



# Planning and Zoning Board Meeting

Wednesday, January 10, 2024 at 6:00 pm

1. CALL TO ORDER, PRAYER AND PLEDGE
2. ROLL CALL
3. APPROVAL OF AGENDA
4. CONSENT AGENDA

#### APPROVAL OF MINUTES

- a. **Approval of Minutes of 1/11/2023**  
Exhibit: Agenda Report Number 4.a

#### Attachments:

- **Agenda Report Number 4.a.** (Agenda\_Report\_Number\_4.a.pdf)

- b. **Approval of Minutes of 04/26/2023**  
Exhibit: Agenda Report Number 4.b.

#### Attachments:

- **Agenda Report Number 4.b.** (Agenda\_Report\_Number\_4.b.pdf)

- c. **Approval of Minutes of 05/10/2023**  
Exhibit: Agenda Report Number 4.c.

#### Attachments:

- **Exhibit: Agenda Report Number 4.c.** (Agenda\_Report\_Number\_4.c.pdf)

- d. **Approval of Minutes of 07/26/2023**  
Exhibit: Agenda Report Number 4.d.

#### Attachments:

- **Agenda Report Number 4.d.** (Agenda\_Report\_Number\_4.d.pdf)

- e. **Approval of Minutes of 10/25/2023**  
Exhibit: Agenda Report Number 4.e.

#### Attachments:

- **Agenda Report Number 4.e.** (Agenda\_Report\_Number\_4.e.pdf)

**f. Approval of Minutes of 11/08/2023**

Exhibit: Agenda Report Number 4.f.

**Attachments:**

- **Agenda Report Number 4.f.** (Agenda\_Report\_Number\_4.f.pdf)

**5. PUBLIC COMMENTS**

**6. ACTION ITEMS: 1**

**a. Consideration of Shipping Containers - Storage and Dwellings**

Presented by Town Manager Morrell

Exhibit: Agenda Report Number 6.a.

**Attachments:**

- **Agenda Report Number 6.a.** (Agenda\_Report\_Number\_6.a.pdf)

**7. PUBLIC HEARING**

**8. DISCUSSION/POSSIBLE ACTION ITEMS**

**9. ADDITIONAL ITEMS FOR FUTURE MEETING**

**10. PUBLIC COMMENTS**

**11. OLD BUSINESS/NEW BUSINESS**

**a. Old Business**

**b. New Business**

Board Member Comments

Next regular Meeting - February 14th, 2024.

**12. ADJOURNMENT**

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Contact: Denine Sherear (dsherear@townofmalabar.org 1321727764) | Agenda published on 01/05/2024 at 3:11 PM

**TOWN OF MALABAR**  
**PLANNING AND ZONING**

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 4.a**

**Meeting Date: January 10, 2024**

**Prepared By: Denine M. Sherear, Planning and Zoning Board Secretary**

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**SUBJECT: Approval of Minutes of 1/11/2023**

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**BACKGROUND/HISTORY:**

The minutes must reflect the actions taken by the Board:

- Who made the motion
- What is the motion
- Who seconded the motion
- What was the vote

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**ATTACHMENTS:**

Draft minutes of P&Z Board Meeting of:

**1/11/2023**

**4/26/2023**

**5/10/2023**

**7/26/2023**

**10/25/2023**

**11/08/2023**

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**ACTION OPTIONS:**

Secretary requests approval of the following six (6) sets of minutes.

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING  
JANUARY 11, 2023, 6:00 PM**

This meeting of the Malabar Planning and Zoning was held at Town Hall at 2725 Malabar Road.

**1. CALL TO ORDER, PRAYER, AND PLEDGE:**

Meeting called to order at 6:00 P.M. Prayer (by Liz Ritter) and Pledge led by Chair Wayne Abare.

**2. ROLL CALL:**

CHAIR:	WAYNE ABARE
VICE-CHAIR:	DOUG DIAL
BOARD MEMBERS:	LIZ RITTER
	DAVE TAYLOR
	SUSAN SHORTMAN
ALTERNATE:	MEGHAN WOLFGRAM
ALTERNATE:	VACANT
BOARD SECRETARY:	DENINE SHEREAR
ADDITIONAL ATTENDEES:	PATRICK T. RIELLY, MAYOR

**3. SWEAR IN NEW BOARD MEMBERS:**

**4. APPOINT CHAIR & VICE CHAIR POSITIONS:**

**5. ADDITIONS/DELETIONS/CHANGE:**

**6. CONSENT AGENDA:1**

**6.a. Approval of Minutes** Planning and Zoning Meeting – 12/14/022

**Exhibit:** Agenda Report No. 6.a  
**Recommendation:** Request Approval

**Motion: Dial/Shortman to Approve Minutes of 12/14/2022 as corrected**

**Voted: All Ayes**

Shortman, Dial, and Ritter.

**7. PUBLIC COMMENTS**

**8. PUBLIC HEARING:0**

**9. ACTION ITEMS:1**

**9.a. Last review Amending the Land Development Code to allow “Limited” Manufacturing in the R/LC, CL, and CG Commercial Land Use and Commercial Zoning Districts.** (Originally Presented by Mayor Patrick T. Reilly on September 14, 2022)

**Exhibit:** Agenda Report No. 9.a.  
**Recommendation:** Request/Action to Council

Abare explained to the Board the progress of this Land Use Amendment, the document will go from here to staff/Town attorney and reviewed before it moves on to Council.

Mayor Pat Reilly 1945 Howell Lane, clarifications for

- #9 page 44 “Prior to” cited within Section 1-2.6 and Section 1-2.7.

- Other in #9 & #10 “may be” in place of which are. (in both paragraphs)
- Council wants something about hazardous materials.

Wolfgram/Ritter suggested not using large excess quantities only a day-to-day activity of hazardous materials.

Consensus of the Board to send to Staff for review as suggested by Mayor Reilly. Abare said that the Board will review one last time.

Ritter went over changes for this meeting and discussed.

Shortman asked about #10 services and capitalization on number 10.

- 10. DISCUSSION:**
- 11. ADDITIONAL ITEMS FOR FUTURE MEETING**
- 12. PUBLIC COMMENTS**
- 13. OLD BUSINESS/NEW BUSINESS:**

Old Business:

New Business:

Board Member Comments

The board discussed list of permits applied for the last 3 months.

Abare explained the Sunshine Laws to new Members. New Board Members received booklet on the Sunshine Laws.

- **Reminder:** Next Meeting –January 25, 2023

**14. ADJOURN**

There being no further business to discuss, MOTION: Shortman / Dial to adjourn this meeting.

Vote: All Ayes. The meeting adjourned 6: 45 P.M.

BY:

\_\_\_\_\_  
Doug Dial Chair

\_\_\_\_\_  
Denine Sherear, Board Secretary

\_\_\_\_\_  
Date Approved: as presented

**TOWN OF MALABAR**  
**PLANNING AND ZONING**

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 4.b**

**Meeting Date: January 10, 2024**

**Prepared By: Denine M. Sherear, Planning and Zoning Board Secretary**

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**SUBJECT: Approval of Minutes of 04/26/2023**

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**BACKGROUND/HISTORY:**

The minutes must reflect the actions taken by the Board:

- Who made the motion
- What is the motion
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- What was the vote

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**ATTACHMENTS:**

Draft minutes of P&Z Board Meeting of:

**1/11/2023**

**4/26/2023**

**5/10/2023**

**7/26/2023**

**10/25/2023**

**11/08/2023**

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**ACTION OPTIONS:**

Secretary requests approval of the following six (6) sets of minutes.

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING  
APRIL 26, 2023, 6:00 PM**

This meeting of the Malabar Planning and Zoning was held at Town Hall at 2725 Malabar Road.

**1. CALL TO ORDER, PRAYER, AND PLEDGE:**

Meeting called to order at 6:00 P.M. Prayer and Pledge led by Chair Wayne Abare.

**2. ROLL CALL:**

CHAIR:	WAYNE ABARE
VICE-CHAIR:	DOUG DIAL
BOARD MEMBERS:	LIZ RITTER
	DAVE TAYLOR
	SUSAN SHORTMAN, EXCUSED
ALTERNATE:	MEGHAN WOLFGRAM
ALTERNATE:	VACANT
BOARD SECRETARY:	DENINE SHEREAR
ADDITIONAL ATTENDEES:	PATRICK T. RIELLY, MAYOR

**4. CONSENT AGENDA:1**

**4.a. Approval of Minutes** Planning and Zoning Meeting – 03/22/2023 (NOT READY)

**Exhibit:** Agenda Report No. 4.a.  
**Recommendation:** Request Approval

**5. PUBLIC COMMENTS**

**6. PUBLIC HEARING:0**

**7. DISCUSSION ITEMS:1**

**7.a.** Review additions/changes to Amend the Land Development Code Article VI “Conditional Use and Special Exception Use Criteria” to define and suggest clarification on Conditional Use and Land Development.  
Presented by: Mayor Patrick T. Reilly (Originally presented on 3/22/2023)

**Exhibit:** Agenda Report No. 7.a.  
**Recommendation** Discussion/Action to Council

Abare explained to the board the proposed suggestions submitted with this Agenda Packet.

Mayor Patrick Reilly 1985 Howell Lane, Malabar Fl 32950 reviewed & explained to the Board the changes recommended:

- For the Land Development Code concerning the Conditional Use and Special Exception Use Criteria.

The Board agreed with this suggestion brought forward.

Mayor Reilly compared two (2) tables 1.6.1(B) & Table1-3.2 Conditional Use

Add:

- “Funeral Homes “was added and left sections blank for Lisa Morrell to fill in the blanks in the (6:55 minutes) Table and delete “Trades.”
- “Mini Warehouses/Storage”

- Leave the blanks up to Lisa to see what the code & Added "Limited Manufacturing."

Ritter discussed the Tables and put headings on each page.

Abare proceeded around to each Board Member for general comments concerning "Action" Item.

**Motion: Dial/Ritter to Recommend Council review additions/changes to allow Amending the Land Development Code Article VI "Conditional Use and Special Exception Use Criteria" to define and suggest clarification on Conditional Use and Land Development as noted.**

**All Vote: roll Call Vote Taylor: Aye; Dial: Aye; Abare: Aye; Ritter: Aye**

**Motion passed 4 to 0.**

Ritter asked for a copy of final document.

- 8 ACTION ITEMS:0
- 9. ADDITIONAL ITEMS FOR FUTURE MEETING
- 10. PUBLIC COMMENTS

Abare asked if anyone has public comments. (none)

**11. OLD BUSINESS/NEW BUSINESS:**

Old Business:

New Business:

Mayor said that the gates are presently opened for the EELs, trails.

The Board discussed future meetings and things to promote on the Board.

- **Reminder:** Next Meeting – May 10, 2023

**12. ADJOURN**

There being no further business to discuss, MOTION: Dial / Ritter to adjourn this meeting. Vote: All Ayes. The meeting adjourned 7:10 P.M.

