\_  
Evaluator's Signature

4 MAY 2015  
\_\_\_\_\_  
Date

IN SIGNING THIS REPORT, I DO NOT NECESSARILY AGREE WITH THE CONCLUSIONS OF THE RATER. I UNDERSTAND THAT I MAY WRITE ANY COMMENTS ON A SEPARATE PAGE ATTACHED HERETO.

Employee's Signature: \_\_\_\_\_

\_\_\_\_\_  
Date

Employee's Comment Sheet Attached

Yes

No

\_\_\_\_\_  
Employee's Initials

**TOWN OF MALABAR**  
**PERFORMANCE EVALUATION REPORT**

Last Name Willbanks	First Name Bonylin	Department T A	Position T A	Evaluation Date 5/4/2015	
Date of Employment 9/27/2007	[ X ] Annual ] Probationary	Period Covered previous year	Next Review Date N A		
<b>PERFORMANCE FACTOR SCORES</b>					
5: Outstanding 4: Exceeds Requirements 3: Meets Acceptable Requirements, Satisfactory 2: Does Not Meet Minimum Acceptable Requirements 1: Far Below Acceptable Requirements					
<b>PERFORMANCE FACTORS</b>					
	<b>SCORE</b>	<b>X</b>	<b>WEIGHT</b>	<b>=</b>	<b>SCORE</b>
<b>QUALITY</b>					
1 Accuracy	3	X	5	=	15
2 Thoroughness	3	X	3	=	9
3 Judgment	3	X	5	=	15
4 Adaptability	2	X	3	=	6
5 Leadership	3	X	5	=	15
6 Oral Expression	4	X	3	=	12
7 Written Expression	3	X	3	=	9
<b>JOB KNOWLEDGE</b>					
8 Skills/Application of Knowledge	3	X	5	=	15
9 Mastery of Technical and/or Professional Techniques	3	X	5	=	15
10 Policy and Procedures	2	X	5	=	10
<b>WORK HABITS</b>					
11 Interest and Enthusiasm	3	X	5	=	15
12 Attitude and Loyalty	3	X	5	=	15
13 Personal Relations	2	X	4	=	8
14 Courtesy	2	X	4	=	8
15 Cooperation	2	X	3	=	6
16 Growth Potential	2	X	3	=	6
17 Amount of Work Performed	2	X	5	=	10
18 On Schedule	2	X	5	=	10
<b>SUPERVISORY CAPABILITY (SUPERVISORY ONLY)</b>					
19 Planning	2	X	5	=	10
20 Organization	2	X	3	=	6
21 Delegating	1	X	3	=	3
22 Controlling	1	X	4	=	4
23 Decision Making	2	X	5	=	10
24 Training Others	2	X	4	=	8
25 Developing Employees	2	X	3	=	6
26 Economy	2	X	3	=	6

**QUALITY POINT  
AVERAGE**

**TOTAL WEIGHTED SCORE (TWS) 252**

TWS divided by 76 (Non-Supervisory) = 3.3

TWS divided by 106 (Supervisory) = 2.4

**TOWN OF MALABAR**  
**PERFORMANCE EVALUATION REPORT**

Note: (Comments and supportive documentation must be provided for any instance of a rating of unsatisfactory on these items)

**Safety Consciousness:**

Satisfactory

Unsatisfactory

Comments:

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**Attendance:**

Satisfactory

Unsatisfactory

Comments:

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---

---

**Punctuality:**

Satisfactory

Unsatisfactory

Comments:

---

---

---

**Appearance:**

Satisfactory

Unsatisfactory

Comments:

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**Precision of Work Product:**

Satisfactory

Unsatisfactory

Comments:

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Evaluator's Signature:

Carl A. Beatty  
X

Date: 05-04-2015

Employee's Signature:

\_\_\_\_\_

Date: \_\_\_\_\_

EVALUATOR'S COMMENTS

I have been an employee of Council Member and a ~~Temporary~~ Mayor. I have worked for 3 Administrations. My evaluation of the current Admin is that her <sup>MANAGEMENT</sup> style is that of a micromanagement Bullie.

Carl A Beatty  
Evaluator's Signature

05-04-2015  
Date

Reviewed by: \_\_\_\_\_  
Department Head Date

IN SIGNING THIS REPORT, I DO NOT NECESSARILY AGREE WITH THE CONCLUSIONS OF THE RATER. I UNDERSTAND THAT I MAY WRITE MY COMMENTS ON A SEPARATE PAGE ATTACHED HERETO.

Employee's Signature: \_\_\_\_\_  
Date

Employee's Comment Sheet Attached  Yes  No Employee's Initials \_\_\_\_\_

**TOWN OF MALABAR**  
**PERFORMANCE EVALUATION REPORT**

Last Name Wilbanks	First Name Bonnie	Department Administrator	Position	Evaluation Date 4/1/2015	
Date of Employment 4/27/2007	<input checked="" type="checkbox"/> Annual <input type="checkbox"/> Probationary	Period Covered 10/1/2014 - 04/01/2015	Next Review Date		
<b>PERFORMANCE FACTOR SCORES</b>	5: Outstanding 4: Exceeds Requirements 3: Meets Acceptable Requirements, Satisfactory 2: Does Not Meet Minimum Acceptable Requirements 1: Far Below Acceptable Requirements				
<b>PERFORMANCE FACTORS</b>	<b>SCORE</b>	<b>X</b>	<b>WEIGHT</b>	<b>=</b>	<b>SCORE</b>
<b>QUALITY</b>					
1 Accuracy	3	X	5	=	15
2 Thoroughness	3	X	3	=	9
3 Judgment	3	X	5	=	15
4 Adaptability	3	X	3	=	9
5 Leadership	3	X	5	=	15
6 Oral Expression	3	X	3	=	9
7 Written Expression	4	X	3	=	12
<b>JOB KNOWLEDGE</b>					
8 Skills/Application of Knowledge	4	X	5	=	20
9 Mastery of Technical and/or Professional Techniques	3	X	5	=	15
10 Policy and Procedures	4	X	5	=	20
<b>WORK HABITS</b>					
11 Interest and Enthusiasm	3	X	5	=	15
12 Attitude and Loyalty	2	X	5	=	10
13 Personal Relations	2	X	4	=	8
14 Courtesy	2	X	4	=	8
15 Cooperation	3	X	3	=	9
16 Growth Potential	3	X	3	=	9
17 Amount of Work Performed	3	X	5	=	15
18 On Schedule	3	X	5	=	15
<b>SUPERVISORY CAPABILITY (SUPERVISORY ONLY)</b>					
19 Planning	3	X	5	=	15
20 Organization	3	X	3	=	9
21 Delegating	3	X	3	=	9
22 Controlling	3	X	4	=	12
23 Decision Making	3	X	5	=	15
24 Training Others	3	X	4	=	12
25 Developing Employees	3	X	3	=	9
26 Economy	3	X	3	=	9

**QUALITY POINT  
AVERAGE**

**TOTAL WEIGHTED SCORE (TWS)**

**318**

TWS divided by 76 (Non-Supervisory) =

TWS divided by 106 (Supervisory) = **3.0**

TOWN OF MALABAR

PERFORMANCE EVALUATION REPORT

Note: (Comments and supportive documentation must be provided for any instance of a rating of unsatisfactory on these items)

Safety Consciousness:

[ X ] Satisfactory [ ] Unsatisfactory

Comments:

conforms to applicable standards

Attendance:

[ X ] Satisfactory [ ] Unsatisfactory

Comments:

Punctuality:

[ X ] Satisfactory [ ] Unsatisfactory

Comments:

Late on projects assigned

Appearance:

[ X ] Satisfactory [ ] Unsatisfactory

Comments:

Precision of Work Product:

[ X ] Satisfactory [ ] Unsatisfactory

Comments:

Evaluator's Signature: [Signature] Date: 5/20/15

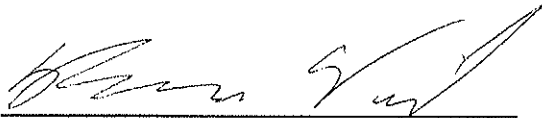
Employee's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**EVALUATOR'S COMMENTS**

**Quality:** .Has performed job well. Past problems with employee/citizen relations have improved

**Job Knowledge:** . Very knowledgeable on standards and guidelines

**Work Habits:** . Hard worker, professional,

  
\_\_\_\_\_  
Evaluator's Signature

5/20/15  
\_\_\_\_\_  
Date

Reviewed by: \_\_\_\_\_

\_\_\_\_\_  
Date

IN SIGNING THIS REPORT, I DO NOT NECESSARILY AGREE WITH THE CONCLUSIONS OF THE RATER. I UNDERSTAND THAT I MAY WRITE ANY COMMENTS ON A SEPARATE PAGE ATTACHED HERETO.

Employee's Signature: \_\_\_\_\_

\_\_\_\_\_  
Date

Employee's Comment Sheet Attached  Yes

No

\_\_\_\_\_  
Employee's Initials

# TOWN OF MALABAR

## AGENDA ITEM REPORT

AGENDA ITEM NO: 6  
Meeting Date: June 15, 2015

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

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**SUBJECT: Appoint Additional Members to the Administrator Selection Committee**

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**BACKGROUND/HISTORY:**

These members will join Council as the Administrator Selection Committee. This is a short term appointment for this purpose only and the committee members term will sunset at the conclusion of the workshops.

**FINANCIAL IMPACT:**

n/a

**ATTACHMENTS:**

Council Member and Mayor appointees

**ACTION:**

Staff requests Action



**TOWN OF MALABAR**

**TOWN ADMINISTRATOR SELECTION COMMITTEE NAMES**

<b>MAYOR/COUNCIL MEMBER NAME</b>	<b>COMMITTEE MEMBER NAME</b>
Mayor Carl Beatty – At Large	1. Bud Ryan
	2. Skip Hard
Council Member Grant Ball – District #1	1. Hans Kemmler
	2. Liz Ritter
Council Member Brian Vail - District #2	1. Bob Wilbur
	2. Wayne Abare
Council Member Don Krieger – District #3	1.
	2.
Council Member Dick Korn – District #4	1. Tom Taylor
	2. Patricia Foster
Council Member Marisa Acquaviva – District #5	1.
	2.

