



# Planning and Zoning Board Meeting

Wednesday, October 14, 2020 at 7:00 pm

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. CONSENT AGENDA

#### APPROVAL OF MINUTES

- a. **Approval of Minutes of 09/23/2020**

Exhibit: Agenda Report Number 4a

#### **Attachments:**

- Agenda Report Number 4a (Agenda\_Report\_Number\_4a\_.pdf)

5. ACTION ITEMS : 0
6. PUBLIC HEARING : 0
7. DISCUSSION/POSSIBLE ACTION ITEMS

- a. **Malabar COVID-19 Policy**

Exhibit: Agenda Report Number 7a

#### **Attachments:**

- Agenda Report Number 7a (Agenda\_Report\_Number\_7a\_.pdf)

- b. **Ordinance 2020-XX Malabar L.D.C. Article III, Table 1-3.3(A)**

Exhibit: Agenda Report Number 7b

#### **Attachments:**

- Agenda Report Number 7b (Agenda\_Report\_Number\_7b\_.pdf)

- c. **Discuss local regulations for Mobile Food Vendors**

Exhibit: Agenda Report Number 7c

#### **Attachments:**

- Agenda Report Number 7c (Agenda\_Report\_Number\_7c.pdf)

8. ADDITIONAL ITEMS FOR FUTURE MEETING
9. PUBLIC COMMENTS
10. OLD BUSINESS/NEW BUSINESS

**a. Old Business**

**b. New Business**

Board Member Comments

Next regular Meeting - October 24, 2020

**11. ADJOURNMENT**

Contact: Denine Sherear (dsherear@townofmalabar.org 13217277764) | Agenda published on  
10/07/2020 at 10:44 AM

**"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  
September 23, 2020 7:00 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 7:00 P.M. Prayer and Pledge led by Board Member Doug Dial.

**2. ROLL CALL:**

CHAIR: WAYNE ABARE  
VICE-CHAIR: LIZ RITTER  
BOARD MEMBERS: GEORGE FOSTER  
DOUG DIAL  
MARY HOFMEISTER  
ALTERNATE: SUSAN SHORTMAN  
ALTERNATE: JEFF RINEHART  
ACTING BOARD SECRETARY: RICHARD KOHLER

ALSO IN ATTENDANCE: FIRE CHIEF MIKE FOLEY  
BCSO DEPUTY BECKER

Chair Abare made a statement that some members of this Board have had personal experiences with COVID-19. He states that due to this, he is requesting that all Board Members wear a mask for the duration of the meeting. Alternate Board Member Shortman stated that she has a medical issue that makes wearing a mask for extended amounts of time difficult. Chair Abare asked Board Member Shortman to leave. Alternate Board Member Reinhart states that without an ordinance there is no way to enforce this. All remaining Board Members then agreed to wear a mask for the remainder of the meeting.

**3. ADDITIONS/DELETIONS/CHANGE:**

Vice Chair Ritter asked that her document for 7a be added to the record.

**4. CONSENT AGENDA: 1**

<b>4.a. Approval of Minutes</b>	a. Planning and Zoning Meeting – 09/09/2020
<b>Exhibit:</b>	Agenda Report No.4. a
<b>Recommendation:</b>	Request Approval

Motion: Ritter/Hofmeister

For Agenda Item 4a, the Chair cannot second a motion (Corrected to Alternate Board Member Reinhart).

Vote: all ayes.

**5. PUBLIC HEARING: 0**

**6. ACTION: 0**

**7. DISCUSSION: 2**

7.a. **Ordinance 2020-12 Table 1-3.3(A) – Debby Franklin, Town Clerk/Treasurer**  
**Exhibit:** Agenda Report No.7.a  
**Recommendation:** Discussion

Vice Chair Ritter added the following item to the record:

"R/LC the R (residential) does not need a MBC% (Maximum Building Coverage) But LC (Limited Commercial) as with any other Commercial Zoning, there needs to be a MBC percentage. An additional footnote can be added to clarify this. R/LC is a MIXED USE Zoning. When we did the illustration with Morris (page 126) Figure 1-3.3(D) it was an example to put things into a visual context.

A business owner with 3 or 5 acres, should not be constricted to the same size as a 1 acre owner. He could have multiple buildings, each 4,000 square feet or less.

We were envisioning something similar as to Downtown Melbourne, Small Street Shops and Businesses with apartments and residents above."

Chair Abare states that during the discussion on Tiny Homes, the Attorney found these empty slots in the table. Due to this zoning being a dual use, this is in two pieces and we can act on one or both.

Vice Chair Ritter Moves to untable/ Dial seconds.

Board Member Foster says he is not opposed to this change. We should enforce this but allow a developer to join lots and exceed the minimum.

Vice Chair Ritter States that there are several empty spots in RM-4 and RM-6. Should we work to fix those as well?