BY:

\_\_\_\_\_  
Doug Dial Chair

\_\_\_\_\_  
Denine Sherear, Board Secretary

\_\_\_\_\_  
Date Approved: as presented.



**TOWN OF MALABAR**  
**PLANNING AND ZONING**

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 4.C**

**Meeting Date: January 10, 2024**

**Prepared By: Denine M. Sherear, Planning and Zoning Board Secretary**

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**SUBJECT: Approval of Minutes of 05/10/2023**

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**BACKGROUND/HISTORY:**

The minutes must reflect the actions taken by the Board:

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- Who seconded the motion
- What was the vote

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**ATTACHMENTS:**

Draft minutes of P&Z Board Meeting of:

**1/11/2023**

**4/26/2023**

**5/10/2023**

**7/26/2023**

**10/25/2023**

**11/08/2023**

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**ACTION OPTIONS:**

Secretary requests approval of the following six (6) sets of minutes.

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING  
MAY 10, 2023, 6:00 PM**

This meeting of the Malabar Planning and Zoning was held at Town Hall at 2725 Malabar Road.

**1. CALL TO ORDER, PRAYER, AND PLEDGE:**

Meeting called to order at 6:00 P.M. Prayer and Pledge led by Chair Wayne Abare.

**2. ROLL CALL:**

CHAIR:	WAYNE ABARE
VICE-CHAIR:	DOUG DIAL
BOARD MEMBERS:	LIZ RITTER
	DAVE TAYLOR
	SUSAN SHORTMAN, EXCUSED
ALTERNATE:	MEGHAN WOLFGRAM (late 6:22PM)
ALTERNATE:	VACANT
BOARD SECRETARY:	DENINE SHEREAR

ADDITIONAL ATTENDEES: PATRICK T. RIELLY, MAYOR

**4. CONSENT AGENDA:1**

**4.a. Approval of Minutes** Planning and Zoning Meeting – 03/22/2023

**Exhibit:** Agenda Report No. 6.a  
**Recommendation:** Request Approval

The board discussed and corrected minutes, the minutes were revised. Amended, and approved.

**Motion: Dial/Ritter to Approve Minutes of 3/22/2023 as amended.**

**Voted: All Ayes 4:0**

**5. PUBLIC COMMENTS**

**6. PUBLIC HEARING:0**

**7. DISCUSSION ITEMS:1**

**7.a.** Review additions/changes to Amend the Land Development Code Article VI “Conditional Use and Special Exception Use Criteria” to define and suggest clarification on Conditional Use and Land Development.

Presented by: Mayor Patrick T. Reilly (Originally presented on 3/22/2023)

**Exhibit:** Agenda Report No. 7.a.  
**Recommendation** Discussion/Action to Council

Abare explained to the Board this is the final edit before going to staff & Council to the additions and changes process of this Article VI “Conditional Use and Special Exception Use Criteria Land Use Amendment. The mayor has been cleaning up a lot of the Towns Ordinances.

Mayor Patrick Reilly 1985 Howell Lane, Malabar Fl 32950 reviewed suggestions & explained to the Board the changes recommended:

- Section 1-6.1. B adding a sentence to the end of paragraph “The Burdon of proof lies with the applicant to show compliance to the specified criteria”.
- Mayor also said he looked at Table 1-6.1(B)

The Board agreed with these suggestions brought forward.

Mayor Reilly made the following suggestions for Table 1-6.1 B; the sections were left blank. The Mayor suggested to allow possibly Lisa Morrell, Special Projects Manager to look at these and see what the requirements would be for each column, it is up to PZ Board.

Mayor Reilly compared two (2) tables 1.6.1(B) & Table1-3.2 Conditional Use

Add:

- “Funeral Homes “was added and left sections blank for Lisa Morrell to fill in the blanks in the (6:55 minutes) Table and delete “Trades.”
- “Mini Warehouses/Storage”
- Leave the blanks up to Lisa to see what the code & Added “Limited Manufacturing.”

Ritter discussed the Tables and to put heading on each page.

Abare proceeded around to each Board Member for comments:

- Taylor comments looks good agrees.
- Dial absolutely makes sense.
- Ritter wants headings on each table page agrees.
- Abare agrees.

**Motion: Dial/Ritter to Recommend Council review additions/changes to allow Amending the Land Development Code Article VI “Conditional Use and Special Exception Use Criteria” to define and suggest clarification on Conditional Use and Land Development as noted.**

**All Vote: roll Call Vote Taylor: Aye; Dial: Aye; Abare: Aye; Ritter: Aye**

**Motion passed 4 to 0.**

Ritter asked for copy of final document.

- 8 ACTION ITEMS:0**  
**9. ADDITIONAL ITEMS FOR FUTURE MEETING**  
**10. PUBLIC COMMENTS**

Abare asked if anyone has public comments. (none)

- 11. OLD BUSINESS/NEW BUSINESS:**

Old Business:

Abare/Ritter asked if there could be a future map and present map on the walls.

Taylor has offered to get map printed for the future map.

Mayor/Dial discussed Rocky Road repair.

New Business:

Mayor said that the gates are presently opened for the EELs, trails.

The Board discussed future meetings and things to promote on the Board.

- **Reminder:** Next Meeting – May 24, 2023  
Board would like a permit list for next meeting.

**12. ADJOURN**

There being no further business to discuss, MOTION: Dial / Ritter to adjourn this meeting. Vote: All Ayes. The meeting adjourned 6:58 P.M.

BY:

\_\_\_\_\_  
Doug Dial Chair

\_\_\_\_\_  
Denine Sherear, Board Secretary

\_\_\_\_\_  
Date Approved: as presented.

DRAFT

**TOWN OF MALABAR**  
**PLANNING AND ZONING**

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 4.d**

**Meeting Date: January 10, 2024**

**Prepared By: Denine M. Sherear, Planning and Zoning Board Secretary**

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**SUBJECT: Approval of Minutes of 07/26/2023**

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**BACKGROUND/HISTORY:**

The minutes must reflect the actions taken by the Board:

- Who made the motion
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- What was the vote

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**ATTACHMENTS:**

Draft minutes of P&Z Board Meeting of:

**1/11/2023**

**4/26/2023**

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**7/26/2023**

**10/25/2023**

**11/08/2023**

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**ACTION OPTIONS:**

Secretary requests approval of the following six (6) sets of minutes.

**“The following draft minutes are subject to changes and/or revisions by the Planning and Zoning Board and shall not be considered the official minutes until approved by the P&Z Board.”**

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING  
JUY 26, 2023, 6:00 PM**

This meeting of the Malabar Planning and Zoning was held at Town Hall at 2725 Malabar Road.

**1. CALL TO ORDER, PRAYER, AND PLEDGE:**

Meeting called to order at 6:00 P.M. Prayer and Pledge led by Chair Wayne Abare.

**2. ROLL CALL:**

CHAIR:	WAYNE ABARE
VICE-CHAIR:	DOUG DIAL
BOARD MEMBERS:	LIZ RITTER, EXCUSED DAVE TAYLOR, EXCUSED SUSAN SHORTMAN
ALTERNATE:	MEGHAN WOLFGRAM (late 6:22PM)
ALTERNATE:	VACANT
BOARD SECRETARY:	DENINE SHEREAR

**ADDITIONAL ATTENDEES:**

Abare said to grant Ritter and Taylor excused absences. Wolfgram voting member tonight. Sherear said we do have a quorum for tonight’s meeting.

**4. CONSENT AGENDA:1**

**4.a. Approval of Minutes** Planning and Zoning Meeting – 05/10/2023

**Exhibit:** Agenda Report No. 6.a  
**Recommendation:** Request Approval

The board discussed and corrected minutes, the minutes were revised. Amend

**Motion: Dial/Wolfgram to Approve Minutes of 05/10/2023 as presented,**

**Voted: All Ayes 4:0**

**5. PUBLIC COMMENTS**

Glen Messer, 2820 Rocky Point Road, Malabar FL discussed issue with neighbor building new residence, concerning the septic and length of the build. The Board and Mr. Messer discussed issues.

**6. PUBLIC HEARING:0**

**7. DISCUSSION ITEMS:0**

**8. ACTION ITEMS:0**

**9. ADDITIONAL ITEMS FOR FUTURE MEETING**

**10. PUBLIC COMMENTS**

**11. OLD BUSINESS/NEW BUSINESS:**

Old Business:

The Board discussed permits issues, and amount of permits throughout the town. Dial asked about future city water coming to Malabar and areas.

New Business:

- **Reminder:** Next Meeting – July, 2023  
Board would like a permit list for next meeting.

**12. ADJOURN**

There being no further business to discuss, MOTION: Wolfgram / Shortman to adjourn this meeting. Vote: All Ayes. The meeting adjourned 6:58 P.M.

BY:

\_\_\_\_\_  
Doug Dial Chair

\_\_\_\_\_  
Denine Sherear, Board Secretary

\_\_\_\_\_  
Date Approved: as presented.

DRAFT

**TOWN OF MALABAR**  
**PLANNING AND ZONING**

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 4.e**

**Meeting Date: January 10, 2024**

**Prepared By: Denine M. Sherear, Planning and Zoning Board Secretary**

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**SUBJECT: Approval of Minutes 10/25/2023**

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**BACKGROUND/HISTORY:**

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**ATTACHMENTS:**

Draft minutes of P&Z Board Meeting of:

**1/11/2023**

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**ACTION OPTIONS:**

Secretary requests approval of the following six (6) sets of minutes.



**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING MINUTES  
OCTOBER 25, 2023, 6:00 PM**

This meeting of the Malabar Planning and Zoning was held at Town Hall at 2725 Malabar Road.

**1. CALL TO ORDER, PRAYER, AND PLEDGE:**

Meeting called to order at 6:00 P.M. Prayer (by Wayne Abare) and Pledge led by Chair Wayne Abare.

**2. ROLL CALL:**

CHAIR:	WAYNE ABARE
VICE-CHAIR:	DOUG DIAL
BOARD MEMBERS:	LIZ RITTER
	DAVE TAYLOR
	SUSAN SHORTMAN
	ALTERNATE: MEGHAN WOLFGRAM,
	ALTERNATE: VACANT
BOARD SECRETARY:	DENINE SHEREAR

**6. PUBLIC HEARING:3**

**6.a. Recommendation to Council: To Rezone Property known as 2760,2768,2770,2800 Malabar Road, Malabar FL 32950 AKA: Parcel ID # 28-38-31-54-D-4 & 28-38-31-54-D-6 Malabar Road (NW Corner), From Residential/Limited Commercial (R/LC) to Commercial General (CG). (Ordinance 2023-09)**

Property owner, William Carmine 3916 Lakeside Lane, Valkaria, presented the request to rezone the parcel to be consistent with the zoning for Route 1 Motorsports he owns adjacent to this parcel. This property would be used for a marine dealership. They are looking to do this work in stages. Initially, it will be used for an outdoor boat showroom without a building. Fencing the area in to display the boats in an aesthetic manner and stabilize the ground.

Chair Abare asked if any of the Board Members would like to ask Mr. Carmine any questions.