# TOWN OF MALABAR

## AGENDA ITEM REPORT

AGENDA ITEM NO: 7  
Meeting Date: June 15, 2015

Prepared By: Debby Franklin, Town Clerk/Treasurer

---

**SUBJECT: Review Article III of Chapter 8 of Code, Open Burning (Ord 2015-02)**

---

**BACKGROUND/HISTORY:**

The subject of burning yard waste was discussed at the RTCM of March 2, 2015 after hearing from a resident at that meeting. Other corrections were also noted and staff was directed to draft an ordinance dealing with those issues. At the meeting on June 1, 2015 Council directed staff that the entire section of Article III should be included in the ordinance in case Council wanted to make further amendments.

This is for discussion.

**FINANCIAL IMPACT:**

NONE

**ATTACHMENTS:**

Ordinance 2015-02 redone to include all of Article III  
Minutes from March 2, 2015 RTCM

**ACTION OPTIONS:**

Staff requests direction.

## ORDINANCE 2015-02

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, RELATING TO FIRE PREVENTION AND PROTECTION; AMENDING CHAPTER 8, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN; PROVIDING FOR AMENDMENTS RELATED TO BURN PERMITS, YARD TRASH FIRES AND LAND CLEARING FIRES; PROVIDING FOR SEVERABILITY, REPEAL AND CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

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

**SECTION 1.** Article III of Chapter 8 of the Code of Ordinances of the Town is amended in full to read as follows:

**“Sec. 8-71. Purpose.**

The purpose of this article is to set certain requirements and criteria to regulate and control all types of open burning within the town so as not to pose a threat to health, life, adjoining properties or public ways or to endanger natural vegetation and wildlands, or cause an "unfriendly fire" within the town.

**Sec. 8-72. Definitions.**

For the purpose of this article the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Words in the present tense include the future; words in the masculine gender include the feminine and the neuter; the singular number includes the plural and the plural the singular.

*Agricultural and silvicultural fires* includes all burning for agricultural, silvicultural, or forestry operations related to the growing, harvesting, or maintenance of crops or in connection with wildlife management. This includes the burning of plant material by plant nurseries and for grove operations.

*Air curtain incinerator* means a combustion device that directs air at high velocity through a manifold head into a pit with vertical walls in such a manner to maintain a curtain of air over the surface of the pit and a recirculating motion of air under the curtain.

*Air pollution* means the presence in the outdoor atmosphere of the state of any one or more substances or contaminants in quantities which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property, or unreasonably interferes with the enjoyment of life or property, including outdoor recreation.

*FDACS* means the Florida Department of Agriculture and Consumer Services

*FFS* means the Florida Forest Service

**Sec. 8-73. Permit required to burn.**

(a) It shall be unlawful for any person to conduct open burning of any kind within the town without first obtaining a written permit from the chief of the fire department or his assigned designee.

~~(b) Only those persons who are involved in land clearing for future construction purposes will be considered for burning permits.~~

(c) All persons obtaining burnings permits will follow all FDACS regulations, FFS\_regulations, and/or the requirements of this article. If the requirements of this article differ from the requirements of the FDACS or the FFS, the more stringent requirement shall apply.

**Sec. 8-74. Hours of burning.**

Burning will be permitted only between the hours of 9:00 a.m. and one hour prior to sunset, excluding special permits.

**Sec. 8-75. Name of property owner, township, section, range, to be provided.**

Prior to the issuance of a burn permit within the town, the person desiring the permit shall provide to the fire chief or his designee the name of the owner of the property, the township, section, and range upon which the material is to be burned. This information will also be required by FDACS and/or FFS.

**Sec. 8-76. On site survey required.**

(a) The fire chief or his assigned designee shall conduct a survey of the proposed burning site to determine if it meets the requirements of this article and/or FDACS and FFS\_regulations.

(b) The fire chief or his assigned designee shall conduct a visual inspection of the forced air device required by FDACS and/or FFS, to insure that it meets specific standards that will accomplish complete combustion with a minimal amount of smoke. The forced air system shall provide a minimum air transference of 14,000 cubic feet per minute (CFM) and maintain a minimum static pressure of ninety (90) miles per hour (mph). This information shall be provided to the fire chief or his assigned designee by the permittee. Manufacturer's specifications or written statements by an approved testing agency are acceptable.

(c) The site must meet the FDACS and/or FFS requirements of one hundred fifty (150) feet from any road and one hundred fifty (150) from any occupied structure, with a minimum fifty (50) feet clear area around the piles.

**Sec. 8-77. FDACS and/or FFS burn permit number required.**

After inspection by the fire chief or his designee DOF will be notified for approval to issue daily permit numbers for the site. The person desiring the permit will call FDACS and/or FFS to obtain a daily permit number. After obtaining the FDACS and/or FFS number Malabar Fire Department will be notified for final approval to burn for the day.

**Sec. 8-78. Materials which may not be burned.**

The burning of household trash, tires, rubber material, asphalt, roofing material, tar, railroad cross ties, other creosoted lumber, plastics, or garbage (except approved waste pesticide containers), or any other material listed by the FDACS and/or FFS or this article is prohibited.

**Sec. 8-79. Means of controlling unfriendly fire.**

Any person conducting burning operations shall have a means of controlling an unfriendly fire immediately available on site. Example:

- (1) Front end loader;
- (2) Pumping water from wells or holding ponds; or
- (3) Other means acceptable and approved by the fire chief or his assigned designee.

**Sec. 8-80. Extinguishing of fire by fire department personnel.**

(a) If burning sites are left unattended while debris is still burning, the fire department will respond to extinguish said debris and the permittee will be subject to incur all costs of extinguishment.

(b) If debris piles are not extinguished by stated time, the fire department will respond to extinguish said debris and the permittee will be subject to incur all costs of extinguishment.

(c) If debris reignites after extinguishment by the permittee, and the fire department is required to respond and extinguish said debris, the permittee will incur all costs of extinguishment.

**Sec. 8-81. Burn permit denied or revoked.**

A burn permit may be denied or revoked at any time by the fire chief or his assigned designee for any one or more of the following reasons:

- (1) Failure to provide FDACS and/or FFS permit number;
- (2) Failure to provide immediate means of controlling unfriendly fire;
- (3) Wind speed is in excess of ten (10) miles per hour;
- (4) Extremely dry conditions as determined by the fire chief or his assigned designee;

(5) Failure to provide a competent person to attend to the burning operation while burning is in progress.

(6) Two (2) or more complaints are received from nearby residents or building occupants in reference to health reasons, possible damage to property, smoke hazard, any other legitimate reason which would interfere with the health or well-being of a person in the vicinity of the burning operation;

(7) Any time the burning operation is found to be in violation of FDACS and/or FFS\_regulations or in violation of any part of this article; and

(8) Any time the fire chief, or his assigned designee, determines that a fire may cause a threat to health, safety and welfare.

**Sec. 8-82. Permit suspended and criminal prosecution.**

(a) Any person found to be burning without a permit issued by the fire chief or his assigned designee within the town or conducts a burning operation after the denial or revocation of a burn permit will be issued a suspension from the privilege of receiving a burn permit within the town. The suspension may apply to and be honored by the individual named on the suspension, and any other individual company, firm, contractor, or organization that said individual is employed by or in any way affiliated with while conducting such burning operation and said suspension shall remain in force for a period of:

- (1) Fourteen (14) days—first offense;
- (2) Thirty (30) days—second offense; and
- (3) Permanent suspension—third offense;

The suspension may also be applied to the property upon which a violation is located.

(b) The suspensions and/or criminal prosecution listed in paragraph (a) above, shall be in addition to any other penalties, fines, etc., imposed by the FDACS and/or FFS or any other enforcing agency as permitted by the law.

**Sec. 8-83. Types of burning permitted.**

(a) Agricultural and silvicultural fires will be permitted per FDACS and/or FFS regulations and any other requirements of this article.

(b) Rural land clearing fires will be permitted per FDACS and/or FFS regulations and any other requirements of this article.

(c) Non-rural land clearing fires will be permitted per FDACS and/or FFS regulations and any other requirements of this article.

(d) Yard trash fires ~~are prohibited.~~ Will be permitted on a case by case basis and in accordance with the standards and criteria on file with the Fire Department.

~~(e) Burning of household trash is prohibited.~~

(fe) Burning for cold or frost protection will be permitted per FDACS and/or FFS\_regulations and any other requirements of this article.

(gf) Special burning permits may be issued by the fire chief or his assigned designee for camp fires or bonfires for special events within the town when weather conditions permit.

**Sec. 8-84 Open Burning Multilateral Operating Agreement**

Then Town and the FDAC and the FSS may from time to time enter into an Open Burning Multilateral Operating Agreement or like agreement outlining the rights, responsibilities and the duties of the parties to such an agreement concerning open burning. Any permit issued pursuant to this Article III shall be deemed to incorporate the terms and provisions of such agreement."

**Section 2.** 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 this 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 be further assumed that the Town Council would have enacted the remainder of this ordinance without said invalid and unconstitutional provision, thereby causing said remainder to remain in full force and effect.

**Section 3.** Repeal. All other ordinances or resolutions to the extent that conflict with this ordinance are hereby expressly repealed.

**Section 4.** Codification. The provisions of this ordinance shall become part of the code of ordinances of the Town of Malabar.

