



# REGULAR TOWN COUNCIL MEETING

Monday, August 2, 2021 at 7:30 pm

1. CALL TO ORDER, PRAYER AND PLEDGE
2. ROLL CALL
3. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES
4. CONSENT AGENDA
  - a. **Approve Minutes of Regular Town Council Meeting of 07/19/2021**  
Exhibit: Agenda Report Number 4a
  - b. **Approve Minutes of Special Town Council Meeting of 07/26/2021**  
Exhibit: Agenda Report Number 4b

**Attachments:**

- **Agenda Reports Number 4a&b** (Agenda\_Report\_Number\_4a\_b.pdf)

- c. **Authorize Execution of ARPA Agreement after legal review.**  
Exhibit: Agenda Report Number 4c

**Attachments:**

- **Agenda Report Number 4c** (Agenda\_Report\_Number\_4c.pdf)

5. ATTORNEY REPORT
6. BCSO REPORT
7. BOARD / COMMITTEE REPORTS
  - a. T&G Committee
  - b. Park & Recreation Board
  - c. Planning & Zoning Board
8. STAFF REPORTS
  - a. Manager
  - b. Clerk
  - c. Fire Chief
9. PUBLIC COMMENTS

Comments at this point may address items NOT on the Agenda. Comments related to subsequent Agenda Items may be made as those items come up. Public comments do not require a Council response. (Speaker Card is Required)

***Five (5) Minute Limit per Speaker***

## 10. PUBLIC HEARINGS / SPECIAL ORDERS

### a. Amend Code per new State Law on Home Businesses (Ordinance 2021-10)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; REPEALING SECTION 1-5.25 IN ARTICLE V OF THE LAND DEVELOPMENT CODE REGARDING HOME OCCUPATIONS; AMENDING ARTICLE II OF CHAPTER BY 14 ADDING A NEW SECTION 14.40.2 RELATING TO HOME BASED BUSINESSES; AMENDING SECTION 14-46 BY ADDING BY ADDING HOME BASED BUSINESSES TO THE BUSINESS TAX RECEIPT FEE SCHEDULE; AMENDING SECTION 14-45 REGARDING FEES FOR BUSINESSES NOT SPECIFFACLY INCLUDED IN THE FEE SCHEDULE; PROVIDING FOR REPEAL; PROVIDING FOR INCORPERATION INTO THE CODE OF ORDINANCES; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 10a

#### Attachments:

- **Agenda Report Number 10a** (Agenda\_Report\_Number\_10a.pdf)

### b. Approve Amended Code related to Open Burning (Ordinance 2021-11)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 8 FIRE PREVENTION AND PROTECTION; AMENDING ARTICLE II SECTION 8-72 DEFINITIONS; AMENDING SECTION 8-73 REGARDING REQUIRED PERMITS; PROVIDING FOR REPEAL, SEVERABILITY AND CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 10b

#### Attachments:

- **Agenda Report Number 10b** (Agenda\_Report\_Number\_10b.pdf)

## 11. UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO RESIDENTS PRESENT AT MEETING

(RECOMMENDATIONS FROM BOARDS, HOA REQUESTS, RESIDENT GRIEVANCES)

## 12. ACTION ITEMS

ORDINANCES: 2

RESOLUTIONS: 0

MISCELLANEOUS: 2

### a. New Zoning Designation for Recreational Vehicle Park under FLU Designation of HDR (Ordinance 2021-09)

Exhibit: Agenda Report Number 12a

#### Attachments:

- **Agenda Report Number 12a** (Agenda\_Report\_Number\_12a.pdf)

### b. Amend Chapter 13 of Code regarding tracking Road Paybacks (Ordinance 2021-13)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 13, SECTION 13-47 PROVIDING FOR A ROAD REIMBURSEMENT RESOLUTION TO RECORD ROAD PAYBACKS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12b

#### Attachments:

- **Agenda Report Number 12b** (Agenda\_Report\_Number\_12b.pdf)