Ms. Ritter commented that CG is not intended for outside storage.

Mr. Carmine responded that this isn't for "outside storage" it is for recreational vehicle sales/display.

Ms. Ritter said that he has a lot of outside storage on his Route 1 property that is zoned CG.

Mr. Carmine responded by inquiring what the zoning is of the properties all around town hall where all the boats and RVs are being stored outside.

The Board Secretary, Denine, responded that the property surrounding Town Hall was not a good comparison but the property across the street is zoned CG.

Ms. Shortman inquired if car dealerships are allowed in CG as that is storage/display of vehicles.

Ms. Ritter said she didn't know if they would be required to fence the area.

Mr. Carmine said they would be fencing the area. His inventory fluctuates and they are looking to build a warehouse in Grant-Valkaria.

Mr. Dial asked applicant if he had any idea when you'd be looking to put up the building.

Mr. Carmine advised that they had started the process of engineering but the initial quotes they've gotten back were shocking compared to what they've built in the past. They're renting a space to the south (Bill's Discount Marine) temporarily to make sure that they can sell boats before investing the money into a new building. They hope to build within the next 2-5 years. He showed a couple renderings.

Ms. Shortman asked how things would be secured in the event of a hurricane.

Mr. Carmine advised that the boats would be on trailers and they would do their best to make sure they are secured. He does not want to add pavement or concrete now until the building is built, just looking to stabilize the area for display parking.

This rezoning request is consistent with the zoning in the area.

Mr. Abare opened the floor to public comments. No members of the audience wished to speak and the public comment portion for this matter was closed.

**MOTION to approve for Council for rezoning from RLC to CG: Ritter / Shortman.**

Vote: 5-0

Taylor	Aye
Ritter	Aye
Shortman	Aye
Dial	Aye
Abare	Aye

**6.b. Recommendation to Council: For Site Approval of New Commercial Building property known as: 6795 Babcock Street, Malabar FL 32950 AKA: Parcel ID # 29-3710-00-318 Commercial General (CG) property 1.26 acres. (Ordinance 2023-06)**

Zachary Komninos from Bowman Consulting Group presented on behalf of property owner, Mr. Robert Bareman. This is for a shutter/soffit company with an office and warehouse, one driveway access off of Babcock with parking lot in front and service yard in rear. A swale system will handle the stormwater. All permits have been obtained through SJRWMD, FDEP, and the City of Palm Bay.

Ms. Ritter asked about mitigating the wetlands onsite and if only 1 handicap parking spot is required.

Mr. Komninos advised that mitigation was not necessary as the wetlands are less than 1/2 acre and based on the square footage of the building, only 1 handicap spot was necessary. The project will be on septic as there is no sewer available. Water is provided by the City of Palm Bay. The septic drain field is 15 ft from the top of bank for the dry pond/swale.

Staff, the reviewing engineer (Morris), and the Fire Department have approved. The engineer has requested a copy of the wetland report. The comments have been provided.

Mr. Abare opened the floor to public comments. No members of the audience wished to speak and the public comment portion for this matter was closed.

**MOTION to approve for Council for site plan: Shortman / Ritter.**

Vote: 5-0

Taylor	Aye
Ritter	Aye
Shortman	Aye
Dial	Aye
Abare	Aye

6.c. Request withdrawn by applicant.

6.d. **Recommendation to Council: To Rezone property known as: 1080 US HWY 1, Malabar FL 32950 AKA: Parcel ID # 28-3831-253 & 255 property is 2.26 +/- acres (lying on the west side of US Hwy 1) From Residential/Limited Commercial (R/LC) to Commercial General (CG). (Ordinance 2023-08)**

The zoning of the adjacent properties to the north is CG and the property to the south is R/LC.

Bruce Moia of MBV Engineering presented for property owners Robert B & Jill M Trettis. The applicant owns the property to the north. He is looking to rezone the 2 parcels to the south to the same CG zoning. The proposed facility would utilize all 3 parcels if these 2 parcels are rezoned.

Mr. Abare opened the floor to public comments.

Mr. Baker who owns the storage facility 1040 Hwy 1 spoke in opposition of the project. He thinks that the project site will be difficult to build without creating a problem for the neighbors (diminished property values, drainage retention) since it is not level. If the property were flat, he would not have any comments.

The property owners are required to retain the water on their properties.

Mr. Moia responded by saying that the drainage and stormwater requirements are much stricter than they were in 1984 when Mr. Baker built his project. They will submit a drainage plan if/when a site plan application is submitted. All these issues will be addressed at that time.

Mr. Dial asked about height restrictions – 35 ft is the max.

Mr. Taylor wanted to confirm that the property owners within a certain radius were notified.

Denine advised they were notified by mail, and it was advertised in the newspaper. If they were unable to attend, they could have called or emailed, and their concerns would have been placed on record. No comments from adjacent owners were received.

Ms. Wolfgram asked about the property immediately to the south. A new single-family residence is being built on that property.

**MOTION to approve for Council for rezoning from RLC to CG: Dial / Taylor.**

Vote: 3-2

Taylor	Aye
Ritter	Nay
Shortman	Nay
Dial	Aye
Abare	Aye

**7. ADJOURNMENT**

There being no further business to discuss, MOTION: Ritter / Dial to adjourn this meeting.  
Vote: All Ayes.

The meeting adjourned 7:37 P.M.

BY:

\_\_\_\_\_  
Doud Dial, Chair

\_\_\_\_\_  
Denine Sherear, Board Secretary

\_\_\_\_\_  
Date Approved: as presented.

**TOWN OF MALABAR**  
**PLANNING AND ZONING**

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 4.f**

**Meeting Date: January 10, 2024**

**Prepared By: Denine M. Sherear, Planning and Zoning Board Secretary**

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**SUBJECT: Approval of Minutes of 11/08/2023**

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**BACKGROUND/HISTORY:**

The minutes must reflect the actions taken by the Board:

- Who made the motion
- What is the motion
- Who seconded the motion
- What was the vote

Malabar has historically included discussion to provide the reader the understanding of how the Board came to their vote. It is not verbatim, and some editing is done to convey the thought. People do not speak the way they write.

**ATTACHMENTS:**

Draft minutes of P&Z Board Meeting of:

**1/11/2023**

**4/26/2023**

**5/10/2023**

**7/26/2023**

**10/25/2023**

**11/08/2023**

The above past minutes have been provided to this Board for review and approval, due to the minutes not being completed or signed by the Chair in the required time from previous meetings. The Board Secretary will provide past minutes at each following meeting to bring things up to date. Thank you for your time and cooperation during this process, if you have any questions, please reach out to me and we can discuss this.

**ACTION OPTIONS:**

Secretary requests approval of the following six (6) sets of minutes.

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING  
NOVEMBER 8, 2023, 6:00 PM**

This meeting of the Malabar Planning and Zoning was held at Town Hall at 2725 Malabar Road.

**1. CALL TO ORDER, PRAYER, AND PLEDGE:**

Meeting called to order at 6:00 P.M. Prayer and Pledge led by Chair Wayne Abare.

**2. ROLL CALL:**

CHAIR:	WAYNE ABARE
VICE-CHAIR:	DOUG DIAL, EXCUSED
BOARD MEMBERS:	LIZ RITTER
	DAVE TAYLOR
	SUSAN SHORTMAN
ALTERNATE:	MEGHAN WOLFGRAM
ALTERNATE:	VACANT
BOARD SECRETARY:	DENINE SHEREAR
ADDITIONAL ATTENDEES:	PATRICK TRIELLY, MAYOR

Abare stated that Meghan Wolfgram will be voting in Doug Dials absence.

Abare spoke to the board about canceling the 4<sup>th</sup> Wednesday of the month, after discussing with board members. The consensus of the board is to just have a meeting on the second 2<sup>nd</sup> Wednesday of each month only unless needed for emergency hearings.

Abare said the second meeting of November is close to Thanksgiving and he would like to cancel the meeting.

Abare said he would like to do the nominations for Chair & Vice Chair for the new year.

Mayor swore in two returning members:

- Liz Ritter was sworn in.
- Wayne Abare was sworn in.

**Nominations for Chair:**

Ritter and Shortman nominated Doug Dial for Chair.

**Vote: All Aye; Doug Dial for Chair**

**Nominations for Vice Chair:**

Shortman and Taylor nominate Liz Ritter for Vice Chair.

**Vote: All Aye; Liz Ritter for Vice Chair**

**4. CONSENT AGENDA:0**

**4.a. Approval of Minutes** Planning and Zoning Meeting – 10/25/2022

**Exhibit:** Agenda Report No. 4.a  
**Recommendation:** Request Approval

**Motion: Ritter/Shortman to approve minutes of 10/25/2022 as presented All Vote: Ayes**

- 5. PUBLIC COMMENTS
- 6. PUBLIC HEARING:0
- 7. DISCUSSION ITEMS:0
- 8 ACTION ITEMS:1

**8.a. Discussion of Land Development Code Article III table 1-3.3(A) Size and Dimension. Regulation concerning last column without wastewater density.**

The Mayor discussed with PZ Board the table concerning the following zonings: RR-65, RS 10 the RLC. For RM 6 & RM 4 it was misconception of what people thought you could build in each zone, with wastewater and without. Mayor said it will be fixed on the table, using central water & sewer facility. The issue is a density issue. It was mentioned that this is a result of a codification error.

The Board discussed changing the zonings presently in place and doing a land/zoning change to allow RLC Zoning and allowing the density to build more units per acre.

The Mayor has asked the PZ Boards opinion/suggestions to add the last column back into table 1-3.3(A) and send to Council for Ordinance change with two public hearings.

The Mayor said it is a Land Development change. He suggested the Board review it one more time in December and forward it to Council for public hearings.

**9. ADDITIONAL ITEMS FOR FUTURE MEETING none****10. PUBLIC COMMENTS none****11. OLD BUSINESS/NEW BUSINESS:**

Old Business:

New Business:

- **Reminder:** Next Meeting – December, 2023

**12. ADJOURN**

There being no further business to discuss, MOTION: Wolfgram/Shortman to adjourn this meeting. Vote: All Ayes. The meeting adjourned 7:15 P.M.

BY:

\_\_\_\_\_  
Doug Dial, Chair

\_\_\_\_\_  
Denine Sherear, Board Secretary

\_\_\_\_\_  
Date Approved: as presented.

# TOWN OF MALABAR

## Planning & Zoning Advisory Board

**AGENDA ITEM NO: 6.a.**  
**Meeting Date: January 10, 2024**

**Prepared By: Lisa Morrell, Town Manager**

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**SUBJECT: Consideration of Shipping Containers – Storage and Dwellings**

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### **BACKGROUND/HISTORY:**

Town Council has been advised the Florida Building Code (FBC) does allow for the construction of Shipping Container Homes with certain requirements. The Town of Malabar has adopted the Florida Building Codes – seventh edition to date. The Town code does not provide any further restrictions or criteria for the use of shipping containers used for dwelling material nor a designated zone. Town Council directed Town Staff to bring forward to Planning and Zoning Advisory Board for consideration and advisement to Town Council on the topic for discussion to provide additional amendments to the Town Code to allow or deny the use of shipping containers for dwelling purposes and or applicable zoning districts in accordance with Town's Comprehensive Plan and necessary amendments thereof.