**Section 5.** This Ordinance shall become effective immediately upon its adoption.

The foregoing Ordinance was moved for adoption by Council Member \_\_\_\_\_ The motion was seconded by Council Member \_\_\_\_\_ and, upon being put to a vote, the vote was as follows:

- Council Member Grant Ball \_\_\_\_\_
- Council Member Brian Vail \_\_\_\_\_
- Council Member Don Krieger \_\_\_\_\_
- Council Member Dick Korn \_\_\_\_\_
- Council Member Marisa Acquaviva \_\_\_\_\_

**PASSED AND ADOPTED** by the Town Council, Town of Malabar, Brevard County, Florida this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

BY:  
**TOWN OF MALABAR**

\_\_\_\_\_  
Mayor Carl A. Beatty  
Council Chair

First Reading:  
Second Reading:

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

(Seal)

Approved as to form and content:

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

**E. PUBLIC COMMENTS:** Comments may not address subsequent Agenda Items. **Comments do not require Council response.** (Speaker Card Required) **Five (5) Minute Limit per Speaker.** Speaker's Card: None

**F. ATTORNEY REPORT:** nothing

**G. BREVARD COUNTY SHERIFF'S OFFICE REPORT:** (DONE AFTER "C" above)

**H. PARK & RECREATION ADVISORY BOARD CHAIR REPORT:** Chair not present

**I. PLANNING & ZONING ADVISORY BOARD CHAIR REPORT:** Pat Reilly, Chair said he didn't know he was to present.

**J. PUBLIC HEARINGS:** 0

**K. PUBLIC: ITEMS DIRECTLY RELATED TO RESIDENTS AND RECOMMENDATIONS FROM TOWN BOARDS/COMMITTEES PRESENT AT MEETING**

**2. Resident Ms. Laura Mahoney re: Burning of Yard Waste**

**Exhibit:** Agenda Report No. 2

**Recommendation:** Request is Open .

Laura Mahoney, 2475 Malabar Road, came forward and addressed Council. (Presentation attached and made part of the minutes) She handed out copies of the Preamble. She referred to Ord 2014-03 not allowing any burning at all in Malabar. So for the Rural Residential type of life desiring having a campfire on their own property, it causes a hardship and essentially is the taking of property rights. The open fire restrictions are the only specifically prohibited. DOF doesn't deal with small camp fires; with 200 parks in Brevard alone, requiring permits would require more staff. She explained how her husband prepares and handles their fires. Ms. Mahoney said another point to correct in code is that land clearing can only be done for "future construction". She referenced Daniel Weltons email. She has property in Viera; only 1/6 acre and it produces about as much as their property on Malabar Road. They have burned yard waste on their property on Malabar Road since 2004, when her kids were small.

**MOTION: CM Korn / CM Ball to amend Ord 2014-03 in Sec 8-73(b) to remove language "land clearing for future construction" and allow permits on a case by case basis and delete the word "prohibited" in Sec 8-83(d) and move sub para Sec 8-83(e) under 8-78. (Motion amended after the following discussion:**

Discussion: CM Krieger asked how this ordinance relates to the agreement with DOF. He doesn't think people who have been here for years should have to pull a permit every time they want to burn in their pit. Atty said he can't tell what the relation was to the agreement and ordinance. Franklin said the ordinance was primarily adopted to update the State agency references (FFS instead of DOF and FDACS instead of State). Atty said the ordinance from 1992 prohibited yard waste burning. CM Ball understands what Don is saying. If he has a chiminea and its cool out and occasionally they may want to have an outdoor burn after hours? What about asking to live a rural lifestyle? Atty said it is not the chiminea or other contained pits. This was much discussed during the adoption of Ord 2014-03 and the language was already in the code prohibiting yard waste burning. This prohibition was only for the uncontained open fires. Chief came to podium and said they have residents on file that have called ahead of time and let them know they were going to burn and have safeguards in place; they are responsible.

CM Korn asked about the 55 gal barrel with mesh screen top in his backyard. Chief said it is technically a contained fire. So is a ringed fire pit. CM Vail said he has a small fire ring and if he wants to have a burn he calls the FD. Laura Mahoney said the DOF doesn't issue permits

for open fires less than eight feet in diameter and less than ten feet in height. For larger fires you have minimum setbacks as referenced in handout. CM Acquaviva said they have lots of yard waste that is generated and WM is very good about picking it up. Ms. Mahoney said they are right on Malabar Road and if they piled it up on the roadside it could be dangerous for drivers both for vision and safety since palm fronds get blown around easily.

CM Krieger said he wanted language to make it apparent about what is a contained fire – and what is the distance – he heard 75’.

Chief said they have good checks and balances in place now; there is no cost for the permit; they don't want people to burn negligently.

CM Korn, asked about the fires on resident's property in the last year and a half that was done without a permit or calling the FD requiring the FD to respond. CM Acquaviva said she didn't know she could just call Fire Dept to ask for a Special Permit. Chair called FD Chief to podium. He said the only problem is the person who doesn't call. The instance Korn referenced, that particular day was a “no burn” day per DOF. TA explained why we adopted the ordinance so that we could issue permits for burning.

Atty said change Sec 8.73 (b) to allow for a case by case and in Sec 8-83 remove the word “prohibited” from sub para (d). CM Vail asked about reverse 911? No it cost 5K each year. Chief said we have great cooperation from most of the residents who want to burn.

Korn said Krieger will have the minutes from this meeting. Krieger thinks it should go to Park Board and P&Z Boards for their review of this before it comes back to Council. Atty said it does not require that but Council can do what they want. CM Acquaviva said she is satisfied with the Council making this decision. Board Members are welcome to attend and participate.

**VOTE: All Ayes.**

**3. Recommendation from Planning & Zoning Board – Maximum Bldg Coverage**  
**Exhibit:** Agenda Report No. 3  
**Recommendation:** Request Direction

Presentation from PZ Bd Chair.

Discussion: CM Acquaviva asked if it meant larger buildings. PZ Chair Pat Reilly said that R/LC would allow larger foot prints but over 4,000sf would be a conditional use. He explained the P&Z Board is considering recommendations to change zoning along arterials (Babcock, Malabar and Highway 1) to RLC. Mayor said other commercial districts use a percentage. CM Krieger said 20% is great. It seems to be what commercial should adhere to.

Juliana Hirsch from audience, 1035 Malabar Road. 4000 sf is not very big. Some houses are that big.

**MOTION: CM Korn / CM Ball to recommend option 1 for P&Z Board to explore.**

Atty Bohne stated that P&Z Board should also look at changing the Comp Plan. Any code change would be irrelevant if the 4,000sf limit remains in the Comp Plan.

**VOTE: Ayes 4; Nay, 1 (Acquaviva).**

**L. ACTION ITEMS:**  
**ORDINANCES FOR 1<sup>ST</sup> READING – 0**

**RESOLUTIONS - 2**



# TOWN OF MALABAR

## AGENDA ITEM REPORT

**AGENDA ITEM NO: 8**  
**Meeting Date: June 15, 2015**

**Prepared By: Debby Franklin, Town Clerk/Treasurer**

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**SUBJECT: Review Article IX and XX of Land Development Code, Off-Street Parking  
(Ord 2015-03)**

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**BACKGROUND/HISTORY:**

The subject of off-street parking has been discussed at P&Z and they made a recommendation to Council to amend code to provide language to address off-street parking and parking on non-contiguous properties.

Council supported their recommendation but wanted clarification on porous surfaces. The entire Article is included in the draft ordinance for your review. The unlined and strike-throughs are highlighted.

This is for discussion.

**FINANCIAL IMPACT:**

NONE

**ATTACHMENTS:**

Ordinance 2015-03 Off-street parking  
Minutes from RTCM 3/16/15  
Memo 15-AABO-011 from Denine Sherear

**ACTION OPTIONS:**

Staff requests discussion and direction.

Debby Franklin

# 8

**From:** Karl Bohne <KBohne@fla-lawyers.com>  
**Sent:** Friday, June 12, 2015 9:26 AM  
**To:** Debby Franklin  
**Subject:** RE: ord for discussion offstreet parking  
**Attachments:** Ord 2015-03 Article XX off street parking.docx



Not sure I agree with the inclusion of **in the best interest of the health, safety, and welfare of the general public in the promotion and preservation of traffic safety** as written. All codes and ordinances are designed to promote the health safety and welfare of the public. May be it would be better to say "Parking shall be designed to promote traffic and pedestrian safety..."

We define "contiguous" in the definition section. So I assume non-contiguous is anything not contiguous. Also continuing on with that what would be the "**proper engineering and approved safety standards**" be? Seems like that phrase is ambiguous and is open to a subjective determination as to what the "approved standards" are. May be the Town engineer has some input on these standards.

With respect to the section dealing with restricted use, I suggest you include no sales or display of merchandise as a restricted use.

The term porous surface is used. That term should be defined. Is the surface to be porous? For instance pavers are not porous but they may provide some water seepage if they are installed in a way to allow seepage. May be we should say "Porous surface means any surface, material or technique which allows for the movement of water through it."

In the definition section for parking I inserted the word "which" in each type of parking. I did not make any of the changes I suggest above.

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**From:** Debby Franklin [mailto:townclerk@townofmalabar.org]  
**Sent:** Thursday, June 11, 2015 3:00 PM  
**To:** Karl Bohne  
**Subject:** ord for discussion offstreet parking

*Debby K. Franklin, C.M.C.*  
Town Clerk/Treasurer  
Town of Malabar  
2725 Malabar Road  
Malabar, FL 32950  
[townclerk@townofmalabar.org](mailto:townclerk@townofmalabar.org)  
321-727-7764 x12  
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## ORDINANCE 2015-03

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING ARTICLE IX OF THE LAND DEVELOPMENT CODE RELATING TO OFF STREET PARKING; PROVIDING FOR COMPUTATION OF PARKING SPACES, ADDING A PROHIBITION OF NON-CONTIGUOUS AND OFF SITE PARKING; PROVIDING FOR OFF STREET LOADING; PROVIDING FOR SURFACING REQUIREMENTS; AMENDING ARTICLE XX PROVIDING FOR DEFINITIONS; PROVIDING FOR CONFLICT, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

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

**SECTION 1.** Article IX of the Land Development Code of the Town is amended in full to read as follows:

"Article IX - OFF-STREET PARKING AND INTERNAL TRAFFIC CIRCULATION

Section 1-9.1. - Applicability.