Board Member Dial recommends they use the regulations from RS-10 and work from there.

Chair states he would like more time to research this and asks for Staff to do more research on this as well.

Vice Chair asks to move to the Limited Commercial side of the R/LC. She refers to chart in 1-3.3(D) as the best reason to not remove this.

Board Member Dial recommends we add it to the commercial side as well.

Vice Chair suggests instead of Mixed Use, call R/LC. When we first had this discussion, we had the Engineer draw the 20% diagram specifically for the Commercial side of this Zoning. She recommends we follow to the equation of 20%.

Vice Chair asks when were these changes implemented? Who came up with the 4000 Square Feet? The goal of R/LC is to avoid having a big box store. Residential development should be encouraged first, then businesses with mom and pop capabilities. Barber shops, bike shops, coffee shops and such, neighborhood shops, and specialized localized markets. Her Goal is to not restrict someone who owns multiple acres.

Board Member Dial says to expand the residential, and to encourage people with multiple acres to come together and form PUDs.

Board Member Foster states that a 4000 square foot restriction will get us laughed at by developers. We should pursue the 20%.

Acting Board Secretary Kohler explains that the narrative in the Comprehensive Plan and the Land Development Code both express 4000 square feet. The narrative trumps the table. To change the narrative, the Town would need to do a Large-Scale Amendment, which can take months and be very expensive.

Vice Chair Ritter states that if we are going to fix the problem, we should fix it properly. Her only goal is not to restrict a landowner who has more than one acre.

BM Reinhart states that we should investigate what will happen when they widen Malabar Rd. We don't want to over restrict. We should encourage multiple parcel owners to join.

Chair states we will revisit this.

#### **7.b. Discuss Local Regulations for Mobile Food Vendors**

Chair begins by reminding the board what has already been discussed, in particular SB 474. Local Governments can't restrict food trucks except for the allowable zoning and time of operations. The Chair states that in an earlier conversation, the Mayor told him to explore the following options:

"Commercial and R/LC, improved lots, no tables, close at 8 or 9 pm (Vice Chair Ritter States Dark) Follow sign ordinance, no tents, no restrooms, no alcohol"

Board Member Foster states he would like to see them in Commercial and R/LC.

Board Member Dial agrees.

Vice Chair Ritter asks about OI.

Board Members Foster, Dial, Hofmeister and Reinhart all agree to include OI.

Chair asks if we will make them use only improved Property?

Board Member Dial asks what constitutes developed?

Chair states that they need to at least have improved ingress and egress.

Board Member Reinhart states that in order to develop you need to do through a site plan review.

Board Member Dial states that the owner is incentivized to let the users sit for free. What is the least we can ask the owner to do?

Board Member Reinhart states ingress/egress, parking and stormwater.

Board Member Foster states it's too easy to get too restrictive. These are very informal businesses. We don't want them tearing up the roads.

Chair states that he believes it is an unfair situation. Restaurants follow specific rules and these businesses do not.

Vice Chair Ritter restates that they should only be allowed on improved property.

Chair asks if she is proposing improved Property Only?

Vice Chair Ritter, Board Member Hofmeister and Board Member Reinhart say yes.

Board Member Dial is worried that we will over limit these businesses.

Board Member Foster recommends adding the term minimally improved.

Board Member Reinhart states the biggest issues are safety and fairness. He would support minimally improved lots.

Board Member Hofmeister asks Chief how the Fire Department would react to a call there?

Chief stated that they would respond to these businesses as if they were any other business.

Board Member Dial states limiting them to improved property is growing on him.

Board Member Reinhart states in St. Cloud they included the Town Parks. Have an event for them.

Board Member Foster agrees that would be beneficial.

Chair states he will add that to the list.

Board Member Foster states we should add a clause that the Town can respond to complaints.

Board Member Reinhart reminds him all we can enforce is Zoning and Hours of Operations.

Chair states we should put a list together and send it to the lawyer. Let him decide what is legal and not.

Vice Chair Ritter states she like the idea of the park. Its beneficial to both sides.

Chief states a centrally located location would be ideal.

Deputy Becker states there are traffic issues involved with the corner lot. It hasn't been an issue yet, but he can see it becoming one. He like the park idea as well.

Board Member Dial states that at the park they won't see as much traffic. We should also try to limit them per site.

Board Member Reinhart states that we could grow it to an event. Board Member Foster agrees.

The Chair asks for a consensus on hours of operation (Dawn to Dusk Unless they supply lighting)

Chair asks if in the park, would they be allowed to park over night?

Deputy Becker states that would not be ideal. They may be mobile, but they generally like to stay put.

Board Member Reinhart states that the Tourist development tax can help. We would have to improve an area with the State's money. This is a long-term project.