The Planning and Zoning Board is to review and discuss staff provided sample ordinances and make a recommendation to Town Council advising of the how staff shall further progress, amend the existing code similar to Polk County or to create a new section, similar to City of Lakeland, whereas the modifications to the Town's Comprehensive Plan may be revised., pending any designations of zoning districts.

P&Z Board Secretary will prepare an agenda item advising Town Council at the next available regularly scheduled meeting of the Planning and Zoning advisement under board reports. This process will permit the Town to adjust the code that are an effective use of limited resources and serve the needs of the community.

### **FINANCIAL IMPACT:**

### **ATTACHMENTS:**

Town of Malabar Code 1-5-6 Accessory Buildings (Currently Adopted)  
Sample Ordinance – Polk County – Allowing Permanent/Temporary Storage or an Accessory Building with denial of habitation.  
Sample Ordinance – City of Lakeland Allowing Shipping Containers

### **ACTION OPTIONS:**

Motion to Advise Town Council of the Planning and Zoning Board discussion of consideration of shipping containers for storage or dwelling uses and any zoning designations, if applicable.



Section 1-5.6. - Accessory buildings.

- A. *Presence of Principal Building Required.* No accessory building shall be constructed upon a lot until the construction of a principal building has been issued a certificate of occupancy and no accessory building shall be used unless the principal building is in use. No structure which has been constructed as a principal use for the housing of animals or for agricultural purposes shall be used as a residence.
- B. *Prohibited in Required Yard.* No accessory building or structure shall be located in any required yard area.
- C. *General Regulations of Accessory Building.* No mobile homes, travel trailers, or old cars shall be permitted as an accessory structure. No accessory structure shall be built without a permit first being issued by the Building Official expressly authorizing the accessory structure. If the Building Official is in doubt as to the type of added accessory structure or whether a proposed accessory use is a duly authorized accessory use or structure within the district in which it is proposed, then the Building Official shall forward the issue to the Planning and Zoning Board and the Town Council for action.
- D. *Standards for Temporary Storage Units.*
  - 1. Temporary Storage Unit is defined and typically utilized for the temporary storage of personal belongings only, as part of the process of household moving and/or part of a household intent to store items offsite at a commercial storage location. This definition does not include storage units authorized by the Florida Building Code pursuant to F.S. § 553.73.
  - 2. Temporary storage units are permitted as follows:
    - (a) Permitted in Residential Areas: Any land zones RR-65, RS-10, RS-15, RS-21, RM-4, RM6, R-MH, R/LC, and PUD designated for single family and multiple family uses
    - (b) Size: Temporary storage units, shall not exceed nine (9) feet in height, ten (10) feet in width, and 24 feet in length.
    - (c) Location: temporary storage units are allowed in any required setback and shall not be placed in any public or private right-of-way or easement and shall not be in such a manner to create any visual obstruction for any motor vehicle operator's view of other motor vehicles, bicycles, or pedestrians upon entering or exiting rights-of-way.
    - (d) Time frame: Temporary storage units are allowed in residential districts for a period not exceeding 14 days in a calendar year and no more than two times a calendar year.
    - (e) The temporary storage unit shall not be utilized for the following:
      - i. Storage of live animals.
      - ii. Utilized for human habitation.
      - iii. Storage of hazardous or flammable materials.

- iv. Advertising is prohibited on the temporary storage unit except for the name and phone number of the vendor of the unit.
  - v. Storage of trash, junk ,debris, garbage, construction debris or material or refuse.
3. The Town Manager, or designee, may grant one (1) extension to the time limit established in subsection (1) above with written request by the property owner demonstrating good cause. For purposes herein, "good cause" shall mean an act of God, or some unforeseen circumstance or event which has caused a need to extend the use of the temporary storage container at the present location. No extension shall be longer than the time period which was previously approved by the Town.
4. Exemptions. The above regulations shall not apply to temporary storage units that are placed for construction purposes in connection with a valid building permit or during any period of declared weather emergency by federal, state, or local official action.
- The provisions of this Ordinance shall not apply to any container which is placed on real property within the Town that is otherwise authorized by the Town's garbage and trash franchise agreement.
5. Violations and provisions for schedule of fines will follow the Town of Malabar Code of Ordinances, Land Development Code, Article XII entitled Administrative Procedures for land development and code enforcement.

(Ord. No. 2021-22, § 1, 11-1-21)

ORDINANCE NO. 09-\_\_\_\_\_

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS, POLK COUNTY, FLORIDA, LAND DEVELOPMENT CODE AMENDMENT LDC 09T-27, AMENDING ORDINANCE NO. 00-09, AS AMENDED, THE POLK COUNTY LAND DEVELOPMENT CODE, AMENDING SECTION 206, ACCESSORY USES, AND SECTION 209, ACCESSORY BUILDINGS, TO PROVIDE FOR REGULATIONS TO PERMIT CARGO/SHIPPING CONTAINERS AS PERMANENT STORAGE, AMENDING SECTION 207, TEMPORARY USES, TO PROVIDE FOR REGULATIONS TO PERMIT PORTABLE STORAGE STRUCTURES, AMENDING CHAPTER 10 DEFINITIONS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Article VIII, Section I(g) of the Constitution of the State of Florida and the Local Government Comprehensive Plan and Land Development Regulation Act, Chapter 163, Part II, Florida Statutes (FS), as amended, (the Act) Polk County is authorized and required to adopt a Land Development Regulations consistent with the Polk County Comprehensive Plan; and

**WHEREAS**, the Board of County Commissioners adopted said Land Development Regulations on March 1, 2000, titled the Polk County Land Development Code; and

**WHEREAS**, Chapter 9, Section 903 of the Land Development Code requires Land Development Code Amendments to be a Level 4 Review; and

**WHEREAS**, Chapter 9, Section 907 sets forth the purpose and review process for Level 4 Reviews; and

**WHEREAS**, pursuant to Section 125.67 of the Florida Statutes, every ordinance shall embrace but one subject and matter properly connected therewith; and

**WHEREAS**, pursuant to Section 163.3164 of the Florida Statutes, the Polk County Planning Commission conducted a public hearing, with due public notice having been provided, on the proposed Land Development Code Amendment on July 14, 2009; and

**WHEREAS**, the proposed text amendment to the Polk County Land Development Code shall provide for regulations to allow for cargo/shipping containers to be used as permanent storage and provide for regulations relative to temporary portable storage containers; and

**WHEREAS**, the Board of County Commissioners, reviewed and considered all comments received during said public hearing, and provided for necessary revisions; and

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Polk County, Florida that:

*NOTE: The underlined text indicates proposed additions to the current language. The ~~strikeout~~ indicates text to be removed from the current ordinance.*

**SECTION 1:** Chapter 2, Section 206, Accessory Uses, of the Polk County Land Development Code, Polk County Ordinance No. 00-09, as amended, is hereby amended to add the following subsection:

**Section 206 Accessory Uses** (*Revised 01/03/05-Ord.04-80; 7/25/01-Ord.01-57*)

**K. Cargo Containers for Permanent Storage**

Cargo containers are permitted to be used as permanent storage in accordance with the following:

1. All cargo containers shall comply with the Florida Building Code, Florida Fire Prevention Code, and shall require a building permit.
2. Cargo Containers for permanent storage are prohibited in the following land use districts: RCC-R, RL, RM, RH, OC, L/R, ROS, and PRESV.
3. Cargo containers shall be permitted in accordance with the following:
  - a. As a temporary use in any land use district in conjunction with an authorized construction project, and shall be removed upon completion of the project unless properly permitted to remain as permanent storage in accordance with this section.
  - b. Bonafide agricultural properties are permitted to have one cargo container per five acres of agricultural tax exempt acres of land, with no minimum acreage being required.
  - c. Parcels designated A/RR and RS shall be permitted one cargo container per five acre parcel, with a minimum property size of five acres.
  - d. Non-residential properties are permitted one cargo container per acre, with no minimum acreage being required.
4. In the instance where more than one cargo container, as outlined in this section, is allowed they shall not be stacked. However, within the IND and BPC-2 land use district they shall be permitted to be stacked two-high.
5. Cargo containers located on a residentially developed lot, or within the CE, LCC, RCC, CC, NAC, CAC land use districts, that is adjacent to residentially developed lots or structures shall be buffered and/or screened from the adjacent off-site residential lot or structure. Additionally, they shall maintain a minimum setback of 15 feet.
6. All cargo containers shall be placed in either the side or rear yard and meet accessory structure setbacks for the applicable land use district or the setback as outlined in condition #5 above, whichever is more restrictive.
7. Cargo containers shall not be located within any drainage easements.

8. Cargo containers shall not occupy any required off-street parking spaces, vehicular accesses or drive aisles, pedestrian facilities or landscape areas for the site.
9. Cargo containers shall not be permitted to have signage of any type.
10. Cargo containers shall not be modified or retrofitted for habitation.

**SECTION 2:** Chapter 2, Section 209, Accessory Buildings, of the Polk County Land Development Code, Polk County Ordinance No. 00-09, as amended, is hereby amended in the following manner:

**Section 209 Accessory Buildings**

This Section applies to accessory buildings in all districts. More than one accessory structure may be located on a parcel provided that the following requirements are met:

**E. *Prohibited Accessory Structures***

Vehicles, vehicle parts, ~~convex shipping containers~~, boilers, walk-in freezers, and mobile homes shall not be used as accessory structures in any district.

**SECTION 3:** Chapter 10, Definitions, of the Polk County Land Development Code, Polk County Ordinance No. 00-09, as amended, is hereby amended in the following manner:

**CHAPTER TEN DEFINITIONS**

**CARGO CONTAINER (ALSO CALLED SHIPPING CONTAINER):** A reusable vessel that is originally, specifically or formerly designed for or used in the packing, shipping, movement, or transportation of freight, articles, goods, or commodities and is also designed for or capable of being mounted or moved on a rail car, truck trailer or loaded on a ship.

**SECTION 4: SEVERABILITY**

If any provision of this Ordinance is held to be illegal, invalid, or unconstitutional by a court of competent jurisdiction the other provisions shall remain in full force and effect.

**SECTION 5: EFFECTIVE DATE**

This ordinance shall become effective upon filing with the Department of State.

**ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF POLK COUNTY,**

**FLORIDA** this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

BOARD OF COUNTY COMMISSIONERS OF  
POLK COUNTY, FLORIDA

STATE OF FLORIDA        )  
                                  )  
COUNTY OF POLK        )

I, Richard M. Weiss, Clerk and Auditor to the Board of County Commissioners of Polk County, Florida, hereby certify that the foregoing is a true and correct copy of Ordinance No. 09-\_\_\_\_\_, an amendment to the Polk County Land Development Code, which was adopted by the Board of County Commissioners of Polk County, Florida on the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

WITNESS my hand and official seal on this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

(SEAL)

By: \_\_\_\_\_  
Kathryn Courtney  
Deputy Clerk

**ORDINANCE NO. \_\_\_\_\_**

**PROPOSED ORDINANCE NO. 21-045**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKELAND, FLORIDA RELATING TO THE LAND DEVELOPMENT CODE; AMENDING ARTICLE 2 AND ARTICLE 5 OF THE LAND DEVELOPMENT CODE TO ADOPT DEVELOPMENT STANDARDS ALLOWING FOR THE USE OF SHIPPING CONTAINERS AS DWELLING UNITS IN MOBILE HOME (MH) AND MULTI-FAMILY (MF) ZONING DISTRICTS AND AS ACCESSORY STRUCTURES FOR CERTAIN COMMERCIAL USES; AMENDING STANDARDS FOR HOME-BASED BUSINESS IN RESPONSE TO RECENT LEGISLATIVE CHANGES; CLARIFYING PARKING STANDARDS FOR BOATS, TRAILERS AND RV'S ON RESIDENTIAL PROPERTY; REVISING STANDARDS PERTAINING TO PERSONAL WIRELESS SERVICE FACILITIES IN LIMITED DEVELOPMENT (LD) ZONING DISTRICTS; MAKING FINDINGS; FINDING CONFORMITY WITH THE COMPREHENSIVE PLAN; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, by Ordinance 5425, adopted on December 16, 2013, the City Commission of the City of Lakeland, Florida adopted the Land Development Code for the City of Lakeland; and

**WHEREAS**, it has been determined that amendments are necessary to update the regulations contained within the Land Development Code; and

**WHEREAS**, the City Commission, upon recommendation by the Planning and Zoning Board, wishes to adopt the amendments to the Land Development Code set forth herein;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKELAND, FLORIDA:**

**SECTION 1.** The foregoing findings are true and correct and are incorporated herein by reference and made a part hereof.

**SECTION 2.** The amendments to the Land Development Code set forth in Attachment "A," attached hereto and made a part hereof, are hereby adopted.

**SECTION 3.** The City Commission does hereby expressly find that the provisions of this Ordinance are in conformity with the Comprehensive Plan of the City of Lakeland, and that all procedures for the enactment of this Ordinance have been complied with.

**SECTION 4.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 5.** If any word, sentence, clause, phrase or provision of this Ordinance, for any reason, is held to be unconstitutional, void or invalid, the validity of the remainder of this Ordinance shall not be affected thereby.

**SECTION 6.** This Ordinance shall take effect immediately upon its passage.

**PASSED AND CERTIFIED AS TO PASSAGE** this 18th day of October, A.D. 2021.

\_\_\_\_\_  
H. WILLIAM MUTZ, MAYOR

ATTEST: \_\_\_\_\_  
KELLY S. KOOS, CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS: \_\_\_\_\_  
PALMER C. DAVIS  
CITY ATTORNEY



ATTACHMENT "A"

Table 2.3-1: Permitted Principal Uses

USES	RESIDENTIAL DISTRICTS									OFFICE DISTRICTS			COMMERCIAL DISTRICTS							INDUSTRIAL DISTRICTS			
	RA-1	RA-2	RA-3	RA-4	RB	MF-12	MF-16	MF-22	MH	O-1	O-2	O-3	C-1	C-2	C-3	C-4	C-5	C-6	C-7 <sup>2,4</sup>	I-1	I-2	I-3	

Table 2.3-2: Permitted Accessory Uses

USES	RESIDENTIAL DISTRICTS									OFFICE DISTRICTS			COMMERCIAL DISTRICTS							INDUSTRIAL DISTRICTS		
	RA-1	RA-2	RA-3	RA-4	RB	MF-12	MF-16	MF-22	MH	O-1	O-2	O-3	C-1	C-2	C-3	C-4	C-5	C-6	C-7 <sup>2,4</sup>	I-1	I-2	I-3
<b>MISCELLANEOUS</b>																						
Home Offices accessory to dwelling units <sup>‡</sup>	P	P	P	P	P	P	P	P	P	P	P								P	P		
Home-based Businesses accessory to single-family detached dwelling units <sup>1</sup>	P	P	P	P	P	P	P	P	P	P	P		P	P					P	P		

Footnotes:

<sup>1</sup> In accordance with Section 5.10 (Home Occupations) (Home-based Businesses)

## ATTACHMENT “B”

### ARTICLE 5 – STANDARDS FOR SPECIFIC USES

#### **5.25 SHIPPING CONTAINERS AS DWELLING UNITS AND AS ACCESSORY STRUCTURES FOR CERTAIN COMMERCIAL USES**

##### 5.25.1 INTENT AND APPLICABILITY

It is the intent of this section to establish specific development standards allowing for the use of shipping containers as dwelling units and as accessory structures for certain commercial uses.

##### 5.25.1.1 Definitions

**Shipping Container:** A large, standardized container designed for intermodal transport of goods and materials that is without wheels and any vehicle chassis.

##### 5.25.1.2 Shipping Containers for Use as Dwelling Units

- a. Through the conditional use process, shipping containers may be used as dwelling units on properties located in MF (Multi-Family Residential) zoning districts and in existing or proposed mobile home parks that are zoned as part of a MH (Mobile Home) zoning district.
- b. All shipping containers used as dwelling units shall be installed on a permanent foundation and comply with the Florida Building Code and Florida Fire Prevention Code.
- c. The use of shipping containers as dwelling units shall be contingent upon certain architectural modifications being made to the exterior of the structures. Such modifications shall include the use of residential windows and doors, awnings, and finishing materials such stucco, fiber cement siding or other materials appropriate for the residential use.
- d. For shipping container dwellings proposed for use in mobile home parks, architectural elevations are required to illustrate the types of architectural treatments and finishing materials that will be used. A typical lot layout is also required to illustrate setbacks, off-street parking and any appurtenances that will be used such as carports and decks.
- e. For properties zoned for multi-family uses, a detailed site plan showing setbacks, building footprints, parking, and required landscaping and buffering is required. Architectural elevations shall also be provided to show the types of architectural treatments and finishing materials that will be used.
- f. All other development standards shall be in accordance with the underlying zoning district in which the property is located.

##### 5.25.1.3 Shipping Containers as Accessory Structures for Certain Commercial Uses

- a. All shipping containers used as accessory structures shall be installed on a permanent foundation and comply with the Florida Building Code and Florida Fire Prevention Code.
- b. Use as commercial accessory structures shall be limited to the following uses when permitted as a principal use in the underlying zoning district:
  - 1. Small-scale restaurants in which fresh food products are prepared on-site and sold directly to consumers for either on-premises or off-premises consumption.
  - 2. Small-scale, specialty retail sales of antiques, fresh, packaged and prepared foods, cosmetics, clothing, gifts, toys, books, jewelry, small electronics, flowers, arts and crafts and other similar goods.
  - 3. Indoor hydroponic production of fruits, vegetables, flowers and herbs.
  - 4. Other uses not specifically listed when the Director of Community & Economic Development determines that the use is compatible with the surrounding uses.
- c. No more than one shipping container shall be installed per premises. The installation of two or more shipping containers for innovative commercial projects such as container food courts and other uses may be considered through a conditional use permit.
- d. Shipping containers used as an accessory building for restaurant or retail sales uses shall be located in accordance with the setbacks applicable to the principal structure on the lot or parcel on which they are located.
- e. Shipping containers used for hydroponic production shall be located in accordance with the setbacks for General Accessory Structures specified by Table 4.3-4.
- f. Shipping containers used as accessory structures shall not be located within any required off-street parking spaces, vehicle driveways or drive aisles, fire lanes or pedestrian facilities.
- g. Design and Performance Standards
  - 1. All shipping containers used as accessory structures shall be painted and maintained in good condition at all times with no visible structural damage, corrosion or graffiti.

2. Shipping containers used for restaurant and retail uses shall be modified and enhanced through the use of architectural features such as commercial doors and windows, awnings, outdoor lighting, seating, and landscaping planters.
3. Signage shall be limited to building mounted signs with a maximum sign area not to exceed 25 square feet per wall face and 50 square feet total.
4. Any solid waste generated shall be collected and disposed using the solid waste collection bins serving the principal structure on the premises.

2.6.4 ACCESSORY USES LISTED AND DEFINED

**Shipping Containers as Accessory Structures for Certain Commercial Uses in accordance with Sub-Section 5.25.1.3**

## ATTACHMENT "C"

### ARTICLE 5 – STANDARDS FOR SPECIFIC USES

#### 5.10 - ~~HOME OCCUPATIONS~~HOME-BASED BUSINESSES

##### 5.10.1 INTENT AND APPLICABILITY

###### 5.10.1.1 Intent

~~Home occupations~~ Home-based businesses are businesses that operate in whole or in part from a residential property. It is the intent of this section to provide minimum standards for ~~home occupations~~ home-based businesses in order to ~~promote mixed-use and to~~ ensure compatibility with surrounding land uses and consistency with Section 559.955, Florida Statutes.

(Ord. No. 5455, 07-21-14)

###### 5.10.1.2 Applicability

~~Home occupations-based businesses~~ shall be conducted in accordance with these standards. Community Residential Homes and Family Day Care Homes as defined by Florida Statutes shall be permitted in residential zoning districts in accordance with applicable statutes and are not subject to the requirements of this section.

##### 5.10.2 HOME OCCUPATION TYPES

~~Home occupations are classified as Home Businesses or Home Offices and are described as follows:~~

###### a. ~~Home Business~~

###### 1. ~~Permitted home business uses:~~

~~(a) Personal consultation or service. Examples: Barber, beautician, massage therapist, dietician/nutritionist, custom home builder, architect, financial planner, music teacher.~~

~~(b) Limited production and sale of art objects. Examples: Painter, potter, sculptor, photographer.~~

~~(c) Small item repair/service. Examples: Watch/clock repair, gunsmith, computer repair.~~

~~(d) Clothing services. Examples: Tailor, dressmaker, clothing alterations, sewing.~~

~~(e) Home Office uses as described below.~~

###### 2. ~~The Director of Community Development may allow other uses not specifically listed if he finds that the external impacts of such use or uses are not detrimental to the quiet enjoyment of the residential district.~~

###### b. ~~Home Office~~

###### 1. ~~Permitted home office uses:~~

~~(a) Production of intellectual property. Examples: Freelance writer, scriptwriter, commercial artist.~~

~~(b) Computer or on-line services. Examples: Web site designer, graphic designer, software developer, online sales.~~

~~(c) Office operations. Examples: Bookkeeping, payroll, purchasing.~~

~~2. The Director of Community Development may allow other uses not specifically listed if he finds that the external impacts of such uses are not detrimental to the quiet enjoyment of the residential district.~~

~~c. Prohibited Home Occupations~~

~~1. The following are examples of occupations that are prohibited as home occupations:~~

~~(a) Adult uses.~~

~~(b) Motor vehicle sales, rental, service or repair.~~

~~(c) Small engine sales, service or repair.~~

~~(d) Appliance sales, service or repair.~~

~~(e) Machining, welding or working of metal.~~

~~(f) Woodworking.~~

~~(g) Sale or preparation of food items.~~

~~(h) Tattooing or body piercing.~~

~~2. The Director of Community Development may prohibit other uses not specifically listed if he finds that the external impacts of such use or uses are detrimental to the quiet enjoyment of the residential district.~~

5.10.32 GENERAL STANDARDS FOR ALL HOME OCCUPATIONS/HOME-BASED BUSINESSES

a. Only the person or persons maintaining the dwelling as their primary place of residence shall operate a home occupation. Employees of the business who work at the residential dwelling must also reside in the residential dwelling, except that up to a total of two employees or independent contractors who do not reside at the residential dwelling may work at the business. The business may have additional remote employees that do not work at the residential dwelling.

b. The activities of the home-based business shall be secondary to the property's use as a residential dwelling. A home occupation shall home-based business may operate in a completely enclosed structure or a detached accessory structure. The home-based business may not conduct retail transactions at a structure other than the residential dwelling; however, incidental business uses and activities may be conducted at the residential property.

c. As viewed from the street, the use of the residential property shall be consistent with the uses of the residential areas that surround the property.