Parking shall be **in the best interest of the health, safety, and welfare of the general public in the promotion and preservation of traffic safety**, provided in all districts at the time any building or structure is erected, or enlarged, or increased in capacity by a change of use or **with** the addition of dwelling units, floor area, seats, employees, or other factors determinative of parking demand as stated in this Article IX.

Section 1-9.2. - Parking spaces required by use.

1. *Single Family Dwellings.* Two (2) spaces for each single family dwelling, plus one (1) space for each one thousand square feet over two thousand square feet of floor area.
2. *Two Family Dwellings.* Two (2) spaces for each family unit, plus one (1) visitor space for each two (2) units.
3. *Multi-Family Dwellings.* Two (2) spaces for each family unit, plus one (1) visitor space for each two (2) units.
4. *Hotels and Motels.* One (1) space for each sleeping unit plus one (1) space for manager and one (1) space for every three (3) employees on the largest shift.
5. *Mobile Home Parks or Courts.* Two (2) spaces per unit; one (1) must be at lot site.
6. *Mobile Home Subdivisions.* Two (2) spaces for each mobile home unit at the site.
7. *Private Clubs or Lodges.* One (1) space for every five (5) seats or one (1) space for every one hundred fifty (150) square feet of gross building area, whichever is greater.
8. *Stadiums and Other Places of Public Assembly.* One (1) space for every three (3) seats figuring maximum seating capacity or one (1) space for each one hundred twenty (120) square feet of floor area of the main assembly hall, whichever is greater.
9. *Places of Worship.* One (1) space for every three (3) seats figuring maximum seating capacity or one (1) space for each one hundred and twenty square feet of floor area in the main assembly hall, whichever is greater.

10. *Public Buildings, Theaters, Auditorium.* One (1) space for every three (3) seats figuring maximum seating capacity or one (1) space for each one hundred and twenty square feet of floor area in the main assembly hall, whichever is greater.
11. *Social Welfare Facilities.* One (1) space for every three (3) residents/beds plus one (1) space per employee on the largest shift.
12. *Public Health Facilities.* One (1) space for each five (5) beds plus one (1) space for each employee, including doctors, or one (1) space for per three hundred (300) feet of building area, whichever is greater.
13. *Hospitals.* One (1) space for each two (2) beds intended for patients, plus one (1) space for each doctor, or other employee, and one (1) visitor space for every three beds, or one (1) space per three hundred (300) feet of building area, whichever is greater.
14. *Nursing Homes.* One (1) space for each five (5) beds plus one (1) space for each employee, including doctors, or one (1) space for per three hundred (300) feet of building area, whichever is greater.
15. *Medical Offices.* One (1) space for each one hundred fifty (150) square feet of gross building area or five (5) spaces for each doctor, whichever is greater.
16. *Child Care Facilities.* One (1) space for each employee plus one (1) visitor or parental space for every three children enrolled, or one (1) space for each three hundred (300) feet of building area, whichever is greater.
17. *Retail Sales Stores.* One (1) space for each two hundred (200) square feet of retail floor space.
18. *Restaurants and Lounges.* One (1) space for each one hundred (100) square feet of gross building area.
19. *Libraries and Museums.* One (1) space for each three hundred (300) square feet of gross building area.
20. *Manufacturing Wholesale and Warehousing.* One (1) space per five hundred (500) square feet of gross building area or one (1) space for each two (2) employees on the largest shift, whichever is greater.
21. *Bowling Lanes.* Six (6) spaces per lane.
22. *Marinas.* One (1) space for each three hundred (300) square feet of principal building plus one (1) space for every three (3) storage or slip places.
23. *Schools.*
  - (a) *High Schools.* One (1) space for each four (4) students.
  - (b) *Junior High and Elementary Schools.* One (1) space for each ten (10) students.
24. *Business and Vocational Schools.* One (1) space for each three (3) students.
25. *Gasoline Service Stations.* Two (2) spaces for each bay, grease rack (excluding grease trap as parking space) or similar facility, plus one (1) space for each gas pump. No such bay, rack or similar facility shall be counted as a parking space for meeting the parking requirements of this Article.
26. *Shopping Centers.* Five and one-half (5.5) parking spaces for each one thousand (1,000) square feet of gross floor space in the shopping center.

27. *Office and Professional Building (excluding medical offices)*. One (1) space for each two hundred (200) square feet of office space.
28. *Transportation Terminals*. One (1) space for each two hundred (200) square feet of floor space.
29. *Auto Sales and Repair*. One (1) space for each employee at maximum employment on a single shift, plus two (2) spaces for each three hundred (300) square feet of auto repair or sales spaces.
30. *Funeral Homes*. One (1) space for every three (3) seats figuring maximum seating capacity plus five (5) spaces for employees or one (1) space for each one hundred twenty (120) square feet of floor area of gross floor area [sic], whichever is greater.
31. *Drive-Through Facilities*. In addition to other parking requirements for a principal use, stacking spaces shall be provided for drive-through facilities in compliance with the following minimum specifications:
  - (a) *Number of spaces required including receiving or service window space*. Six (6) stacking spaces per drive-through lane. Where this requirement is demonstrated by the applicant to be inconsistent with the traffic generating characteristics of a specific use, the applicant may request that the standard be modified by the Town Council. The Town Council may approve a reduction in the required waiting spaces for such use provided the applicant demonstrates that the intended use generates a low volume of drive-up traffic and does not require the standard six (6) stacking spaces. The Town Council shall consider the nature of the use, its intensity, size, other parking facilities provided and other traffic generating characteristics.
  - (b) *Length of Spaces*. Each space shall be a minimum of twenty (20) feet in length.
  - (c) *Width of Spaces*. On curves with a radius of twenty-five (25) feet or less, a minimum pavement width of twelve (12) feet shall be provided. On curves with a radius of more than twenty-five (25) feet, a minimum pavement width of ten (10) feet shall be provided.
  - (d) *Surface requirements* shall be the same as those specified for parking areas.
32. *Bed and Breakfast*. One (1) parking space for each guest quarter and two (2) spaces for the entire residence.

(Ord. No. 06-19, § 2, 1-11-07; Ord. No. 14-01, § 5, 2-3-14)

#### Section 1-9.3. - Computation of parking spaces.

In computing the number of required parking spaces the following rules shall govern:

1. *Floor Area Calculation*. Floor area means the **total** gross floor area of a particular use.
2. *Interpretation of Computation with Fractions*. Where fractional spaces result, the number of spaces required shall be construed to be the next whole number.
3. *Requirements for Uses Not Identified*. The parking requirement for any use not specified shall be the same as that required for a use of a similar nature as recognized herein or where not recognized herein, shall be based on criteria published by the American Planning Association or similarly recognized standards of their profession and such standard shall be approved by the Town Council.
4. *Requirements for Mixed Uses*. In the case of mixed uses the parking spaces shall be equal to the sum of the several uses computed separately.

5. *Applicability of Standards to Expanding Uses.* Whenever a building or use is enlarged in floor area, number of dwelling units, seating capacity or in any other manner so as to create a need for a greater number of parking spaces than that existing such spaces shall be provided in accordance with this Section. Any parking deficiency shall be brought into conformity concurrently with the enlargement or change of use.
6. *Location of Off-Street Parking Spaces.* Except as otherwise prescribed for dwelling units, off-street parking spaces required by this section shall be located on the site on which the main building or use is located. For buildings or uses located in a commercial district, parking spaces may be located not more than five hundred (500) feet from the subject site if approved by the Town Council. Such parking space will be within a commercially zoned district and appropriate legal documents including any required restrictive covenants, necessary to implement conditions imposed by the Town Council shall be filed as an integral part of the approved site plan.

**7. Non-Contiguous & Off-Site Parking Spaces are not permitted unless proper engineering and approved safety standards are implemented**

- 7-8.** *Combined Parking Spaces.* The required parking spaces for any number of separate uses may be combined in one (1) lot but the required space assigned to one (1) use may not be assigned to another use at the same time.

Section 1-9.4. - Parking in yards and landscaping.

Unenclosed parking spaces may be located within a required yard. All parking areas other than for single family homes shall conform to the landscape requirements of the Town land development regulations, as exist or as may hereinafter be amended.

Section 1-9.5. - Design and specifications for parking and loading areas.

- A. *Stalls, Aisles, and Driveways.* Parking stalls shall be ten (10) feet wide by twenty (20) feet long for angle parking; and shall be nine (9) feet wide by twenty-three (23) feet long for parallel parking stalls. Aisle dimensions shall be in accord with standard specifications on file with the Building Official. Angle parking shall be restricted to angles of ninety (90) degrees, sixty (60) degrees, or forty-five (45) degrees. The following criteria are applicable to all parking spaces, excepting single family homes.
  1. Each parking stall shall be accessible from an aisle or driveway and designed so that no automobile shall back into a public street in order to exit a parking stall. The internal design of the parking lot shall be designed to facilitate vehicular circulation and avoid conflict between pedestrian and vehicular movements. Internal circulation also shall be designed so as not to create conflict with access into or egress from the site and shall be consistent with the landscape requirements of this Code.
  2. No door or pedestrian entrance at ground level shall open directly upon any driveway or access aisle unless the doorway or pedestrian entrance is at least three feet or more from said driveway or access aisle and appropriate improvements are provided to allow for safe pedestrian access to the door.
  3. All paved parking spaces shall have lines between spaces to indicate individual stalls, and each stall may be required to be equipped with wheel stops if deemed appropriate by the Town Council based on recommendations of the **Building Official. Town Staff.**
    - (a) Wheel stops for stalls adjacent to landscaped strips shall be located two and one half (2½) feet from the front end of the stall to prevent encroachment into required landscaped areas. The front two (2) feet of the stall may be kept as a maintained

vegetative ground cover area although no credit will be extended toward the open space requirements of this Code.