**c. Set date for Executive Session to discuss FD Union Negotiations 8/10 or 8/17**

Exhibit: Agenda Report Number 12c

**Attachments:**

- **Agenda Report Number 12c** (Agenda\_Report\_Number\_12c.pdf)

**d. Solid Waste Bid Review Committee Members**

Exhibit: Agenda Report Number 12d

**Attachments:**

- **Agenda Report Number 12d** (Agenda\_Report\_Number\_12d.pdf)

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

**13. DISCUSSION/POSSIBLE ACTION**

**a. Amend LDC Article XVI regarding Road Maintenance (Ordinance 2021-12)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE LAND DEVELOPMENT CODE OF THE TOWN; AMENDING ARTICLE XVI SUBDIVISIONS; AMENDING SECTION 1-16.4 PERTAINING TO ROAD DEDICATION AND REQUIRED LANGUAGE IN SUBDIVISION COMMUNITY ASSOCIATION RESTRICTIVE COVENANTS REGARDING MAINTENANCE OF ROADS, STREETS AND RIGHT OF WAYS; AMENDING SECTION 1-18.7 PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 13a

**Attachments:**

- **Agenda Report Number 13a** (Agenda\_Report\_Number\_13a.pdf)

**14. PUBLIC COMMENTS**

General Items (Speaker Card Required)

**15. REPORTS - MAYOR AND COUNCIL MEMBERS**

**16. ANNOUNCEMENTS**

(2) Vacancies on the Trails and Greenways Committee

**17. ADJOURNMENT**

If an individual decides to appeal any decision made by this board with respect to any matter considered at this meeting, a verbatim transcript may be required, and the individual may need to ensure that a verbatim transcript of the proceedings is made (Florida Statute 286.0105).

The Town does not provide this service. In compliance with F.S. 86.26 and the Americans with Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the Town's ADA Coordinator at 321-727-7764 at least 48 hours in advance of this meeting.

Contact: Debby Franklin (townclerk@townofmalabar.org 321-727-7764) | Agenda published on  
07/28/2021 at 3:25 PM

**TOWN OF MALABAR**

**COUNCIL MEETING**

**AGENDA ITEM NO: 4.**  
**Meeting Date: August 02, 2021**

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

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**SUBJECT: Consent Agenda**

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**BACKGROUND/HISTORY:**

Summary of Council actions at the Town Council Regular Meeting Minutes – 07/19/2021  
Summary of Town Council Special Meeting Minutes – 07/26/2021

**ATTACHMENTS:**

- a. Draft Minutes of 07/19/2021
- b. Draft Minutes of 07/26/2021

**ACTION OPTIONS:**

Council Action on Consent Agenda

**MALABAR TOWN COUNCIL REGULAR MEETING MINUTES**

**JULY 19, 2021, 7:30 PM**

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

**1. CALL TO ORDER:**

Council Chair, Mayor Patrick T. Reilly called meeting to order at 7:30 pm. CM Rivet led P&P.

**2. ROLL CALL:**

CHAIR:	MAYOR PATRICK T. REILLY
VICE CHAIR:	STEVE RIVET
COUNCIL MEMBERS:	MARISA ACQUAVIVA, excused
	BRIAN VAIL
	DAVID SCARDINO
	DANNY WHITE
TOWN MANAGER: (ITM)	LISA MORRELL
TOWN ATTORNEY:	KARL BOHNE
TOWN CLERK/TREASURER:	DEBBY FRANKLIN

**2. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES:**

CM Vail requested the 11.a. Item be moved to a Special Council Meeting on 7/26/2021 at 7:30pm. This is due to CM Acquaviva request to participate in the discussion.

**4. CONSENT AGENDA:**

- 4.a. Regular Town Council Mtg June 21, 2021
- 4.b. Special Town Council Mtg June 28, 2021
- 4.c. Special Town Council Mtg June 30, 2021
- 4.d. Memo from TM Matt Stinnett to discontinue payroll

MOTION: CM White / CM Vail to approve consent agenda. VOTE: All Ayes.