Board Member Foster asks if they were left over night? Board Member Reinhart responds yes.

Chair states that on the corner one tenant is subletting to the other. What happens if another comes?

Board Member Foster asks what kind of timeline we can put together to get them to the park. Lights, electric, sewer, fence all take time.

Board Member Reinhart asks staff to develop an idea. We can charge for the power. He really likes the park idea. The general consensus is that the park idea is a good place to start.

Board Member Foster states there should be a transition period.

Board Member Reinhart states that putting them on Town Property allows us to have a little more control. There are a lot of things we can do with that park.

Chief states that one old vendor from the corner left and took their customers with them.

Barbra Cameron – Food truck venues have amazed her in the past. High quality food and a large crowd of customers. Give them 6 weeks to move! They're going to have to move anyways, we should have a plan for them. She agrees dusk to dawn unless lighting is provided.

Chief recommends it go to the Parks and Rec Board

John Di'Amico – Check with the vendors on their contract with the property owners.

Board Member Dial asks if we should determine what constitutes developed?

Chair states that they have discussed this enough for one night and asks for a motion to adjourn.

**8. ADDITIONAL ITEMS FOR FUTURE MEETING:**

**9. PUBLIC: None**

**10. OLD BUSINESS/NEW BUSINESS:**

Old Business:

New Business:

- Next Regular Meeting- October 14, 2020

**11. ADJOURN**

There being no further business to discuss

MOTION Hofmeister/Dial . Vote: All Ayes. The meeting adjourned 8:31 PM.

BY:

\_\_\_\_\_  
Wayne Abare Chair

\_\_\_\_\_  
Richard W. Kohler, Acting Board Secretary  
presented/corrected:

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

# TOWN OF MALABAR

## PLANNING AND ZONING BOARD

AGENDA ITEM NO: 7a  
Meeting Date: October 14, 2020

Prepared By: Richard W. Kohler, Acting Board Secretary

---

**SUBJECT: Malabar COVID-19 Policy**

---

### **BACKGROUND/HISTORY:**

At the Malabar Town Council Meeting of October 5, 2020, the Town Council voted 5-0 to impose a face covering and social distancing policy for the Town. The policy has been in effect since the end of the October 5<sup>th</sup> meeting, but will be formally adopted at the October 19<sup>th</sup> Town Council meeting. Anyone who enters a designated Town owned or operated facility will be asked to wear a face cover OR maintain social distance for the duration of their time in said facility.

### **ATTACHMENTS:**

Draft Resolution from Attorney Kari Bohne  
Signs posted on Town Hall Entrances

**ACTION OPTIONS:** Discussion



## RESOLUTION 17-2020

**A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PURSUANT TO THE GENERAL POWERS RESERVED TO THE TOWN COUNCIL IN THE TOWN CHARTER; MAKING LEGISLATIVE FINDINGS; PROVIDING FOR DEFINITIONS; REQUIRING ALL PERSONS TO WEAR FACE COVERING AT DESIGNATED TOWN FACILITIES; PROVIDING FOR EXCEPTIONS; PROVIDING FOR SUNSET; PROVIDING FOR SEVERABILITY, CONFLICTS AND EFFECTIVE DATE.**

WHEREAS, Novel Coronavirus Disease (COVID-19) is a severe acute respiratory illness that can spread among humans through respiratory transmission and causes symptoms similar to those of influenza, and in some cases death; and

WHEREAS, guidance released by the CDC on June 15, 2020 states that (i) the COVID-19 virus is mostly spread by respiratory droplets released when people cough, sneeze and talk and (ii) that a person can get COVID-19 by touching a surface or object that has the virus on it and then by touching their mouth, nose or possibly their eyes. This guidance goes on to state that "personal prevention practices (such as staying home when sick, social distancing, wearing a cloth face covering, and handwashing) and environmental prevention practices (such as cleaning and disinfection) are important are important ways to prevent the spread of COVID-19; and

WHEREAS, the CDC has expressly found that "COVID-19 spreads mainly from person to person through respiratory droplets produced when a person coughs, sneezes or talks. These droplets can land on the mouths or noses of people nearby and possibly inhaled into the lungs. Studies and evidence on infection control report that these droplets usually travel around 6 feet (about "2 arms' length"); and

WHEREAS, the CDC therefore specifically recommends that as communities reopen, and people resume their daily activities, people should wear face coverings to slow the spread of COVID-19 particularly in "public settings where other social distancing measures are difficult to maintain"; and

WHEREAS, based on the advice of medical professionals, the number of COVID-19 cases may continue to rise unless measures are instituted to slow the spread and stop the introduction of the COVID-19 virus; and

WHEREAS, the State of Florida has the highest percentage of population in the United States 65 years of age and older, as well as the second largest population of that demographic; and