- (b) Wheel stops for stalls not adjacent to landscaped strips shall be located three and one-half (3½) feet from the front end of the stall. The front three (3) feet of the stall may be kept as a maintained vegetative ground cover area although no credit will be extended toward the open space requirements of this Code.
4. Parking lots with twenty (20) or more spaces may be comprised of a maximum of fifteen (15) percent compact car parking stalls. Such compact car stalls shall be seven and a half (7½) feet wide by fifteen (15) feet long and marked for use by small vehicles. The markings shall be maintained in perpetuity. The intent is to deter larger cars from using compact car spaces.
  5. All publicly maintained and operated parking facilities intended for public use and all businesses, firms, or other persons licensed to do business with the public shall comply with requirements for access established in the Accessibility Requirements Manual published by the Department of Community Affairs, Florida Board of Building Codes and Standards.
- B. *Entries, Exits, Drives and Vehicle Maneuvering Areas.* All uses which are required to provide three or more off-street parking spaces shall have entry and exit ways and drives at least eighteen (18) feet in width to accommodate two-way traffic unless a one-way traffic system is utilized, in which case entry and exit ways and drives shall be at least nine (9) feet in width. In the event a one-way traffic system is utilized, appropriate traffic direction markers shall be installed. The internal circulation system, including drives and maneuvering areas, shall be designed to permit convenient maneuvering of cars and service vehicles into and out of each parking and loading space, and shall be arranged so that no vehicle need back onto a public right-of-way. No occupied parking or loading space shall interfere with access to any other parking or loading space, or with any pedestrian walkway. The design of parking facilities shall also comply with landscape requirements of Article XIII [Article XIV].
- C. *Restricted Use of Off-Street Parking Areas.* All parking areas shall be used for automobile parking only, **with no sales, and are not intended for** dead storage, non-emergency repair work, dismantling or servicing of any kind. Where lighting is provided, it shall be arranged to reflect away from residential areas and public ways.
- D. *Off-Street Loading Regulations.* The following spaces shall be provided for the uses indicated:
1. Every hospital, institution, hotel, commercial or industrial building or similar use having a floor area in excess of five thousand (5,000) square feet or fraction thereof requiring the receipt or distribution by vehicle of materials and merchandise, shall have at least one permanently maintained off-street loading space for each five thousand (5,000) square feet of gross floor area or fraction thereof.
  2. Retail operations, wholesale operations and industrial operations with a gross floor area of less than ten thousand (10,000) square feet, shall provide sufficient space so as not to hinder the free movements of vehicles and pedestrians over a sidewalk, street or alley.
  3. Each space shall have a direct access to a public right-of-way and shall have the following minimum dimensions:
    - (a) Length: Twenty-five (25) feet; a larger length upward to thirty-five (35) feet may be required upon recommendation **by the Town Building Official, the City Engineer and approval of the Planning and Zoning Commission.**

- (b) Width: Twelve (12) feet.
- (c) Height: Fourteen (14) feet **& six (6) inches.**

All subject to site plan approval.

- E. *Surfacing Requirements for Parking and Loading Spaces.* In all zoning districts, surfacing of all off-street parking areas and drives, except within the RR-65 zoning district having single family uses exclusively, shall be as follows:
  - 1. *Nonporous Surfaces.* All parking areas and approaches thereto shall require a minimum surfacing material of four (4) inches reinforced concrete, or six (6) inches of lime rock, after compaction or a comparable material with one (1) inch minimum asphaltic topping except as other [otherwise] provided herein.
  - 2. *Porous Surfaces. Part-time or temporary use such as Church, but not limited to, Park, Fair, and Festival parking. All parking areas must be up to specifications of the Town Engineer, Town Planner, and/or Building Official as to composition, compaction, and drainage/ grade.***
- F. *Modifications.* The Town Council may approve modifications to the specifications of Section 1-9.5 upon demonstrated need by the applicant and based on recommendations of the Town Staff and the Planning and Zoning Board. In considering modifications to the specifications required by this Section, the Town Council shall be guided by the current edition of the Architectural Graphic Standards by Ramsey and Sleeper, or an equivalent commonly accepted source of standards.
- G. *Parking Areas not to be reduced in Area.* Area designated for off-street parking or loading in accordance with the requirements of this Code shall not be reduced in area or changed to any other use unless the permitted use which it served is discontinued or modified, except where equivalent parking or loading space is provided and approved pursuant to Article III [Article VII] "Site Plan Review."

**SECTION 2.** Article XX of the Land Development Code of the Town is amended in full to read as follows:

"Article XX - LANGUAGE AND DEFINITIONS

Section 1-20.1. - General interpretation.

For the purpose of this chapter [Code], certain terms used herein are herewith defined. When not inconsistent with the context, words used in the present tense include the future, words in the singular number include the plural and words in the plural number include the singular number. The word "shall" is always mandatory and not merely directory. The word "building" shall include the word "structure." The word "used" shall include arranged, designed, constructed, altered, converted, rented, leased or intended to be used.

Section 1-20.2. - Definitions of terms.

Terms not otherwise defined herein shall be interpreted first by reference to the Comprehensive Plan and this Code; secondly, by reference to generally accepted engineering, planning, or other professional terminology if technical; and otherwise according to common usage, unless the context clearly indicates otherwise.



For the purpose of enforcing and administering this Code, the following words shall have the definitions and meanings herein ascribed:

*Abandon.* To discontinue a use for more than six (6) consecutive months.

*Abutting.* See adjoining.

*Access.* For purposes of this Ordinance, the term access shall mean a way for prospective purchasers, visitors, and prospective customers to get from parking facilities to the model home. Such access shall be a minimum of 30" wide.

*Access, Point of.* A driveway or other opening for vehicles onto a public street.

*Accessory Use or Structure.* A use or a structure subordinate to the principal use or building on the same lot and serving a purpose customarily incidental to the use of the principal building, provided any such structure is built with or after the construction of the principal building.

*Adjoining Lot or Land.* A lot or parcel of land that shares all or part of a common lot line including a common right-of-way with another lot or parcel of land.

*Administrative Office.* A room, studio, suite or building in which the management and general administrative functions are performed.

*Administrative (or Town) Official.* The person appointed by the Town Council to administer and enforce this chapter [Code] who is normally the building inspector.

*Adult Day Care Centers.* As defined in section 1-2.6.B.13.B, Part III.

*Adult Family-Care Home.* As defined in section 1-2.6.B.13.B, Part II.

*Advertising Structure.* A structure of any kind or character erected or maintained for outdoor advertising purposes, upon which any outdoor advertising sign may be placed.

*Airport.* A special facility designed to accommodate the takeoff and landing of aircraft [and which] may be equipped with hangars, facilities for refueling and repairing airplanes, taxiways, tie down areas, and various accommodations for passengers.

*Alley.* A roadway dedicated to public use which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

*Alteration.* Any change in the arrangement of a building, including work affecting the structural parts of a building or any change in occupancy.

*Apartment.* An independent housekeeping unit in an apartment house.

*Apartment House.* Any building or part thereof where separate accommodations for more than two (2) families living independently of each other are supplied to transient or permanent guests or tenants.

*Assisted Living Facility.* As defined in section 1-2.6.B.12.B, Part I.

*Awning.* A light, protective appurtenance to a building.

*Bars.* Any place selling and dispensing for the drinking on the premises of liquor, malt, wine, or other alcoholic beverages.

*Basement.* A story partly underground and having at least one-half of its height below the level of the contacting grade.

*Bed and Breakfast.* A Bed and Breakfast is an owner-occupied residential structure, with no more than \_\_\_\_\_ sleeping rooms used as guest rooms, which has been modified to serve

as a transient public lodging establishment, which provides accommodation and meal services and which is recognized as a bed and breakfast in the community in which it is situated.

*Board of Adjustment.* A body authorized to hear and decide administrative appeals, special exceptions and variances from the strict application of the zoning code.

*Buffer Strip.* A parcel or tract of land, plant material or other landscaping that is used to separate one use from another to shield or block noise, light or other nuisances.

*Buildable Area.* The portion of lot remaining after required yards have been provided.

*Builder.* Any person, firm, association, syndicate, partnership, corporation, realtor or corporation who constructs model homes and other residential dwellings for sale to the public.

*Building.* Any structure having a roof supported by columns or walls.

*Building Height.* The vertical dimension measured from the finished grade at the building line to the highest point of the structure, including any and all decorative and safety structures, unless exempted under 1-5.1 of the Land Development.

*Building, Principal.* A building in which the principal use of the lot in which it is located is conducted.

*Business Office.* Facility consisting of desks, files, phone banks, telephone switchboards, typewriters, or other equipment usually associated with and utilized in a business office.

*Cemetery.* Property used for the interring of the dead.

*Child.* A person less than eighteen (18) years of age.

*Child Care.* The care, protection and supervision of a child on a regular basis which supplements for the child, in accordance with his individual needs, daily care, enrichment opportunities, and health supervision and where a payment, fee or grant is made for care.

*Child Care Facility.* Includes any child center or child care arrangement that provides child care for more than five (5) children unrelated to operator and which received a payment, fee or grant for any of the children receiving care, wherever operated, and whether or not operated for profit, except that the following are not included: Public schools and nonpublic schools which are in compliance with the compulsory school attendance law, Chapter 232, Florida Statutes; summer camps having children in full-time residence; summer day camps, and Bible schools normally conducted during vacation periods. The provisions of this act shall not apply to a child care facility which is an integral part of a church or parochial schools conducting regular classes or courses of study.

*Church or Other Places of Worship.* Any structure and/or site legally approved for and used upon a permanent basis by a recognized and established religious sect or denomination as a place where such persons regularly assemble primarily for public worship.

*Clinic.* Any structure or premises used as an establishment for medical, dental or surgical examination and/or treatment of persons classed as outpatients who are not lodged overnight and maintained and/or operated by any licensed person or organization of persons.

*Club, Private.* A property owned or leased and operated by a group of persons and maintained and operated solely by and for the members of such group and their guests and not available for unrestricted public access or use. Such a club may be either a profit making or a not-for-profit enterprise.

*Commercial Amusement.* Establishments engaged primarily in providing amusement or entertainment for a fee or admission charge.