**5. ATTORNEY REPORT:** Atty Bohne gave update on Faber Code violation. Fines have accrued to 90K. Received email from Faber with offer to resolve for \$500. Current costs for the Town are \$2500. Courts are going to be reluctant to enforce a fine in excess of the value of the property. It becomes an illegal forfeiture. County uses for a fine, 35% of the maximum value of the property value. If you use that formula, it would be 7K and 8K. There is nothing wrong with our fines. But the courts see the disparity in those cases when the penalty exceeds the crime. CM Vail said this formula would be ok to use. Mayor said use two times the cost to the Town. If Council wants to leave it as is, it is that simple and will stay with parcel until sold; lien just needs to be renewed. CM White is ok with the Mayor's formula. ITM Lisa said this is called amnesty discussion, so the details are not stated. CM Rivet said let the foreclosure stay in place. This is a repeat violation. CM Vail and Mayor want closure. Consensus of Council and direction given to Attorney.

**6. STAFF REPORTS:**

6.a. Town Manager – had handed outdoor knockers – Hunter Lane paving is commencing. Craig McKinnon refreshed the stakes and the pipe across Hunter will be the first steps. They decided on a 60-day estimated Date of Completion but have left it open for exceptions due to availability of product and weather.

Solid Waste RFP. There are seven plan holders that have downloaded the RFP. Mandatory pre-proposal mtg set for 7/27. There are 4 options for them to bid and then an option to provide their best offer. Need to select committee of 3 to 5 members to review proposals. ITM Lisa will act as administrator for the review but can't be part of the committee as she wrote the RFP. Might be hard to get unless we can set the meetings to evening hours which she is willing to do. It is a big bid and should require focused review as this cost will impact all residents and businesses. She is open to suggestions. Council consensus of having Grant Ball. Committee doesn't meet until the end of the August. CM White suggested having them

from different areas of Town. ITM Lisa will reach out and contact various persons from all areas of the Town and bring list back for Council approval. Don't want to appoint people that are not willing to serve.

Wednesday is open enrollment period for employee health insurance as that issue has been resolved.

MCP new playground has Bldg Permit processed; she is awaiting confirmation for construction start date. They need advance notice so they can deconstruct and remove mulch for reuse. Construction will take multiple days when the playground area will be closed to public use. They will notify public before then and then she will do a drone coverage of construction to show residents afterwards.

FD staff has completed their annual physicals. She noticed today that WM has the clam truck out picking up piles. She took pictures. There have been dozens of calls made to WM by residents and staff.

Huggins Park sale went through. Closing is next week. Buyer is a Brevard resident. He doesn't have plans to develop for at least a year.

NPDES – 2-year reporting cycle we have a one-week extension. We do it in conjunction with Brevard County. We submitted info to County last April and just got response last week. We can improve our reporting process on this information required for future reports to do better.

NFIP – She attended an 8-hour catch up webinar to comply with annual participation in process due last year; also need to adopt some new procedures for tracking the non-compliance, complaints, and violations.

TPO did revise the list of State Road projects but widening SR514 is still at #18. Widening is not immediate, probably decades until completion.

Status of Twin Lakes development. Still working on tree mitigation and irrigation to ensure the livelihood of the new trees that are required. Lots were sold via auction, but no development will proceed until Final SD improvements are completed.

CM White wants to say thank you to ITM Lisa. She spared a few minutes with resident. Thank you. It is instrumental. She thanked him as well. We have improvement that we can do on our end.

**6.b. Clerk** – The annual FLC Conference is August 12-14 at the Orlando World Center. It starts on Thursday at 1pm and will cover a variety of topics that affect municipalities. I have registered CM White who will be the voting Delegate, and CM David Scardino to attend the full conference. ITM Lisa Morrell will drive over and attend the daily work sessions.