WHEREAS, according to the CDC, the vast majority of persons that test positive for the COVID-19 virus that are hospitalized are persons over the age of 65 years and/or have underlying health conditions; and

WHEREAS, according the CDC the highest percentage of severe outcomes among persons are aged 85 years of age and older; and

WHEREAS, the Town Council finds that it is in the best interest of the residents of the Town of Malabar and the general public, and it is in furtherance of the public health, safety, and welfare, to formally adopt this Resolution to require face coverings at and in designated Town Facilities.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, FLORIDA, as follows:

**Section 1.** The above recitals are adopted by the Town Council as legislative findings.

**Section 2. Definitions.**

“Face Covering” shall mean a uniform piece of material, made of paper or cloth and including plastic shield coverings, that securely covers a persons’ nose and mouth and remains affixed in place without the use of one’s hands, whether store-bought or homemade, concurrent with CDC guidelines

“Social Distancing” shall mean keeping space between yourself and other people by staying at least 6 feet.

**Section 3.**

Face Coverings Required in Designated Town Owned and Operated Facilities.

(a) Every Person living, working, or visiting the Town of Malabar shall wear a face covering in the following Town owned and operated facilities:

1. Town Hall 2725 Malabar Road
2. Malabar Fire Dept, 1840 Malabar Road
3. Malabar Public Works Building 1435 Centre Street

(b) Exceptions:

1. Persons under the age of 6 years old; and
2. Persons observing social distancing under the CDC guidelines; and
3. Persons for whom a face covering would cause impairment due to

- an existing health condition; and
- 4. When a person who is hearing impaired needs to see the mouth of someone wearing a face covering in order to communicate.

**Section 4. Severability.** In the event a court of competent jurisdiction shall hold or determine that any part of this Resolution is invalid or unconstitutional, the remainder of the Resolution shall not be affected and it will be presumed that the Town did not intend to enact such invalid or unconstitutional provision. It shall further be assumed that the Town Council would have enacted the remainder of this Resolution without said invalid and unconstitutional provision thereby causing said remainder to remain in full force and effect.

**Section 5. Conflicts.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 6. Effective Date and Sunset.** This Resolution shall become effective *nun pro tunc* on October 5, 2020, and shall sunset at 12:01 a.m. on November \_\_, 2020, unless extended by the Town Council.

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

Council Member Grant Ball	_____
Council Member Brian Vail	_____
Council Member Steve Rivet	_____
Council Member David Scardino	_____
Council Member Danny White	_____

PASSED AND ADOPTED by the Town Council, Town of Malabar, Brevard County, Florida this 19th day of October, 2020.

BY: TOWN OF MALABAR

\_\_\_\_\_  
Mayor Patrick T. Reilly, Council Chair

ATTEST:

\_\_\_\_\_

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

(seal)

Approved as to form and  
legal sufficiency by:

---

Karl W. Bohne, Jr.  
Town Attorney

DRAFT



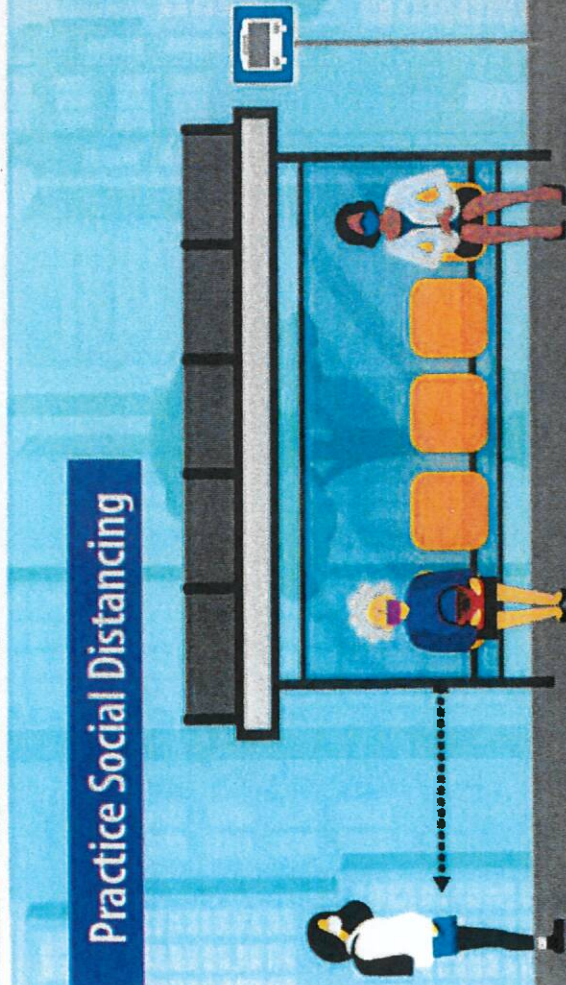
# Welcome to Town Hall

**Please Wear a Face Covering  
for Entry or Social Distancing.  
For Everyone's Health and Safety**

**PLEASE WEAR  
A FACE MASK  
IN THIS AREA**

# Help Protect Yourself and Others from COVID-19

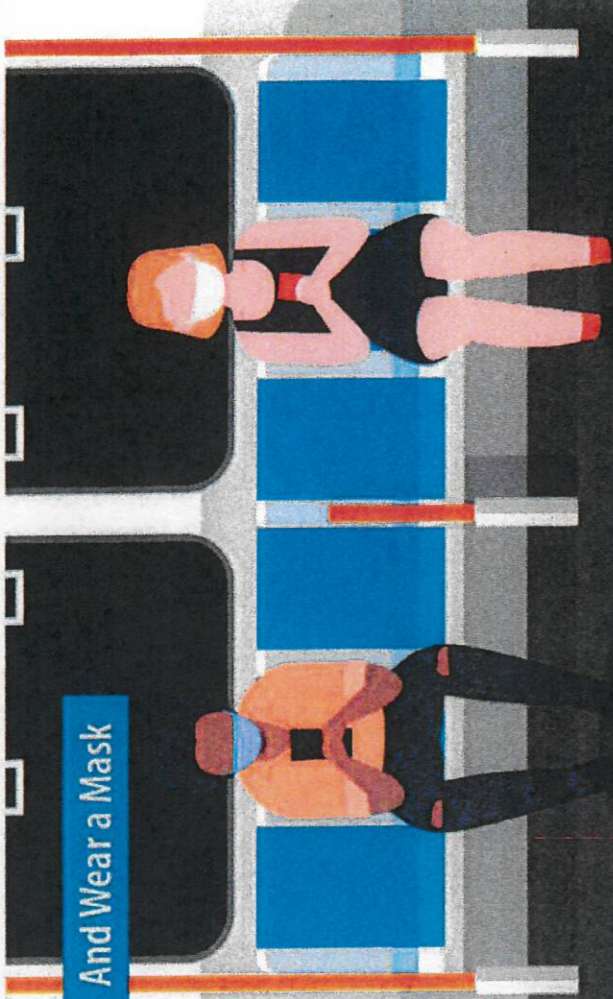
Practice Social Distancing



Stay 6 feet (2 arm lengths) from other people.



And Wear a Mask



Be sure it covers your nose and mouth to help protect others.  
You could be infected and not have symptoms.

[cdc.gov/coronavirus](https://cdc.gov/coronavirus)

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

**AGENDA ITEM NO: 7b**  
**Meeting Date: October 14, 2020**

**Prepared By: Richard W. Kohler, Acting Board Secretary**

---

**SUBJECT: Ordinance 2020-XX, Malabar L.D.C. Article III Table 1-3.3(A)**

---

**BACKGROUND/HISTORY:**

This item was on the last three meeting agendas and was tabled at the 8.26 Planning and Zoning Board Meeting by a motion from Vice Chair Ritter and Board Member Hofmeister and removed from the 9.09 agenda by Board Chair Abare. Town Clerk Franklin is requesting the Planning and Zoning Board make a recommendation to Council on this Ordinance. This Ordinance provides for a Minimum square footage of 1,200 ft for single family homes in RM4, RM4 & R/LC zoning districts.

**ATTACHMENTS:**

Package from Debby Franklin, C.M.C., Town Clerk/Treasurer

**ACTION OPTIONS:** Discussion

# TOWN OF MALABAR

## MEMORANDUM

---

**Date:** September 3, 2020 2020-TC/T-037  
**To:** Denine Sherear, Bldg. Dept. Manager, P&Z Board Secretary  
**From:** Debby K. Franklin, C.M.C., Town Clerk/Treasurer  
**Ref:** Upcoming Action for Council

---

While reviewing the recent recommendation from P&Z related to tiny homes, the Attorney noticed that the minimum square footage for single family homes in RM-6 and R/LC was missing from the Table 1-3.3(A). RM-4 also permits single family homes but does not specify a minimum square footage. The attached ordinance provides for a minimum square footage of 1,200 for single family homes in these Zoning classifications.

There is also a conflict between the language in the Comprehensive Plan for commercial development in R/LC which states in the narrative that it shall not exceed 4,000sf. The Attorney has stated that the Table 1-3.3(A) should be corrected to delete the .20 percent. That will eliminate the conflict between the narrative in the Comp Plan and in Article III, District Provisions of the Land Development Code.

This ordinance would correct these two issues. A separate ordinance is being created to address the tiny homes specifically.