External modifications made to a residential dwelling to accommodate a home-based business shall conform with the residential character and architectural aesthetics of the neighborhood. There shall be no external advertising, external display of goods, or any other external evidence of any ~~home occupation~~ home-based business, except for signage in accordance with [Section 4.9](#).

- d. ~~No substances or materials shall be stored or used except as they would, in such quantity, be normal and acceptable in a residential setting. All business activities shall comply with any relevant local, state, and federal regulations with respect to the use, storage, and disposal of any corrosive, combustible, or other hazardous or flammable materials or liquids.~~
- e. Such occupation shall not result in any continuous, intermittent, pulsating or other noise or vibration that can be detected by a normal person off the premises. The business activities shall comply with the City's Land Development Code and Code of Ordinances with respect to equipment or processes that create noise, vibration, heat, smoke, dust, glare, fumes, or noxious odors.
- f. ~~Home occupations~~ Home-based businesses shall meet all requirements of this Code pertaining to the parking of commercial vehicles as specified in Sub-Section 5.17.3.6. Parking related to the business activities of the home-based business shall comply with the general parking requirements within the Land Development Code and the need for parking generated by the business may not be greater in volume than would normally be expected at a similar residence where no business is conducted. Vehicles and trailers used in connection with the business must be parked in legal parking spaces that are not located within the right-of-way, on or over a sidewalk, or on any unimproved surfaces at the residence. Heavy equipment used in conjunction with the home-based business shall not be visible from the street or any neighboring property. For the purposes of this section, the term "heavy equipment" shall mean commercial, industrial, or agricultural vehicles, equipment, or machinery.

#### 5.10.4 SPECIFIC STANDARDS FOR HOME BUSINESSES

- a. ~~Not more than two clients, customers or business associates shall be present on the premises at any one time.~~
- b. Signage shall be in accordance with [Section 4.9](#).
- c. ~~Over the counter sale of merchandise shall be limited to:~~
  - 1. ~~Items incidental to a permitted service. Example: Sale of hair care product by barber or beauty shop.~~
  - 2. ~~Art objects or small specialty items made on the premises.~~
- d. Hours of operation shall be not earlier than 8 am and not later than 9 pm.

#### 5.10.5 SPECIFIC STANDARDS FOR HOME OFFICES

- a. ~~There shall be no customer or business traffic to the premises other than occasional deliveries as would be normal in a residential setting.~~
- b. ~~There shall be no over the counter sale of merchandise.~~
- c. ~~The home office may involve the office operations of a business having non-office operations that are conducted elsewhere. In such cases, the home office may be the address of the business if otherwise permitted by law.~~

## 1.6 - DEFINITIONS

...

**Home-Based Business:** A business that operates, in whole or in part, from an improved residential property and meets the criteria in Section 559.955, Florida Statutes and the minimum standards in Section 5.10 of this code.



## ATTACHMENT "D"

### ARTICLE 5 – STANDARDS FOR SPECIFIC USES

#### **5.17 - PARKING AND STORAGE OF COMMERCIAL VEHICLES, BOATS, TRAILERS, AND CONSTRUCTION EQUIPMENT**

...

##### 5.17.3.6 Parking of Commercial Vehicles and Commercial Trailers Regulated

It shall be unlawful for any person to park any commercial vehicle or commercial trailer on any residentially zoned tract, lot, piece or parcel of land within the city, except:

a. One commercial vehicle per dwelling unit shall be permitted provided each of the following requirements is met:

1. The Gross Vehicle Weight Rating (GVWR) of the commercial vehicle is less than 12,500 pounds.
2. The commercial vehicle is less than 80 inches wide.
3. The commercial vehicle is less than 26 feet in length.
4. The commercial vehicle has only two axles on the road.
5. The commercial vehicle is not equipped with air brakes, refrigeration equipment, hydraulic lifts, cranes, loading ramps, or similar equipment.

b. Sub-Section 5.17.3.6.a notwithstanding, the following commercial vehicles shall be prohibited on all residentially zoned tracts, lots, pieces or parcels of land within the city:

1. Semi-trucks and/or trailers, either as one unit or separately;
2. Wreckers and tow trucks;
3. Box trucks;
4. Dump trucks;
5. Bucket trucks.

c. Any vehicles and trailers used in conjunction with a home-based business shall be parked in legal parking spaces that are not located in the right-of-way, on or over a sidewalk, or on any unimproved surfaces at the residence.

e.d. Any vehicle owned by a public or private utility provider, when used in the event of emergencies requiring immediate attention, shall be exempt from the requirements of this section.

## 1.6 - DEFINITIONS

...

**Yard, Required:** A yard between a lot line and the nearest principal building minimum setback line measured perpendicular to the lot line.

**Yard, Side:** A yard extending from the front yard to the rear yard between any building and the side lot line measured perpendicular to the side lot line.

**Yard, Street Side:** A yard extending the full width of a lot between any building and the street side lot line.

## 5.17 - PARKING AND STORAGE OF COMMERCIAL VEHICLES, BOATS, TRAILERS, AND CONSTRUCTION EQUIPMENT

...

### 5.17.3.5 Parking and Storage on Residential Property Permitted and Regulated

Parking of boats, unoccupied motor homes, or trailers (excluding semi-trailers), by any owner upon such owner's own residential premises, shall be permitted in any district; provided, however, that no sleeping, eating or living shall be permitted, nor shall any business be conducted in said motor home, boat or trailer while so parked or stored; and further provided, that such motor home, boat or trailer shall not be parked or located ~~between the principal building and~~ within any front or street-side property line yard as defined in Section 1.6 and Figure 1.6-10 of the Land Development Code.

## ATTACHMENT “E”

### 5.18 - PERSONAL WIRELESS SERVICE FACILITIES

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#### 5.18.5 STANDARDS FOR GROUND-MOUNTED FACILITIES

##### 5.18.5.1 General

a. Ground-mounted PWS facilities shall be permitted by right in the following zoning district classifications: O-2, O-3, C-2, C-3, C-4, C-5, I-1, I-2 and I-3. Ground-mounted PWS facilities may be permitted as conditional uses in the following zoning district classifications: RA-1, RA-2, RA-3, RA-4, RB, MF-12, MF-16, MF-22, MH, RCLD, O-1, C-1. The determination as to whether a ground-mounted PWS facility is permitted by right or as a conditional use in the PUD zoning district classification shall be based on the conventional zoning district which most closely approximates the use or uses permitted in the particular PUD district.

...

**Table 5.16-1: Maximum Height**

Zoning District	Central City Area	All Other Areas
RA (all), RB (all)	75'	75'
MF (all)	75'	75'
O-1, O-2, C-1, C-2, C-3	75'	85'
C-4	85'	95'
C-5	95'	120'
O-3	85'	120'
I-1	110'	150'
I-2, I-1	150'	200'
<u>RCLD</u>	n/a <u>150'</u>	200'

...

#### 5.18.7 STANDARDS FOR PWS FACILITIES AS CONDITIONAL USES

It is the intent of the City Commission to set forth standards for review, approval, approval with conditions, or disapproval of exceptions to the placement or construction of PWS facilities as permitted by right and the regulations which control the placement or construction of such facilities as contained in this article. These standards are instituted to provide an opportunity to place or construct a PWS facility, which under usual circumstances, could be detrimental to other land uses and cannot normally be permitted, but which may be permitted under circumstances particular to the proposed location and subject to conditions which provide protection to adjacent land uses, which protect the attractiveness, health, safety and property values of the community, which avoid the proliferation of visually obtrusive structures, and which promote the development of an advanced wireless communication infrastructure.

- a. Exceptions to the standards for the placement or construction of PWS facilities shall be considered as conditional uses. The conditional use procedure may be considered for the following:
  1. Requests for ground-mounted PWS facilities proposed to be located in residential, O-1, C-1, and ~~RCLD~~ zoning districts and within 2,000 feet of the lakes specified in Sub-Section 5.18.5.6.
  2. Requests for exceptions to specific standards established in this Article for maximum height; horizontal separation; separation from residential districts, limited-access highways (including frontage roads), arterial streets and highways and collector streets; and alternatives to the monopole type mount.



# Planning & Zoning Board Recommendation

Date:	October 4, 2021	Reviewer:	Todd Vargo
Project No:	LDC21-003	Applicant:	City of Lakeland
P&Z Hearing:	August 17, 2021	P&Z Final Decision:	September 21, 2021
Request:	Changes to Article 2 (Use Standards), and Article 5 (Standards for Specific Uses) to adopt development standards allowing for the use of shipping containers as dwelling units in Mobile Home (MH) and Multi-Family (MF) zoning districts and as accessory structures for certain commercial uses, amend standards for home-based businesses; clarify parking standards for boats, trailers, and RVs on residential property; and to revise development standards related to personal wireless services (PWS) facilities in Limited Development (LD) zoning districts.		

## 1.0 Background

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Periodically, various changes to the Land Development Code (LDC) are proposed in response to changing circumstances or to clarify existing provisions. The proposed changes to Article 2 (Use Standards) and Article 5 (Standards for Specific Uses) allowing for the use of shipping containers as dwelling units and as accessory structures for certain commercial uses; amending standards for home-based businesses; clarifying parking standards for boats, trailers, and RVs on residential property; and revising development standards related to personal wireless (PWS) facilities in LD (Limited Development) zoning districts are included as Attachments “A,” “B,” “C,” “D,” and “E.”