The Election 2021 Candidate qualifying period starts on 7/27/2021 - 8/10/2021. It has been posted at the P.O., front kiosk and within Town Hall. It is also on the Town's website and Facebook page. Both serving CM's intend to run for re-election.

**7. PUBLIC COMMENTS:** Comments at this point may address items NOT on the Agenda. Comments related to subsequent Agenda Items may be made as those items come up. (Speaker Card is Required) **Five (5) Minute Limit**

**8. PUBLIC HEARINGS: 0**

**9. UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO RESIDENTS PRESENT AT MEETING (RECOMMENDATIONS FROM BOARDS, HOA REQUESTS, RESIDENT GRIEVANCES) 2**

**9.a Trails & Greenways Committee Request for Public Works Assistance (Memo)**

Mayor called Drew Thompson for the Eagles Nest Trailhead. The covid situation slowed it down. The cut through has been cut through. Basically, here to request Town assistance. They met with Tom and Bob Wilbur. Aug 6 and 7 (Fri and Sat) to put in 160' of fence. Tom estimated about one day with equipment and root rake. Pull the roots out before the fence installation. Limited duration for use of secured yard next door. If we can get poles one day and then the fence. Marie St Al Tuttle – package that as one project that has made the cut thus far. Oct 30 TPO to co-sponsor a bike event.

**MOTION:** CM Vail / CM Rivet to authorize the PW Dept to complete the requests as stated by T&G Committee for the ENT (Eagle's Nest Trailhead). **VOTE:** All Ayes

**9.b. Fall Fest Event with Waiver of Park Event Fees (ITM Lisa Morrell)**

ITM Lisa explained the plan for this Oct 30 is a Sat Fall's FallFest or Trunk and Treat event. Food trucks. Keep the registration and insurance requirements. Music with self-contained stage and sound. CM Vail said it is a good idea. Plenty of local musicians.

**MOTION:** CM Rivet / CM Vail to approve date of Oct 30 for FallFest/Trunk and Treat event.

**VOTE:** All Ayes

**MOTION:** CM Vail / CM White to waive fees but require the registration and insurance.

**VOTE:** All Ayes

ITM Lisa has suggested to all the Boards and Committees that in order for a member of the Boards or Committees to solicit donations, that request should be first approved by the Town Council. She would request that Council make such a directive to Staff to share with the Boards and Committees that they should not solicit for sponsorship, donations, raffle prizes, support, money, etc. without first receiving support and direction from a Council action as put forth to Staff.

ITM Lisa explained that if FPL or other local sponsorship provided a \$500.00 "donation" – we could recognize them with a listing on the Sponsor Board or making a banner for each vendor agreeing to be a sponsor.

Council consensus to direct staff to inform Boards and committees to not solicit donations for the upcoming event, waive registration fees for vendors, and recognize those that voluntarily offer sponsorship with a banner.

**10. ACTION ITEMS:**

**ORDINANCES for FIRST READING: 2**

**10.a. Amended Code per new State Law on Home Businesses (Ord 2021-10)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; REPEALING SECTION 1-5.25 IN ARTICLE V OF THE LAND DEVELOPMENT CODE REGARDING HOME OCCUPATIONS; AMENDING ARTICLE II OF CHAPTER 14 BY ADDING A NEW SECTION 14.40.2 RELATING TO HOME BASED BUSINESSES; AMENDING SECTION 14-46 BY ADDING HOME BASED BUSINESSES TO THE BUSINESS TAX RECEIPT FEE SCHEDULE; AMENDING SECTION 14-45 REGARDING FEES FOR BUSINESSES NOT SPECIFICALLY INCLUDED IN THE FEE SCHEDULE; PROVIDING FOR REPEAL; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING AN EFFECTIVE DATE.

**Exhibit:**

**Agenda Report No. 10.a.**

Ord read by title only.



**MOTION:** CM Vail / CM Rivet to approve first reading of Ord 2021-10.

**ROLLCALL VOTE:** CM Acquaviva, excused; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Aye; CM White, Aye. Motion carried 4 to 0.