TABLE 1-3.3 (A) SIZE AND DIMENSION REGULATIONS See numbered Notes below

Zoning District	Minimum Lot (1)			Maximum Height (ft./stories)	Min Sq Ft Living Area Commercial Area	Setback (ft.) from property line or centerline(2)				MISR (%)	MBC	MOS	Maximum Density (units per acre)
	Size (sq. ft.)	Width (ft.)	Depth (ft.)			Front	Rear	Side interior	Side corner				
<b>Rural Residential Development</b>													
RR-65	65,340	150	250	35/3	Single Family:1500	40	30	30	30	20	N/A	80	1
<b>Traditional Single-Family Residential Development</b>													
RS-21	21,780	120	150	35/3	1,800	35	20	15	15	35	N/A	65	2
RS-15	15,000	100	120	35/3	1,500	30	20	15	15	45	N/A	55	3
RS-10	10,000	75	100	35/3	1,200	25	20	10	10	50	N/A	50	4
R/LC	20,000	100	150	35/3	1,200	25	20	10	10	50	N/A	50	2
RM-4				35/3	1,200								
RM-6				35/3	1,200								
<b>Multiple Family Residential Development and Mixed-Use Development</b>													
RM-4	5-acre min Site	200	200	35/3	Multi Family 1-bedrm 900 2-bedrm 1100 3-bedrm 1300 Ea additional bedrm 120	60	40	40	40	50	N/A	50	4
RM-6	5-acre min Site	200	200	35/3	Multi Family 1-bedrm 500 2-bedrm 700 3-bedrm 900 Ea additional bedrm 120	60	40	40	40	50	N/A	50	6
R/LC Residential	20,000	100	150	35/3	Multi Family 1-bedrm 500 2-bedrm 700 3-bedrm 900 Ea additional bedrm 120	50	25	10	20	65	N/A	35	6
R/LC Mixed Use	20,000	100	150	35/3	Commercial Min 900 sf Max: 4,000sf	50	25	10	20	65	N/A	35	6

Table for Ord 2020-12

TABLE 1-3.3 (A) SIZE AND DIMENSION REGULATIONS See numbered Notes below

Zoning	Minimum Lot (1)			Setback (ft.) from property line or centerline (2) See also Note 5					MBC %	MOS %	Maximum Density Residential Units per acre		
	Lot Size	Width	Depth	Max Height	Floor Area	Front (2)	Rear (5)	Side interior				Side (C)	MISR %
<b>Mobile Home Residential Development</b>													
R-MH	Size: 5 acres Lot: 7000sf	N/A	N/A	N/A	N/A	10	8	8	10	50	N/A	50	6
<b>Office Institutional Development</b>													
OI	20,000	100	150	35/3	Minimum floor Area: 1,000sf	35/60 (2)	25	20	25	65	20	35	N/A
INS	20,000	100	150	35/3	Minimum floor Area: 1,200sf	50	25	20	30	60	20 (6)	40	N/A
<b>Commercial Development</b>													
CL	20,000	100	150	35/3	Minimum floor Area: 900sf Max: 4,000sf	50	25	10(4) 15(3)	20	65	20	35	N/A
CG	20,000	100	150	35/3	Minimum floor Area: 1,200sf Min hotel/motel 300sf ea unit	50	25	20(4) 15(3)	30	65	20	35	N/A
IND	20,000	100	150	35/3	Min 1,200sf	50 (5)	2.5 (5)	20(5)	30(5)	70	42	30	N/A
CP	No size or Dimension Standards Adopted												

Note 1: Minimum lot size include plus one-half of adjacent public right-of-way.

Note 2: Setbacks determined pursuant to Table 1-3.3(A) or (B) whichever is most restrictive.

Note 3: Setbacks where rear lot line abuts an alley.

Note 4: Setback shall be greater where side property line abuts a district requiring a larger setback on the abutting yard. In such cases the more restrictively abutting setback shall apply.

Note 5: Where any yard of industrial zoned property abuts a residential district, the building setback for such yard shall be 100 feet.

Note 6: Recreation activities Maximum Building coverage shall be 20%.

Note 7: Sides and rear may be reduced to 15' for accessory structures only and will increase in proportion with the maximum height of the accessory structure, i.e. if the height of the accessory structure is 20 feet, this will equal a 20-foot setback.

Table for Ord 2020-12

# Comp. Plan

since such development would be incompatible with existing and anticipated future residential development within or in the vicinity of areas designated "R/LC" on the Future Land Use Map.