### 1.1 Attachments

Attachment A: Article 2, Table 2.3-1 (Permitted Principal Uses) and Table 2.3-2 (Permitted Accessory Uses)

Attachment B: Article 5, Section 5.25, Shipping containers as Dwelling Units and Accessory structures for Certain Commercial Uses

Attachment C: Article 5, Section 5.22, Home-Based Businesses

Attachment D: Article 5, Section 5.17, Parking Standards for Boats, Trailers and RVs

Attachment E: Article 5, Section 5.18, PWS facilities in LD zoning districts

## 2.0 Discussion

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The first part of the proposed changes, included as Attachment “A,” addresses the correction of a minor error in Table 2.3-1 (Permitted Principal Uses) and changes to Table 2.3-2 (Permitted Accessory Uses). The error in Table 2.3-1 pertains to a footnote in the header row which has been revised to reference the correct requirement. The changes to Table 2.3-2, Permitted Accessory Uses, eliminate the reference to home offices and remove the restriction which limited home-based businesses to single-family detached dwelling units. These changes are further explained in the discussion for a companion amendment to Article 5.

The second part of this amendment, as shown in Attachment “B,” addresses the use of shipping containers as dwelling units and as accessory structures for certain commercial uses. Shipping

containers, which are intended for the intermodal transport of goods and materials, have become the subject of a trend in recent years in which they are reused and recycled for commercial and residential purposes. The proposed development standards within Article 5, Section 5.25, will allow for the use of shipping containers as dwelling units in Mobile Home Parks and multi-family zoning districts and as accessory structures for certain commercial uses.

Shipping containers are attractive for such uses because they are durable structures which are readily available and can be purchased new or used. As dwelling units, they are suitable for affordable housing units as a standard 8' x 40' shipping container can easily be converted to a small, one-bedroom dwelling. Combined together, two or more containers can be used to create larger two- or three-bedroom dwellings, high-end custom homes or multi-family housing in which multiple containers are designed and reengineered to create attractive rental housing for young adults, students and retirees. The proposed standards allow for the use of shipping containers in Mobile Home (MH) and Multi-Family (MF) residential zoning districts. To ensure that such structures are designed and placed in a manner compatible with the residential context in which they will be located, a Conditional Use Permit (CUP) will be required in order to use shipping containers as dwellings.

For commercial uses, the use of shipping containers will be limited to accessory structures for certain commercial uses when there is another permitted principal use on the property. Allowable uses include small-scale restaurant uses in which food is prepared for on-site or off-premises consumption, small-scale, retail sales of antiques, fresh, packaged and prepared foods, clothing, cosmetics, clothing, gifts, toys, books, jewelry, small electronics, flowers, arts and crafts and other similar goods, and indoor hydroponic production of fruits, vegetables, flowers and herbs. By right, no more than one shipping container will be allowed as an accessory structure. For innovative projects such as food courts or retail incubator spaces, the use of two or more containers may be considered through a CUP. Shipping containers used for residential or commercial uses will have to meet both the Florida Building Code and the Florida Fire Prevention Code.

The third portion of the proposed changes, included as Attachment "C," addresses the recent preemption of the regulation of home-based businesses by the Florida Legislature through the approval of HB103. Under this legislation, local government agencies may not prohibit home-based businesses as long as they have no more than two employees or independent contractors and the parking generated by such business is not greater in volume than a residence where no business is conducted. Regulation of home-based businesses is limited to the parking of vehicles and trailers associated with the business, buffering and screen of any "heavy equipment" (defined as commercial, industrial, or agricultural vehicles, equipment, or machinery) and impacts such as noise, vibrations, heat, smoke, dust, glare, fumes, or noxious odors.

The fourth portion of this amendment, included as Attachment "D," clarifies where boats, trailers, and unoccupied motor homes may be parked on residential properties and where vehicles and trailers associated with home-based businesses may be parked and stored.

The last and final change, included as Attachment "E," consists of minor revisions to Section 5.18, Personal Wireless Service Facilities, to replace references to the RC (Rural Conservation) zoning district which was replaced by the LD (Limited Development) zoning district and to provide a maximum height for ground mounted personal wireless facilities within the LD zoning district in Table 5.16-1.

## 3.0 Recommendation

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### 3.1 Community & Economic Development Staff

The Community & Economic Development Department reviewed this request for compliance with Lakeland Comprehensive Plan: 2010-2020 and it is our opinion that the request is consistent with the Comprehensive Plan.

### 3.2 The Planning & Zoning Board

This recommendation was approved by a 6—0 vote of the Board.

The Community & Economic Development Department reviewed this request and recommended the proposed changes to the Land Development Code.

#### Recommendation

It is recommended that the proposed changes to Article 2 and Article 5 of the Land Development Code, as described in Attachments “A,” “B,” “C,” “D,” and “E” be approved.

ATTACHMENT "A"

**Table 2.3-1: Permitted Principal Uses**

USES	RESIDENTIAL DISTRICTS									OFFICE DISTRICTS			COMMERCIAL DISTRICTS							INDUSTRIAL DISTRICTS		
	RA-1	RA-2	RA-3	RA-4	RB	MF-12	MF-16	MF-22	MH	O-1	O-2	O-3	C-1	C-2	C-3	C-4	C-5	C-6	C-7 <sup>2</sup> <sub>4</sub>	I-1	I-2	I-3

**Table 2.3-2: Permitted Accessory Uses**

USES	RESIDENTIAL DISTRICTS									OFFICE DISTRICTS			COMMERCIAL DISTRICTS							INDUSTRIAL DISTRICTS			
	RA-1	RA-2	RA-3	RA-4	RB	MF-12	MF-16	MF-22	MH	O-1	O-2	O-3	C-1	C-2	C-3	C-4	C-5	C-6	C-7 <sup>2</sup> <sub>4</sub>	I-1	I-2	I-3	
<b>MISCELLANEOUS</b>																							
Home Offices accessory to dwelling units <sup>1</sup>	P	P	P	P	P	P	P	P	P	P	P	P							P	P			
Home-based Businesses accessory to single family detached dwelling units <sup>1</sup>	P	P	P	P	P	P	P	P	<u>P</u>	P	<u>P</u>		<u>P</u>	<u>P</u>				<u>P</u>	<u>P</u>				

Footnotes:

<sup>1</sup> In accordance with [Section 5.10](#) (~~Home Occupations~~)(Home-based Businesses)



## ATTACHMENT "B"

### ARTICLE 5 – STANDARDS FOR SPECIFIC USES

#### **5.25 SHIPPING CONTAINERS AS DWELLING UNITS AND AS ACCESSORY STRUCTURES FOR CERTAIN COMMERCIAL USES**

##### 5.25.1 INTENT AND APPLICABILITY

It is the intent of this section to establish specific development allowing for the use of shipping containers as dwelling units and as accessory structures for certain commercial uses.

##### 5.25.1.1 Definitions

**Shipping Container:** A large, standardized container designed for intermodal transport of goods and materials that is without wheels and any vehicle chassis.

##### 5.25.1.2 Shipping Containers for Use as Dwelling Units

- a. Through the conditional use process, shipping containers may be used as dwelling units on properties located in MF (Multi-Family Residential) zoning districts and in existing or proposed mobile home parks that are zoned as part of a MH (Mobile Home) zoning district.
- b. All shipping containers used as dwelling units shall be installed on a permanent foundation and comply with the Florida Building Code and Florida Fire Prevention Code.
- c. The use of shipping containers as dwelling units shall be contingent upon certain architectural modifications being made to the exterior of the structures. Such modifications shall include the use of residential windows and doors, awnings, and finishing materials such stucco, fiber cement siding or other materials appropriate for the residential use.
- d. For shipping container dwellings proposed for use in mobile home parks, architectural elevations are required to illustrate the types of architectural treatments and finishing materials that will be used. A typical lot layout is also required to illustrate setbacks, off-street parking and any appurtenances that will be used such as carports and decks.
- e. For properties zoned for multi-family uses, a detailed site plan showing setbacks, building footprints, parking, and required landscaping and buffering is required. Architectural elevations shall also be provided to show the types of architectural treatments and finishing materials that will be used.
- f. All other development standards shall be in accordance with the underlying zoning district in which the property is located.

##### 5.25.1.3 Shipping Containers as Accessory Structures for Certain Commercial Uses

- a. All shipping containers used as accessory structures shall be installed on a permanent foundation and comply with the Florida Building Code and Florida Fire Prevention Code.
- b. Use as commercial accessory structures shall be limited to the following uses when permitted as a principal use in the underlying zoning district:

1. Small-scale restaurants in which fresh food products are prepared on-site and sold directly to consumers for either on-premises or off-premises consumption.

2. Small-scale, specialty retail sales of antiques, fresh, packaged and prepared foods, cosmetics, clothing, gifts, toys, books, jewelry, small electronics, flowers, arts and crafts and other similar goods.
  3. Indoor hydroponic production of fruits, vegetables, flowers and herbs.
  4. Other uses not specifically listed when the Director of Community & Economic Development determines that the use is compatible with the surrounding uses.
- c. No more than one shipping container shall be installed per premises. The installation of two or more shipping containers for innovative commercial projects such as container food courts and other uses may be considered through a conditional use permit.
  - d. Shipping containers used as an accessory building for restaurant or retail sales uses shall be located in accordance with the setbacks applicable to the principal structure on the lot or parcel on which they are located.
  - e. Shipping containers used for hydroponic production shall be located in accordance with the setbacks for General Accessory Structures specified by Table 4.3-4.
  - f. Shipping containers used as accessory structures shall not be located within any required off-street parking spaces, vehicle driveways or drive aisles, fire lanes or pedestrian facilities.
  - g. Design and Performance Standards
    1. All shipping containers used as accessory structures shall be painted and maintained in good condition at all times with no visible structural damage, corrosion or graffiti.
    2. Shipping containers used for restaurant and retail uses shall be modified and enhanced through the use of architectural features such as commercial doors and windows, awnings, outdoor lighting, seating, and landscaping planters.
    3. Signage shall be limited to building mounted signs with a maximum sign area not to exceed 25 square feet per wall face and 50 square feet total.
    4. Any solid waste generated shall be collected and disposed using the solid waste collection bins serving the principal structure on the premises.

#### 2.6.4 ACCESSORY USES LISTED AND DEFINED

##### **Shipping Containers as Accessory Structures for Certain Commercial Uses in accordance with Sub-Section 5.25.1.3**

## ATTACHMENT "C"

### ARTICLE 5 – STANDARDS FOR SPECIFIC USES

#### 5.10 - ~~HOME OCCUPATIONS~~ HOME-BASED BUSINESSES

##### 5.10.1 INTENT AND APPLICABILITY

###### 5.10.1.1 Intent

~~Home occupations~~ home-based businesses are business that operate in whole or in part from a It is the intent of this section to provide minimum standards for ~~home occupations~~ home-based businesses in order to ~~promote mixed-use and to ensure~~ compatibility with surrounding land uses and as provided for in Section 559.955, Florida Statutes.

(Ord. No. 5455, 07-21-14)

###### 5.10.1.2 Applicability

Home occupations shall be conducted in accordance with these standards. Community Residential Homes and Family Day Care Homes as defined by Florida Statutes shall be permitted in residential zoning districts in accordance with applicable statutes and are not subject to the requirements of this section.