**10.b. Approve Amended Code related to Open Burning (Ord 2021-11)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 8 FIRE PREVENTION AND PROTECTION; AMENDING ARTICLE III SECTION 8-72 DEFINITIONS; AMENDING SECTION 8-73 REGARDING REQUIRED PERMITS; PROVIDING FOR REPEAL, SEVERABILITY AND CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** **Agenda Report No. 10.b.**

Ord read by title only.

**MOTION:** CM White / CM Scardino to approve first reading of Ord 2021-11.

Discussion – CM Rivet has question – is this a requirement for a household grill?

CM White said it referenced in the ordinance; the exemptions part was changed. Do need a permit for such use in the park.

**ROLLCALL VOTE:** CM Acquaviva, excused; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Aye; CM White, Aye. Motion carried 4 to 0.

**RESOLUTIONS: 2**

**10.c. Approve new Fee Resolution (Reso 04-2021)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR UPDATED ADMINISTRATIVE AND PERMIT FEES; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** **Agenda Report No. 10.c.**

Reso read by title only.

**MOTION:** CM Vail / CM Rivet to approve Resolution 04-2021.

Discussion – ITM Lisa said this will be seen several more times as new fees are realized and will need to be added.

**ROLLCALL VOTE:** CM Acquaviva, excused; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Aye; CM White, Aye. Motion carried 4 to 0.

**10.d. Approve 2020 Local Mitigation Strategy Plan with Brevard Cty (Reso 05-2021)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, ADOPTING THE 2020 UPDATE OF THE BREVARD PREPARES LOCAL HAZARD MITIGATION STRATEGY (LMS) PLAN.

**Exhibit:** **Agenda Report No. 10.d.**

Reso read by title only.

**MOTION:** CM Rivet / CM White to approve Resolution 05-2021.

Discussion – Mayor asked staff to introduce. Franklin stated this is a requirement from last year that we are correcting after the fact.

**ROLLCALL VOTE:** CM Acquaviva, excused; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Aye; CM White, Aye. Motion carried 4 to 0.

**MISCELLANEOUS: 1**

**10.e. Form DR-420 – Tentative Maximum Millage and Public Hearing Date**

**Exhibit:** **Agenda Report No. 10.e.**

Introduction: As stated in the Agenda Report.

Per State requirements Mayor stated that by August 4, 2021, we must tell the Property Appraiser the following:

- prior year's millage rate (2.3800)
- current years rolled-back rate (2.2727)
- current year's **proposed maximum millage** rate of 2.4999

- the date, time, and meeting place of the first tentative budget hearing of 9/13/2021 at 7:30pm.

Clerk read into record.

**MOTION:** CM White / CM Vail to approve tentative maximum millage at 2.4999 and set date for first PH on millage and budget on September 13, 2021, at Malabar Town Hall for TRIM Notice.

**VOTE:** All Ayes. (Note for record: this date conflicts with Brevard Cty PH and will be reset at 7/26/21 mtg to September 14, 2021.)

**1. DISCUSSION/POSSIBLE ACTION: 2**

**11.a. Discussion of Management Level Staff that Report to Council (CM Vail)**

**Exhibit: Agenda Report No. 11.a.**

Tabled to a Special meeting at 7:30PM on July 26, 2021, to discuss this item.

**11.b. New Zoning Designation for Recreational Vehicle Park under FLU**

**Designation of HDR (Ord 2021-09)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; PROVIDING A NEW ZONING DISTRICT FOR RECREATIONAL VEHICLE PARKS (RVP); AMENDING ARTICLE II, TABLE 1-2.1, TO PROVIDE SAME NEW ZONING UNDER HIGH DENSITY RESIDENTIAL LAND USE DESIGNATION (HDR); AMENDING ARTICLE III, SECTION 1-3.1, BY CREATING A NEW SUBSECTION 1-3.1 "P"; AMENDING ARTICLE III, TABLE 1-3.2 TO INCLUDE RECREATIONAL VEHICLE PARKS; AMENDING SECTION 1-3.3, SIZE AND DIMENSION CRITERIA, SUBSECTION "A", AND BY CREATING A NEW SUBSECTION "G"; PROVIDING FOR AN APPLICATION AND OPERATIONAL PROCEDURES FOR RECREATIONAL VEHICLE PARKS; AMENDING ARTICLE III, TABLE 1-3.3(A) PROVING FOR SPECIFIC REFERENCE FOR RVP ZONING PER SUBSECTION "G"; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