## 1-2.2.6 Policy:

*Criteria for the Residential and Limited Commercial Development R/LC Designation.* The following criteria for development within the R/LC FLUM designation shall be incorporated into the Town of Malabar Land Development Regulations:

- a. *Percent of Site for Mixed Use Development.* Within the R/LC designation where Residential and Limited Commercial activities are proposed to occupy the same site and/or the same building the following minimum and maximum percentages shall apply:

	Minimum	Maximum
Limited Commercial	20%	90%
Residential	10%	80%

- \* b. *Limited Commercial Uses.* Limited Commercial uses with the R/LC FLUM designation shall have a minimum floor area of nine hundred (900) square feet and a maximum of four thousand (4,000) square feet. \*

- c. *Residential Uses.* Single family units shall have a maximum density of four (4) units per acre. Multiple family uses shall have a density no greater than six (6) units per acre. However, any residential site located with a high surficial aquifer area on the Atlantic Coastal Ridge and not served by central water and wastewater shall have a density no greater than two (2) units per acre.

- d. *Minimum Lot Requirements.* Lots within the R/LC FLUM designation shall have a minimum lot size of 20,000 square feet, a minimum width of 100' and a minimum depth of 150'.

Malabar Article III  
DISTRICT PROVISIONS

§ 1-8.1

- N. *PUD "Planned Unit Development."* The PUD district is established to implement comprehensive plan policies for managing planned unit development. The comprehensive plan incorporates policies encouraging innovative development concepts, including mixed use development. The planned unit development is intended to provide a voluntary framework for coordinating objectives of developers which may require departures from established public policy. The planned unit development district provides a management strategy for negotiating innovative development concepts, design amenities, and measures for protecting natural features of the land. The management process shall promote public and private coordination and cooperation. The land development code incorporates detailed regulations, standards, and procedures for implementing the planned unit development concept.

The planned unit development district shall be available as a voluntary approach for managing specific development characteristics and project amenities to be incorporated in residential, commercial, industrial or mixed use development. Developers who voluntarily participate in the process shall bind themselves as well as their successors in title to the stipulations within the development order approving the planned unit development district.

- O. *R/LC "Residential and Limited Commercial."* The R/LC district is established to implement comprehensive plan policies for managing development on land specifically designated for mixed use Residential and Limited Commercial development on the Comprehensive Plan Future Land Use Map (FLUM). Such development is intended to accommodate limited commercial goods and services together with residential activities on specific sites designated "R/LC" which are situated along the west side of the US 1 corridor as delineated on the FLUM. For instance, sites within this district are intended to accommodate neighborhood shops with limited inventory or goods as well as single family and multiple family structures with a density up to six (6) units per acre. Commercial activities shall generally cater to the following markets:

- Local residential markets within the town as opposed to regional markets; or
- Specialized markets with customized market demands.
- A Malabar Vernacular Style is required for all development along arterial roadways.

Areas designated for mixed use Residential and Limited Commercial development are not intended to accommodate commercial activities with a floor area in excess of four thousand (4,000) square feet, such as large-scale retail sales and/or service facilities or trade activities. These types of commercial activities generally serve regional markets and the intensity of such commercial activities is not generally compatible with residential activities located within the same structure or located at an adjacent or nearby site. Such stores would usually differ from limited commercial shops since the former would usually require a floor area larger than four thousand (4,000) square feet; would generally carry a relatively larger inventory; and require substantially greater parking area. Uses, which are not intended to be accommodated within the

SEP 03 2020

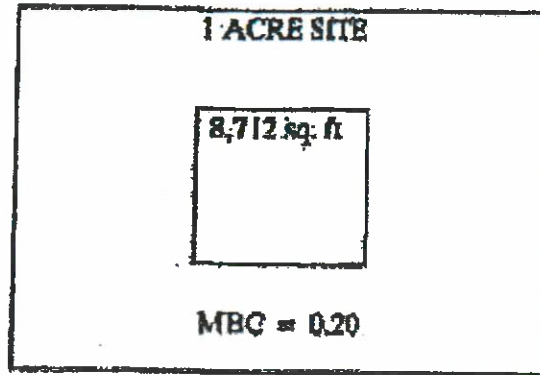
§ 1-3.3

MALABAR LAND DEVELOPMENT CODE

RECEIVED

*As per  
Chair Wayne  
Abare*

FIGURE 1-3.3(D). MAXIMUM BUILDING COVERAGE ILLUSTRATION



Maximum building coverage for a MBC of 0.20 = 8,712 sq. ft.

$$\text{MBC} = \frac{\text{Total Building Coverage}}{\text{Total Lot Area}}$$

E. *Principal Structure Setbacks.* Table 1-3.3(A) provides building setbacks for all zoning districts. In addition to these setbacks the required minimum setback shall be measured from the centerline of the right-of-way as in Table 1-3.3(E).