##### 5.10.2 HOME OCCUPATION TYPES

~~Home occupations are classified as Home Businesses or Home Offices and are described as follows:~~

###### ~~a. Home Business~~

###### ~~1. Permitted home business uses:~~

~~(a) Personal consultation or service. Examples: Barber, beautician, massage therapist, dietician/nutritionist, custom home builder, architect, financial planner, music teacher.~~

~~(b) Limited production and sale of art objects. Examples: Painter, potter, sculptor, photographer.~~

~~(c) Small item repair/service. Examples: Watch/clock repair, gunsmith, computer repair.~~

~~(d) Clothing services. Examples: Tailor, dressmaker, clothing alterations, sewing.~~

~~(e) Home Office uses as described below.~~

~~2. The Director of Community Development may allow other uses not specifically listed if he finds that the external impacts of such use or uses are not detrimental to the quiet enjoyment of the residential district.~~

###### ~~b. Home Office~~

###### ~~1. Permitted home office uses:~~

~~(a) Production of intellectual property. Examples: Freelance writer, scriptwriter, commercial artist.~~

~~(b) Computer or on-line services. Examples: Web site designer, graphic designer, software developer, online sales.~~

~~(c) Office operations. Examples: Bookkeeping, payroll, purchasing.~~

2. ~~The Director of Community Development may allow other uses not specifically listed if he finds that the external impacts of such uses are not detrimental to the quiet enjoyment of the residential district.~~

c. ~~Prohibited Home Occupations~~

1. ~~The following are examples of occupations that are prohibited as home occupations:~~

- ~~(a) Adult uses.~~
- ~~(b) Motor vehicle sales, rental, service or repair.~~
- ~~(c) Small engine sales, service or repair.~~
- ~~(d) Appliance sales, service or repair.~~
- ~~(e) Machining, welding or working of metal.~~
- ~~(f) Woodworking.~~
- ~~(g) Sale or preparation of food items.~~
- ~~(h) Tattooing or body piercing.~~

2. ~~The Director of Community Development may prohibit other uses not specifically listed if he finds that the external impacts of such use or uses are detrimental to the quiet enjoyment of the residential district.~~

5.10.32 GENERAL STANDARDS FOR ALL HOME OCCUPATIONS/HOME-BASED BUSINESSES

a. ~~Only the person or persons maintaining the dwelling as their primary place of residence shall operate a home occupation. Employees of the business who work at the residential dwelling must also reside in the residential dwelling, except that up to a total of two employees or independent contractors who do not reside at the residential dwelling may work at the business. The business may have additional remote employees that do not work at the residential dwelling.~~

b. ~~The activities of the home-based business shall be secondary to the property's use as a residential dwelling. A home occupation shall home-based business may operate in a completely enclosed structure or a detached accessory structure. The home-based business may not conduct retail transactions at a structure other than the residential dwelling; however, incidental business uses and activities may be conducted at the residential property.~~

c. ~~As viewed from the street, the use of the residential property shall be consistent with the uses of the residential areas that surround the property. External modifications made to a residential dwelling to accommodate a home-based business shall conform with the residential character and architectural aesthetics of the neighborhood. There shall be no external advertising, external display of goods, or any other external evidence of any ~~home occupation~~ home-based business, except for signage in accordance with [Section 4.9](#).~~

d. ~~No substances or materials shall be stored or used except as they would, in such quantity, be normal and acceptable in a residential setting. All business activities shall comply with any relevant local, state, and federal regulations with respect to the use, storage, and disposal of any corrosive, combustible, or other hazardous or flammable materials or liquids.~~

e. Such occupation shall not result in any continuous, intermittent, pulsating or other noise or vibration that can be detected by a normal person off the premises. The business activities

shall comply with the City's Land Development Code and Code of Ordinances with respect to equipment or processes that create noise, vibration, heat, smoke, dust, glare, fumes, or noxious odors.

- f. ~~Home occupations~~ Home-based businesses shall meet all requirements of this Code pertaining to the parking of commercial vehicles as specified in Sub-Section 5.17.3.6. Parking related to the business activities of the home-based business shall comply with the general parking requirements within the Land Development Code and the need for parking generated by the business may not be greater in volume than would normally be expected at a similar residence where no business is conducted. Vehicles and trailers used in connection with the business must be parked in legal parking spaces that are not located within the right-of-way, on or over a sidewalk, or on any unimproved surfaces at the residence. Heavy equipment used in conjunction with the home-based business shall not be visible from the street or any neighboring property. For the purposes of this section, the term "heavy equipment" shall mean commercial, industrial, or agricultural vehicles, equipment, or machinery.

#### 5.10.4 SPECIFIC STANDARDS FOR HOME BUSINESSES

- a. ~~Not more than two clients, customers or business associates shall be present on the premises at any one time.~~
- b. ~~Signage shall be in accordance with [Section 4.9](#).~~
- c. ~~Over-the-counter sale of merchandise shall be limited to:~~
- ~~1. Items incidental to a permitted service. Example: Sale of hair care product by barber or beauty shop.~~
  - ~~2. Art objects or small specialty items made on the premises.~~
- d. ~~Hours of operation shall be not earlier than 8 am and not later than 9 pm.~~

#### 5.10.5 SPECIFIC STANDARDS FOR HOME OFFICES

- a. ~~There shall be no customer or business traffic to the premises other than occasional deliveries as would be normal in a residential setting.~~
- b. ~~There shall be no over-the-counter sale of merchandise.~~
- c. ~~The home office may involve the office operations of a business having non-office operations that are conducted elsewhere. In such cases, the home office may be the address of the business if otherwise permitted by law.~~

## 1.6 - DEFINITIONS

...

**Home-Based Business:** A business that operates, in whole or in part, from an improved residential property and meets the criteria in Section 559.955, Florida Statutes and the minimum standards in Section 5.10 of this code.

## ATTACHMENT "D"

### ARTICLE 5 – STANDARDS FOR SPECIFIC USES

#### **5.17 - PARKING AND STORAGE OF COMMERCIAL VEHICLES, BOATS, TRAILERS, AND CONSTRUCTION EQUIPMENT**

...

##### 5.17.3.6 Parking of Commercial Vehicles and Commercial Trailers Regulated

It shall be unlawful for any person to park any commercial vehicle or commercial trailer on any residentially zoned tract, lot, piece or parcel of land within the city, except:

a. One commercial vehicle per dwelling unit shall be permitted provided each of the following requirements is met:

1. The Gross Vehicle Weight Rating (GVWR) of the commercial vehicle is less than 12,500 pounds.
2. The commercial vehicle is less than 80 inches wide.
3. The commercial vehicle is less than 26 feet in length.
4. The commercial vehicle has only two axles on the road.
5. The commercial vehicle is not equipped with air brakes, refrigeration equipment, hydraulic lifts, cranes, loading ramps, or similar equipment.

b. Sub-Section 5.17.3.6.a notwithstanding, the following commercial vehicles shall be prohibited on all residentially zoned tracts, lots, pieces or parcels of land within the city:

1. Semi-trucks and/or trailers, either as one unit or separately;
2. Wreckers and tow trucks;
3. Box trucks;
4. Dump trucks;
5. Bucket trucks.

c. Any vehicles and trailers used in conjunction with a home-based business shall be parked in legal parking spaces that are not located in the right-of-way, on or over a sidewalk, or on any unimproved surfaces at the residence.

e-d. Any vehicle owned by a public or private utility provider, when used in the event of emergencies requiring immediate attention, shall be exempt from the requirements of this section.

## 1.6 - DEFINITIONS

...

**Yard, Required:** A yard between a lot line and the nearest principal building minimum setback line measured perpendicular to the lot line.

**Yard, Side:** A yard extending from the front yard to the rear yard between any building and the side lot line measured perpendicular to the side lot line.

**Yard, Street Side:** A yard extending the full width of a lot between any building and the street side lot line.

## 5.17 - PARKING AND STORAGE OF COMMERCIAL VEHICLES, BOATS, TRAILERS, AND CONSTRUCTION EQUIPMENT

...

### 5.17.3.5 Parking and Storage on Residential Property Permitted and Regulated

Parking of boats, unoccupied motor homes, or trailers (excluding semi-trailers), by any owner upon such owner's own residential premises, shall be permitted in any district; provided, however, that no sleeping, eating or living shall be permitted, nor shall any business be conducted in said motor home, boat or trailer while so parked or stored; and further provided, that such motor home, boat or trailer shall not be parked or located ~~between the principal building and~~ within any front or street-side property line yard as defined in Section 1.6 and Figure 1.6-10 of the Land Development Code.

ATTACHMENT “E”

**5.18 - PERSONAL WIRELESS SERVICE FACILITIES**

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5.18.5 STANDARDS FOR GROUND-MOUNTED FACILITIES

5.18.5.1 General

a. Ground-mounted PWS facilities shall be permitted by right in the following zoning district classifications: O-2, O-3, C-2, C-3, C-4, C-5, I-1, I-2 and I-3. Ground-mounted PWS facilities may be permitted as conditional uses in the following zoning district classifications: RA-1, RA-2, RA-3, RA-4, RB, MF-12, MF-16, MF-22, MH, ~~RCLD~~, O-1, C-1. The determination as to whether a ground-mounted PWS facility is permitted by right or as a conditional use in the PUD zoning district classification shall be based on the conventional zoning district which most closely approximates the use or uses permitted in the particular PUD district.

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**Table 5.16-1: Maximum Height**

Zoning District	Central City Area	All Other Areas
RA (all), RB (all)	75'	75'
MF (all)	75'	75'
O-1, O-2, C-1, C-2, C-3	75'	85'
C-4	85'	95'
C-5	95'	120'
O-3	85'	120'
I-1	110'	150'
I-2, I-1	150'	200'
<del>RCLD</del>	n/a <u>150'</u>	200'

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#### 5.18.7 STANDARDS FOR PWS FACILITIES AS CONDITIONAL USES

It is the intent of the City Commission to set forth standards for review, approval, approval with conditions, or disapproval of exceptions to the placement or construction of PWS facilities as permitted by right and the regulations which control the placement or construction of such facilities as contained in this article. These standards are instituted to provide an opportunity to place or construct a PWS facility, which under usual circumstances, could be detrimental to other land uses and cannot normally be permitted, but which may be permitted under circumstances particular to the proposed location and subject to conditions which provide protection to adjacent land uses, which protect the attractiveness, health, safety and property values of the community, which avoid the proliferation of visually obtrusive structures, and which promote the development of an advanced wireless communication infrastructure.

- a. Exceptions to the standards for the placement or construction of PWS facilities shall be considered as conditional uses. The conditional use procedure may be considered for the following:
  1. Requests for ground-mounted PWS facilities proposed to be located in residential, O-1, C-1, and RCLD zoning districts and within 2,000 feet of the lakes specified in Sub-Section 5.18.5.6.
  2. Requests for exceptions to specific standards established in this Article for maximum height; horizontal separation; separation from residential districts, limited-access highways (including frontage roads), arterial streets and highways and collector streets; and alternatives to the monopole type mount.