*Commercial Amusement, Enclosed.* A commercial amusement establishment, the operations of which are conducted entirely within the confines of an enclosed building or structure, excluding necessary off-street parking facilities. This definition includes, but is not limited to, the following: bowling alleys, billiard and pool establishments, skating rinks, video arcades, amusement arcade centers, electronic gaming establishments and indoor theaters.

*Commercial Amusement, Temporary.* A commercial amusement which is established as a temporary use. This definition includes, but is not limited to, the following: circuses, carnivals, festivals, fairs and special exhibitions.

*Commercial Amusement, Unenclosed.* A commercial amusement which is conducted in an outdoor area or in an unenclosed structure. This definition includes, but is not limited to, the following: drive-in theaters, miniature golf courses, golf driving ranges, animal or vehicular race tracks, amusement parks and stadiums.

*Commercial Fishery.* A commercial establishment for the receiving, processing, packaging, storage, and wholesale or retail distribution and sale of products of the sea. Such an establishment may include facilities for the docking, loading, unloading, fueling, icing and provisioning of vessels and for the drying, maintenance and storage of equipment.

*Community Residential Home.* As defined in section 1-2.6.B.13.A.

*Comprehensive Plan.* The Town of Malabar Comprehensive Plan, as may hereinafter be amended and which was prepared and adopted pursuant to the "County and Municipal Planning and Land Development Regulation Act," Chapter 163, Part II, Florida Statutes.

*Conditional Use.* Any use which may be allowed by a Conditional Use Permit pursuant to Article VI, Conditional Use Criteria.

*Conditional Use Permit.* Any administrative permit issued pursuant to Article VI, Conditional Use Criteria.

*Condominium.* That form of ownership of condominium property under which units of improvements are subject to ownership by one or more owners, and there is appurtenant to each unit as part thereof an undivided share in the common elements. Condominium property means and includes the land in a condominium whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto intended for use in connection with the condominium.

*Contiguous.* Next to, abutting, or touching and having a boundary, or portion thereof, which is coterminous.

*Contractor.* Any person, firm, association, syndicate, partnership, realtor, or corporation engaged in the business of accepting orders or contracts, either as a general contractor or subcontractor, for construction of model homes and other residential dwellings for sale to the public.

*Courtyard.* An open, unobstructed, unoccupied space, other than a yard, on the same premises on which the building is located. A court entirely surrounded by the building is an inner court. A court bounded on three (3) sides by the building and on the fourth side by any lot line is a lot line court. A court with at least one side opened to a yard, alley or street is an outer court.

*Cultural Facilities.* Establishments where the principal use is of an historical, educational or cultural interest, which are not operated commercially.

*Developer.* A "developer" is any individual, firm, association, syndicate, co-partnership, corporation, trust or any other legal entity commencing proceedings under this ordinance to effect

the subdivision and/or development of land in the Town of Malabar and includes "subdivider," including model homes.

*Development.* The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, enlargement of any structure; any mining, excavation, landfill or land disturbance, or any extension of the use of the land.

*District.* Any section [or] area of the Town of Malabar to which these regulations apply, within which the zoning requirements are uniform.

*Dormitory.* A building intended or used principally for sleeping accommodations where such building is related to an education or public institution including religious institutions.

*Drive-in Establishment.* An establishment, which by design, physical facilities, service or by packaging procedures encourages or permits customers to receive services, obtain goods or be entertained while remaining in motor vehicle.

*Duplex.* See Dwelling, Two Family.

*Dwelling.* A structure or portion thereof which is used expressly for human habitation.

*Dwelling, Attached.* A one-family dwelling attached to two or more one family dwellings by common vertical walls.

*Dwelling, Detached.* A dwelling which is not attached to any other dwelling by any structural means.

*Dwelling, Multiple Family.* A residential building designed for or occupied by two or more families living independently of each other.

*Dwelling, Single Family.* A residential building containing only one (1) dwelling unit and occupied exclusively by one (1) family as a single housekeeping unit.

*Dwelling, Triplex.* A dwelling containing three (3) dwelling units, each of which has direct access to the outdoors or to a common hall.

*Dwelling, Two Family.* A residential building containing only two (2) dwelling units and not occupied by more than two (2) families.

*Dwelling Unit.* One room or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be the same structure, and containing independent cooking, sleeping, and toilet facilities.

*Dwelling Unit, Single-Family.* A detached residential dwelling unit other than a mobile home, designed for and occupied by one (1) family.

*Dwelling Unit, Two Family.* A detached residential building containing two (2) dwelling units, designed for occupancy by not more than two (2) families.

*Dwelling Unit, Mobile Home.* A detached residential dwelling unit designed for transportation after fabrication, on streets or highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling unit completed and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities and the like.

*Dwelling Unit, Multiple-Family.* A residential building designed for or occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

*Easement.* A grant by a property owner of the right of use of his land by another party for a specific purpose.

*Excavations.* Removal or recovery by any means whatsoever of soil, rock, minerals, mineral substances or organic substances other than vegetation, from water or land on or beneath the surface thereof, or beneath the land surface, whether exposed or submerged.

*Extended Care Facility.* A long term care facility or a distinct part of a facility licensed or approved as a nursing home, infirmary unit of a home for the aged or a governmental medical institution.

*Family.* A single individual, doing his own cooking, and living upon the premises as a separate housekeeping unit, or a collective body of persons doing their own cooking and living together upon the premises as a separate housekeeping unit in a domestic relationship based upon economic or domestic bond, as distinguished from a group occupying a boarding house, lodging house, club, fraternity or hotel.

*Fast Food Restaurant.* An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant structure or off premises.

*Fence (or Wall).* A freestanding structure of any material or combination of materials erected for confinement, screening or partition purposes.

*Flag Lot.* A lot not fronting on or abutting a public road and where access to the public road is by a narrow, private right-of-way.

*Floodplain.* An area likely to flood based on the officially adopted Flood Issuance [Insurance] Rate Map (FIRM).

*Floodplain, Tidal.* An area likely to flood or become inundated from water which is subject to tidal action.

*Floor Area.* The sum of the gross horizontal areas of the several floors of a building or buildings measured from exterior faces of exterior walls or from the center line of walls separating two (2) attached buildings. The required minimum floor area within each district shall not apply to accessory uses; however, the floor area of accessory uses may be computed as a part of the area of the principal use.

*Foster Housing Facility.* Substitutes for family units where one or two resident adults care for no more than five (5) persons in an environment which approximates family living.

*Frontage.* All the property abutting measured along the street line.

*Funeral Home.* A premises, structure or site used as a commercial establishment for the preparation of deceased humans for burial and/or for the conduction of funeral services prior to burial or other disposition of deceased human remains. Such a premises, structure or site shall not be used for the burial, prolonged storage or permanent disposition of deceased human remains.

*Garage, Mechanical.* Any enclosed structure used for the storage, care, minor repair, or equipping for operation of motor vehicles, or where automotive mechanical service is provided, excluding paint and body repair.

*Garage, Private.* A detached accessory building or portion of a main building used for the parking or storage of automobiles of the occupants of the main building. A carport is considered a private garage. No garage may be erected prior to construction of a dwelling, or the garage may be built simultaneously with the residence.

*Gasoline Service Station.* Any structure, building, or land, used for the dispensing, sale, or offering for sale, at retail, of any motor vehicle fuels, oils or accessories and in connection with which is performed general motor vehicle servicing as distinguished from repair service.

*Governmental Facility.* Any office, facility, building or property owned, leased, or used by the Federal Government, the State of Florida, or any unit of local government, except such uses as are specifically listed elsewhere in this ordinance as specific uses, and except housing projects sponsored by government agencies.

*Green Area.* See "Open Space."

*Greenhouses.* A building wherein the temperature and humidity can be regulated for the cultivation of exotic or out of season plants.

*Hobby.* A subject or pursuit in which one takes absorbing interest.

*Home Occupation.* Any money-raising occupation or activity carried on within a residential property, where the activity is conducted only by members of the family living within the residence, where products are not offered for sale from the premises, where no evidence of the occupation is visible or audible from the exterior of the residential property, where traffic is not generated in excess of that customary of a residence, and where no commercial vehicles are kept on the premises or parked overnight on the premises unless otherwise permitted by these regulations. The occupation must be clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change residential character thereof.

*Hospital.* A building or group of buildings, having facilities for one or more overnight patients, used for providing services for the in-patient medical or surgical care of sick or injured humans, and which may include related facilities such as laboratories, out-patient departments, training facilities, and staff offices; provided, however, it is coordinate to the main use and must be an integral part of the hospital operations.

*Hospital and other Licensed Facilities.* As defined in section 1-2.6.B.10.A.

*Hotels and Motels.* Every building or other structure kept, used, maintained, advertised as or held out to the public to be a place where sleeping accommodations are supplied for pay to transient or permanent guests or tenants, in which rooms are furnished for the accommodation of such guests and which may have one or more dining rooms or cafes where meals or lunches are served to such transient or permanent guests, such sleeping accommodations and dining rooms or cafes being conducted in the same building or buildings in connection therewith.

*Houseboat.* A watercraft used as a dwelling and moored in the same general area at least eight (8) hours a day for ten (10) days in any month.

*Junk.* Old and dilapidated modes of conveyance such as automobiles, trucks, tractors, watercraft, and other such vehicles and parts thereof; wagons and other kinds of vehicles and parts thereof; household appliances, scrap building material, scrap contractors' equipment, tanks, casks, cans, barrels, boxes, drums, piping, bottles, glass, old iron machinery, rags, paper, excelsior, hair, mattresses, beds, and bedding or any other kind of scrap or waste material which is stored, kept, handled or displayed.

*Junk Vehicle.* A vehicle which has not had a current license plate or cannot be moved under its own power.

*Junk Yard.* A place where waste, discarded or salvaged materials are bought, sold, exchanged, stored, based, cleaned, packed, disassembled or handled, including auto wrecking yards, house wrecking yards, used lumber yards, and places or yards for use of salvaged house wrecking and structural steel materials and equipment, but excluding pawn shops and

however that width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than eighty (80) percent of the required lot width except in case of a lot on the turning circle of a cul-de-sac, where the eighty-percent requirement shall not apply. Front lot lines on a cul-de-sac shall be no less than forty (40) feet.