TABLE 1-3.3(E). PRINCIPAL STRUCTURE SETBACKS FROM CENTERLINE OF THOROUGHFARES

<i>Transportation Facility</i>	<i>Building Setback (feet)</i>
Arterial Roadways (150 feet R/W)	100
US 1 Highway	
Malabar Road (SR 514)	
Babcock Street (SR 507)	
Major Collector Streets (100 feet R/W)	85
Corey Road	
Weber Road	
Marie Street	
Jordan Blvd.	
Local Streets (50—60 feet R/W)	65
Minor Collector Streets (70 feet R/W)	75
Atz Blvd.	
Hall Road	
Old Mission Road	
Benjamin (Reese) Road	

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

**AGENDA ITEM NO: 7c**  
**Meeting Date: October 14, 2020**

**Prepared By: Richard W. Kohler, Acting Board Secretary**

---

**SUBJECT: Discuss local regulations for Mobile Food Vendors**

---

**BACKGROUND/HISTORY:**

The Planning and Zoning Board has discussed regulations on Mobile Food Vendors in the past. The focus of the discussion should be related to restricted locations and zoning areas that Mobile Food Vendors may operate in, and what regulations the Town of Malabar may impose on them.

**ATTACHMENTS:**

-Bill CS/SB 474 January 21, 2020 flsenate.gov – Chair Wayne Abare

**ACTION OPTIONS:** Discussion

SEP 03 2020

Submitted  
by chair  
Wayne  
Abare

1. **Public Food Service Establishments BILL CS/SB 474 January 21, 2020**

**Present Situation**

RECEIVED

Section 509.013(5)(a), F.S., defines the term "public food service establishment" to mean:

any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption.

The Division of Hotels and Restaurants within the DBPR is the state agency charged with enforcing the provisions of part I of ch. 509, F.S., and all other applicable laws relating to the inspection and regulation of public food service establishments for the purpose of protecting the public health, safety, and welfare.

1. There are several exclusions from the definition of public food service establishment,
2. Any place maintained and operated by a public or private school, college, or university for the use of students and faculty or temporarily to serve events such as fairs, carnivals, and athletic contests.
3. • Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization for the use of members and associates or temporarily to serve events such as fairs, carnivals, or athletic contests.
4. • Any eating place located on an airplane, train, bus, or watercraft which is a common carrier.
5. • Any eating place maintained by a facility certified or licensed and regulated by the Agency for Health Health Care Care Administration or the Department of Children and Families
6. • Any place of business issued a permit or inspected by the Department of Agriculture and Consumer Services under 500.12, F.S..
7. • Any place of business serving only ice, beverages, popcorn, and prepackaged items.
8. • Any vending machine that dispenses any food or beverage other than potentially hazardous foods..
9. • Any research and development test kitchen limited to the use of employees and not open to the general public.

**Effect of Proposed Changes**

Section 66 of the bill creates s. 509.102, F.S. to preempt the regulation of mobile food dispensing vehicles (food truck) to the state. The bill prohibits local government from requiring a license, registration, or permit to operate a food truck. Under the bill, a local government may also not prohibit the operation of food trucks. It is not clear whether this prohibition applies to local regulation of the locations where a food truck may operate

## Florida lawmakers back deregulation efforts: Sun-sentinel.com

TALLAHASSEE Feb 23, 2020— Local governments would be barred from licensing food truck vendors in their communities, as part of broader deregulation proposals that cleared final House and Senate committees Thursday.

The Senate Appropriations Committee and House Commerce Committee approved similar bills ([SB 474](#) and [HB 1193](#)) that meet part of a call by Gov. Ron DeSantis to scale back occupational regulations

Local governments would be barred from prohibiting the operation of food trucks.

Senate sponsor Ben Albritton, R-Wauchula, said the intent is to eliminate the duplication of state and local licensing requirements. He said local officials will still be able to dictate the hours and locations of food trucks.

Albritton added that while state sanitary rules would be in place for the vehicles, local zoning laws would still be enforceable.

"It is clear in this bill that if the local ordinance or the local perspective is that they do not want these mobile vendors operating in that downtown space, they still have every right and authority to provide for that," Albritton said. "And the local law enforcement or whoever they choose can still enforce that."

The food truck "preemption" drew opposition from the Florida League of Cities.

Jeff Branch, a lobbyist for the league, said after the meeting that local governments should be able to know who is operating in their communities. Branch added that even requiring the vendors to register without a charge would save time for local code enforcement and law enforcement.

"If they're aware of our regulations, they [the vendors] are less likely to get a zoning violation," Branch said.

Senate Minority Leader Audrey Gibson, D-Jacksonville, questioned the wisdom of the food-truck regulation changes.

"In cities and counties where the food trucks operate, it is the requirement of the locals to make sure that those trucks are operating safely, that they are operating in a sanitary manner," Gibson said.

Gibson added that the changes would reduce local revenue generated by small businesses.

"By preempting everything to the state, it goes to the state," she said.

DeSantis has repeatedly called for scaling back occupational licensing requirements.

"We feel this is going to put success more in the hands of folks and not have a guild mentality where you're trying to keep people out," DeSantis told reporters Thursday.