**Exhibit: Agenda Report 11.b.**

Discussion: Mayor said this was discussed at P&Z and put together by ITM Lisa. Mayor had two comments; one was the density of 15 per acre; he thought that was too many; thought 12 was a better number. The other one was the requirement for a fence around facility. Fence makes it look like a prison. Council also discussed maximum area permitted to store RVs and ultimately decided to not make any changes Council direction to put on agenda for first reading.

**VOTE:** All Ayes.

Chair may excuse Attorney at this Point.

**11. PUBLIC COMMENTS: General Items (Speaker Card Required) None:**

**13. REPORTS – MAYOR AND COUNCIL MEMBERS**

CM Acquaviva: Not present

CM Vail: Old house is back on track. Moving right along.

CM Rivet: Will be happy to see that trailhead developed at the south end.

CM White: Took his annual Ethics training.

CM Scardino: Talked about recent issues with Scott Ryan. Lett Lane is closed off and telephone harassing him.

Mayor: nothing

**15. ANNOUNCEMENTS: Openings on T&G Committee.**

**16. ADJOURNMENT:** There being no further business to discuss and without objection, the meeting was adjourned at 8:55 P.M.

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

ATTEST:

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

Date Approved: 08/02/2021

DRAFT

## MALABAR TOWN COUNCIL SPECIAL MEETING MINUTES

JULY 26, 2021 7:30 PM

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

### 1. CALL TO ORDER:

Council Chair, Mayor Patrick T. Reilly called meeting to order at 7:30 pm. CM Acquaviva led P&P.

### 2. ROLL CALL:

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

STEVE RIVET

COUNCIL MEMBERS:

MARISA ACQUAVIVA

BRIAN VAIL

DAVID SCARDINO

DANNY WHITE, excused

LISA MORRELL

KARL BOHNE, excused

DEBBY FRANKLIN

TOWN MANAGER: (ITM)

TOWN ATTORNEY:

TOWN CLERK/TREASURER:

### 3. ACTION ITEMS:

#### 3.a. Set date for First PH on Millage and Budget – Tuesday 9/14/2021 @7:30pm

Franklin described error – previous date read into record stated a date that conflicted with the PH for Brevard Cty. Revised agenda report but Council nor Clerk read the correct date into the record on RTCM of 7/21/2021. That is why this needs to be corrected at this meeting. The first PH listed on the TRIM notice cannot be the same date as the PH for either School or Cty.

MOTION: CM Rivet / CM Vail to direct staff to set the first PH for millage and budget for Tuesday, Sept 14, 2021, at 7:30 here at Town Hall. The proposed maximum millage was already voted on to be 2.4999.

VOTE: All Ayes.

#### 3.b. Discussion of Management Level Staff that report to Council (CM Vail)

Mayor asked CM Vail to start.

CM Vail said Council has a lot of important issues to deal with in the next couple months. He has spoken with TM Matt and learned that his orders to serve could push his time out to February 2022. TM Matt has a feeling he may be back sooner but still would like to take time off before resuming job. CM Vail would like Council to discuss continuing a relationship with the ITM. We have a current ITM position ending on 9/30 and a TC/T stating an intention to retire in Nov and the TM that may not be back until Feb 2022. Who is going to take the helm? We need to create a new position as a consultant.

CM Vail has spoken with TC/T and it could be funded within current budget. He proposes a compensation package of 92K based on a combination of 66K in payments and 26K in benefits for two years. Spell it out in the contract.