*Lot of Record.* A lot which is a part of a subdivision, the map of which has been recorded in the Office of the Clerk of the Circuit Court of Indian River County or a lot described by metes and bounds, the description of which has been thus recorded.

*Malabar Vernacular Style.* An architectural style representing Florida's historical influences upon the development of the Town of Malabar. This eclectic style includes elements such as elevated first floors, covered porches, verandas and overhangs that create a relationship to the street at human scale. This may include Cracker, Mediterranean, Caribbean, as well as, other documented local common archetype styles dating back to the turn of the 19<sup>th</sup> century. The design standards provided in Section 1-5.29 of the Land Development Code of the Town shall apply to any structure required to be built in the Malabar Vernacular style.

*Manufactured Building.* A closed structure, building assembly, or system of subassemblies, which may include structural, electrical, plumbing, heating, ventilating or other service systems manufactured in manufacturing facilities, for installation or erection, with or without other specified components, as a finished building or as part of a finished building which shall include but not be limited to residential, commercial, institutional, storage and industrial structure (F.S. 553.36). The building plans for such structures must be sealed by the Florida Department of Community Affairs.

*Marina.* A place for the sale and service of boats and marine supplies, exclusive of boat or ship building.

*Maximum building coverage.* The total building coverage on any lot divided by the total lot area.

*Mining.* The removal, either in or upon the soil of the earth or beneath the soil, of any valuable inert or lifeless substance formed or deposited in its present position through natural agencies alone, as a commercial business.

*Mini-Warehouse/Mini-Storage.* A mini-warehouse/mini-storage is defined as a fully enclosed, single story, building or buildings that may contain removable interior partitions and having individual compartmentalized units, stalls or lockers with privately controlled access points which are to be rented as storage space for customers' goods, wares, or personal property. No individual storage unit shall exceed five hundred (500) square feet in floor space. No unit shall be used for any wholesale or retail operations; however, it shall not preclude use as a depot for such purposes as franchised distribution.

An office for the rental of the storage spaces may be included, provided it does not exceed three hundred (300) square feet, excluding any bathroom facilities.

*Mobile Home Park.* A tract of land in one ownership, which provides rental spaces for mobile homes.

*Mobile Home Park, Transient.* A facility which provides short term parking areas for travel trailers, travel campers and mobile homes, along with the provision of utilities, recreation and related services.

*Mobile Home Site.* A lot or space or plot of ground within a mobile home park or trailer park, designated for the accommodation of not more than one mobile home or trailer coach.

*Mobile Home Subdivision.* A recorded subdivision of land officially recorded which provides individual sites, for sale, for mobile homes.

*Model Home.* A finished, single-family residential unit, including units in a multifamily structure and mobile homes for which a certificate of occupancy could be obtained, located in a residentially zoned district but utilized as an example of a product offered for sale to purchasers (by a realtor, builder, developer or contractor). The dwelling house may be furnished but not occupied as a residence while being used as "Model Home."

*Motel.* See Hotel.

**Motor Vehicle. As defined by Title XXIII Florida Statutes, specifically Chapter 320.01(1) (a) and (b).**

*Noncomplying Building or Structure.* Any building or other structure which is a lawful use (permitted or nonconforming) but which does not comply with all applicable provisions of this Code, including bulk regulations, off-street parking requirements, landscape requirements, performance standards, or airport height hazard zone requirements, either on the effective date of this Ordinance or as a result of any subsequent amendment.

*Nonconforming Use.* A use of a building or structure or of a tract of land which, at the time of the commencement of the use, was a permitted use in the zoning district, or any legal change thereto from the time of the commencement thereof until the effective date of this Ordinance, but which does not, on the effective date of this Ordinance, conform to the use criteria of the district in which it is located.

*Open Space (Green Area).* Open space includes the gross area of the site less building coverage, parking surface and internal traffic circulation system.

**Parking.**

**Off-Site Parking. Parking is not on the same location or property as the Business's Building.**

**Off-Street Parking. Parking is not on any Roadway or any Right of Way or within any "Right of Way Line".**

**On-Site Contiguous Parking. Parking is in the same location and on the same property as the Business's Building and has the same owner(s).**

**On-Street Parking. Parking is abutting a Roadway, which is any public path used by vehicle as a way of getting somewhere. ie; Lane, road, Street, Trail, etc.**

*Parking Lot.* An area or plot of ground, used for the storage or parking of motor vehicles either for compensation or to provide an accessory service to a business, industrial or residential use.

*Parking Space, Off-Street* shall mean a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three (3) or more automobiles shall have individual spaces marked and shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, walkway or alley, and so that any automobile may be parked and unparked without moving another.

For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated at three hundred (300) square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements



above are provided and maintained, improved in a manner appropriate to the circumstances of the case, and in accordance with all ordinances and regulations of the Town.

*Permeable Surface.* Any surface permitting full or partial absorption of stormwater into previously unimproved land.

*Premises.* Any land together with any structures occupying it.

*Principal Structure.* A building in which is conducted the principal use of the lot on which it is situated. An attached carport, shed, garage, or any other structure with one (1) or more walls, or a part of one (1) wall being a part of the principal building and structurally dependent, totally or in part, on the principal building, shall comprise a part of the principal building and be subject to all regulations applied to the principal building. A detached and structurally independent carport, garage or other structure shall conform to the requirements of an accessory building. A structure conforming as an accessory building may be attached to the principal building by an open breezeway.

*Public Water and Sewer Service.* This shall mean water and sewer systems, including pipes, rights-of-way and treatment plants, owned and operated by the Town or operated under a franchise granted by the Town.

*Recreational and Landscaped Open Space.* Unroofed or screen roofed ornamental landscaped areas and recreational areas which are easily accessible and regularly available to occupants of all dwelling units on the lot wherein the open space is located. **Not calculated as open spaces are** rooftops, porches, raised decks, parking spaces, driveways, utility and service areas **are not calculated as open space.**

*Right-of-Way Line.* The boundary line between highway, road, or street and a tract or parcel of land adjoining such highway, road, or street. The right-of-way line shall be considered the property line.

*Setback.* The minimum horizontal distance between the street, rear or side line of the lot and the front, rear or side lines of the building, including porches, carports, and accessory uses.

*Shopping Center.* A group of commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on-site, provisions for goods delivery separated from customer access, aesthetic considerations and protection from the elements.

*Shoreline.* The mean high water line for tidal water bodies and ordinary high water line for non-tidal waters for inland water bodies.

*Special Exceptions.* A special exception is a use that would not be appropriate generally or without restriction throughout a particular zoning district but would, if controlled as to number, area, location or relation to the neighborhood, be appropriate.

*Story.* That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there be no floor above it, then the space between such floor and ceiling next above. If any portion of a roof area is intended for human occupancy, except for maintenance purposes, then such roof area shall also be considered a story, notwithstanding that no floor or ceiling is located above it.

*Street.* A thoroughfare which affords principal means of access to abutting property. Street classifications include the following:

*Arterial.* Arterial streets serve as principal routes through the Town. The purpose of these facilities is to move large volumes of traffic from one part of the region or county to another. Arterial roads also provide connections between major activity centers of the County or Town.

*Major Collector Streets.* Major collector streets collect and distribute traffic from residential access streets to arterial streets or other collector streets.

*Minor Collector Streets.* Minor collector streets collect traffic from local streets and feed traffic to major collectors and arterials.

*Residential Access Streets (Local Streets).* Streets which directly serve abutting properties and residences. These streets should be relatively safe and quiet and should be completely free of any through traffic.

*Street Line.* See Right-of-Way Line.

*Structure.* Anything constructed or erected with a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, signs and poster panels, driveways, pools, and ponds.

*Structural Alteration.* Any change in either the supporting members of a building, such as bearing walls, columns, beams, and girders, or in the dimensions or configurations of the roof or exterior walls.

*Subdivision.* The division and recording in accordance with law of a parcel of land into two or more lots or blocks for the purpose of transfer of ownership or development for development, sale or lease.

*Swimming Pool.* A water-filled enclosure, permanently constructed or portable, having a depth of more than eighteen (18) inches below the level of the surrounding land, or an above-surface ground pool, having a depth of more than thirty (30) inches, designed, used and maintained for swimming and bathing.

*Townhouse.* A one-family dwelling in a group of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common fire resistant walls.

*Variance.* A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, size of structure, or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

*Warehouse.* A warehouse shall mean any premises where the principal use is the storage of merchandise, products, or materials in bulk, for a fee or charge or for distribution to other establishments operated by the same business enterprise or establishment. A warehouse may include accessory wholesales, but shall not be deemed to include retail sales establishments, motor freight terminals, mini-warehouses or the bulk storage of flammable, explosive, toxic, or noxious materials as a principal use. No commercial vehicles (semi-trailers) shall be parked on the site overnight. No manufacturing, processing or craftsman of any kind shall be permitted.

*Yard.* An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the structure shall be used.

*Yard, Front.* A yard extending across the front of a lot between the side yard lines, and being the minimum horizontal distance between the street line and the structure of any projections thereof, other than the projections of uncovered steps. On corner lots and through lots all yards which abut the street are considered front yards.

*Yard, Rear.* A yard extending across the rear of the lot between the inner side yard lines. In the case of through lots and corner lots, there will be no rear yards, but only front and side yards.

*Yard, Side.* A yard between any structure and the side line of the lot, and extending from the front lot line to the rear yard and being the minimum horizontal distance between a side lot line and the side of any structure. A yard which is not a front or rear yard.

**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 this 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 be further assumed that the Town Council would have enacted the remainder of this ordinance without said invalid and unconstitutional provision, thereby causing said remainder to remain in full force and effect.

**Section 4.** Repeal. All other ordinances or resolutions to the extent that conflict with this ordinance are hereby expressly repealed.

**Section 5.** Codification. The provisions of this ordinance shall become part of the code of ordinances of the Town of Malabar.

**Section 6.** This Ordinance shall become effective immediately upon its adoption.

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

Council Member Grant Ball	_____
Council Member Brian Vail	_____
Council Member Don Krieger	_____
Council Member Dick Korn	_____
Council Member Marisa Acquaviva	_____

**PASSED AND ADOPTED** by the Town Council, Town of Malabar, Brevard County, Florida this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

BY:

**TOWN OF MALABAR**

\_\_\_\_\_  
Mayor Carl A. Beatty  
Council Chair

First Reading:

Second Reading:

ATTEST:

By \_\_\_\_\_

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

(Seal)

Approved as to form and content:

\_\_\_\_\_

Karl W. Bohne, Jr., Town Attorney

**2. Recommendation from Planning & Zoning Board – Offsite Parking**

**Exhibit:** Agenda Report No. 2

**Recommendation:** Request is Open

Pat Reilly, P&Z Chair, presented for the board: Spent 3 or 4 months working on this ordinance. To update Art 9 and 20. He walked through the changes.

CM Vail said basically it is housekeeping. Mostly offsite parking – wanted it to be contiguous. CM Krieger asked about the non-porous vs. non pervious. CM Krieger said most are non-porous and should add that proviso. CM Krieger said he just got a chance to look at it. CM Ball agreed they should add that language “such as – but not limited to”.

Jeff McKnight, 2005 Flashy Lane. His concern is replacement of Building Official to staff? If BO retires. Are there unintended consequences.

**MOTION:** CM Krieger / CM Korn to send back to P&Z. **VOTE:** All Ayes.

**I. PRESENTATIONS:**

**3. Presentation of FY 2013/2014 Financial Audit – Ray Bastim of Averett Warmus Durkee, Outside Auditors**

Ray Bastim, senior Manager that worked on the budget. He went through the Table of Contents and explained the purpose of the Independent Auditors report. The financial statement is produced from data provided by Town. The statements themselves are responsibility of town. They are an outside auditor firm. They follow GASB (Governmental Accounting Standards Board) procedures; Auditor's Opinion based in all material respects the financial dept for YE 9/30/14. They are giving an opinion that they are an accurate representation. They tested the internal controls. They test for compliance to procedures.

Management report; Assets more than liabilities.

FY net position decreased 4% but net position is still good. Feb 3 2014, Council approved moving the SW fund into the GF so that will drop off next year. Pg 6, Govt activities. Income vs. expenses was more than last year. Net position went up 4.2% from last year. Pg 8 long term obligations. All related to compensated absences. Pg 14 gets into the notes. These are the footnotes that support the balance statement. Pg 16 shows the investments all in Fund A. The SBA is similar to MM, requiring them to invest more conservatively. Pg 17 and 18 the depreciation methods. Range between 5 and 20 years. Pg 20 goes into individual entries. Town is required to report these. There wasn't anything to report as of Mar 3, 2015. Required supplementary information. Original budget and budget adjustments and they were right on. It was to the good of 95K. T.I.F.T. (Transportation Impact Fee) money explained Pg 27, related to SW and it will go away. Pg 26, CM Ball asked about the 127K; Franklin explained how we provided projects to County in order to get the TIFT money released. That is how much we have received and not yet spent on approved projects (flashing light at Fire Dept, turn lane on Corey Road, etc.) Other financial sources are the transfer in from the restricted SW funds carried forward. Pg 28, compliance section, compliance to ordinances, grants and bids. Pg 31, mgnt letter is required by the Auditor General. They want to see the bulleted, prior audit findings – there were none. There were none this year. No financial emergencies. TA asked about the 45K increase is the 4 FF salaries and benefits. At the time of the Budget workshops, she adds 14% for an estimate in the benefit increase. When actual renewals are done in October that amount is usually lower. CM Ball asked about benefit increases; are they linear or do they go up annually? Linear. Mr. Bastim left at 8:50PM. Break until 9PM.

**J. ACTION ITEMS:**

**MISCELLANEOUS:**

# TOWN OF MALABAR

## MEMORANDUM

**Date:** April 24, 2015 15-AABO-011

**To:** Debby Franklin, Town Clerk/Treasurer  
Town Council

**From:** Denine M. Sherear, Administrative Assistant to the Building official DS

**Ref:** Recommendation from P&Z to Council to Clarify Off-Street Parking & Internal Traffic Circulation Parking (Article IX) & Definitions (Article XX)

A directive was sent from Council from RTCM on 3/16/15 to the PZ Board to review Off-Street Parking and make clarifications. The PZ Board reviewed this at their April 22, 2015 Meeting and has sent back to Council for review,

### ***Draft Portion of PZ 4/22/15***

- 2. Direction from Council to Review the Offsite Parking and Clarify Exhibit:** Agenda Report No. 2  
**Recommendation:** Discussion

Reilly explained about CM Krieger questioning the "non-porous vs non-pervious". Ritter said that the "porous" would be correct, "pervious" in the dictionary has to do with pervious membranes so the "porous" would be more towards the road way base, where "pervious" would be through an instrument membrane.

The Board discussed under Art IX Off-Street Parking Sec 1-9.5(E) 1 & 2 to keep the word "porous" and add the following enlarged words into #2

- 2. Porous Surfaces. Part-time or temporary use such as, but not limited to, Church, Park, Fair, and Festival parking. All parking areas must be up to specifications of the Town Engineer, Town Planner, and/or Building Official as to composition, compaction, and drainage/grade.**

Reilly asked if anything else needed to be changed. Ritter said in Art XX Definitions & Language definition for: "*Recreational and Landscaped Open Space*" there is a "." period on the last line after ...service areas.

*Recreational and Landscaped Open Space.* Unroofed or screen roofed ornamental landscaped areas and recreational areas which are easily accessible and regularly available to occupants of all dwelling units on the lot wherein the open space is located. **Not calculated as open spaces are** Rooftops, porches, raised decks, parking spaces, driveways, utility and service areas. ~~are not calculated as open space.~~

Reilly said since this was an "Action Item", all in favor of changes made, **All Vote: All Ayes by PZ Board** to send back Recommendation to Council.

### ATTACHMENTS:

- Portion Article IX Off-Street Parking & Internal Traffic Circulation Parking
- Portion of Article XX Definitions

# TOWN OF MALABAR

## AGENDA ITEM REPORT

AGENDA ITEM NO: 9  
Meeting Date: June 15, 2015

Prepared By: Debby Franklin, Town Clerk/Treasurer

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**SUBJECT:** Approve 1<sup>st</sup> Reading of Ord 2014-05 updating Building Codes  
(housekeeping)

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**BACKGROUND/HISTORY:**

The Building Official advised on Friday 6/12/15 that he just learned that the new Codes he is required to use go into effect on July 1, 2015. He had thought he had until October 1, 2015.

These are the Building Codes every Building Department must adopt after the updates are approved by the International Code Council via Florida Statute 553. These will replace the 2010 Codes adopted in 2012.

The Public Hearing will be July 6, 2015 if approved for 1<sup>st</sup> reading.

**FINANCIAL IMPACT:**

NONE

**ATTACHMENTS:**

Ordinance 2015-05

**ACTION OPTIONS:**

Staff requests approval of Ordinance for 1<sup>st</sup> reading.

**ORDINANCE NO. 2015-05**

**AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, RELATING TO BUILDING CODES; AMENDING CHAPTER 6, SECTION 6-1 OF THE CODE OF ORDINANCES OF THE TOWN; PROVIDING FOR ADOPTION OF CERTAIN MODEL BUILDING AND CONSTRUCTION CODES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, it is the desire of the Town Council to adopt in all respects the various building and construction codes identified herein to provide for the health, safety and general welfare of the public; and

**WHEREAS**, the adoption of these codes is to facilitate proper inspection activities relating to construction and maintenance of buildings within the town; and

**WHEREAS**, the existing codes and ordinances governing such activities are outdated; and

**WHEREAS**, such regulation and administration are 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.** Sections 6-1 of Chapter 6 of the Malabar Code of Ordinances is hereby amended in full to read as follows:

**“Section 6-1. Codes and amendments adopted**

As of July 1, 2015, the Florida Building Code supersedes all local building codes which are developed and maintained by the Florida Building Commission. It is updated every three years and may be amended annually to incorporate interpretative and clarifications. The Code is composed of seven main volumes:

- (1) The 2014 Florida Building Code, Building, which includes
  - A) Chapter 13 Energy Conservation
  - B) Chapter 11 Accessibility
- (2) The 2014 Florida Building Code, Residential
- (3) 2014 Florida Existing Building Code
- (4) 2014 Florida Building Code, Plumbing
- (5) 2014 Florida Building Code, Mechanical
- (6) 2014 Florida Building Code, Fuel Gas
- (7) 2014 Test Protocols for High Velocity Hurricane Zones

All codes that are specifically referenced by any of the above are hereby adopted by reference. These would include, but are not limited to:

- (1) The Florida Fire Prevention Code, 2015 Edition, Chapter 9
- (2) The National Electric Code (2014 Edition) N.F.P.A. 70
- (3) National Electric Code for 1 and 2 Family Residences, N.F.P.A. 70A

The following Codes are also adopted:

- (1) The Standard Amusement Device Code, 1985 Edition
- (2) International Property Maintenance Code, 2006 edition as published by the International Code Council
- (3) Standard Unsafe Building Code, 1985 Edition



**SECTION 2. Codification.**

It is the intention of the Town Council of the Town of Malabar, Brevard County, that the provisions of Section 1 of this Ordinance become part of the Code of Ordinances 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 Code of Ordinances.

**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 this 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. Conflicts.**

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

Council Member Grant Ball	_____
Council Member Brian Vail	_____
Council Member Don Krieger	_____
Council Member Dick Korn	_____
Council Member Marisa Acquaviva	_____

**PASSED AND ADOPTED** by the Town Council, Town of Malabar, Brevard County, Florida this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

BY:  
**TOWN OF MALABAR**

\_\_\_\_\_  
Mayor Carl A. Beatty  
Council Chair

First Reading: 6/15/15  
Second Reading:

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

(Seal)

Approved as to form and content:

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