CM Acquaviva asked how he came up with this number. CM Vail said he had talked to TM, ITM and TC/T and came up with that number through staff. This new position would be primarily a 30,000 ft view of level of services needs for management/consultant oversight. There are CE violations in process, NPDES reporting, ARPA funds in the amount of 1.3 mil in future requiring verification and support of expenditures and subsequent reporting. The current staff is overloaded beyond our existing needs and the staff is overwhelmed. Some contractual tasks could include Emp manual, Code and LDR updates; monitor and reporting the state and local legislation regarding upcoming ARPA and what can be charged on that.

CM Vail said TC/T may consider staying if we do something in this direction. Over and above the needs of the Town exceed what can be done by one person as TM. This consultant position could be an asset to provide input on issues that the TM doesn't have time for that. She could also act as a lobbyist acting as an advocate for issues important to the Town and inform council of such information.

CM Rivet said this is a proposal for a top-level position. It should start when her contract is up.

CM Acquaviva said she had this conversation with staff as well. Is there some means to keep her. She also had interaction and did not get that feedback.

CM Vail said we are working in our methods to keep working forward

CM Acquaviva said the TC/T put in writing that she is leaving. She went to the ITM and said we need to advertise for a clerk. Budget is not very big.

Mayor Reilly said he heard the PB Dir of Econ Dir retired and could we have something like that. That is how the discussion started for him.

CM Rivet said the biggest change and the professionalism of the town. He has been more than pleased with the professional development with staff. He agrees with CM Acquaviva that we have to watch the budget but can't be too penny wise.

CM Acquaviva is not against it – but wants to be part of the conversation. The proposed cost is exorbitant. She gets it but she wants to be judicious. She thought we had to do discussion about hiring a new Clerk tonight.

Mayor disclosed he had also asked TC/T to work on potential funding to retain Ms. Morrell for another year or two.

TC/T said she has talked to several Council Members individually but cannot act as a conduit. She has also discussed with Matt and the FD. This is not a staffing issue: It is a chance to better the entire town by continuing to take advantage of the wealth of knowledge and experience that Ms. Morrell has brought us. She would be an added asset that could assist the Town in every way to make positive changes and accomplish things we have struggled with for decades.

CM Acquaviva said her questions were not personal. This is the only forum to ask them, and as a responsible employer, she feels the duty to ask them.

Mayor Reilly asked TC/T Franklin to explain how the ARP funds will affect this situation.

TC/T said the federal government is scheduled to send the Town approximately 1.3 million dollars. We believe that some of the consultant fees can be back charged to the ARP funds since most of what the consultant will be doing falls under the ARP guidelines. TC/T said it would be advantageous if the Town Council would continue the relationship with Ms. Morrell beyond Sept 30. I have discussed this with TM Matt and he is in agreement. The entire Town would benefit from retaining her services. Not to replace a position but rather enhance all the positions and actually see some projects through to fruition. Although I have notified you of my intent to retire, I committed to a year while Matt was out. I would make that same offer – I would be honored to stay one more year to work with Matt and Lisa and get some major projects accomplished. But the crisis right now is we have:

- a TM that may not be back till Dec

- a TC/T leaving dec 1
- a ITM separated at 9/30
- a rotating Lt acting FD Chief

and these are our commitments:

- Health ins co that quit on us
- Solid Waste that quit on us
- RFP for same on street that will need review and ranking
- Surplus land sale being completed
- New capital playground equipment being installed and park being refreshed
- FD Union contract up for negotiations now with due date of Nov 1
- Master plan for SW projects that need to be prioritized, funded and sent for engineering

services to be rendered include:

- complete RFP process with Solid Waste collection
- economic recovery and development projects
- ARP projects – propose and oversight
- Grants Administrator
- Lobbyist/Advocate for Malabar benefit
- Charter Review update
- Oversight of capital SW projects
- Scheduling and prioritize SW and other Capital projects
- Complete the update on Code and LDR
- Pursue finding through FIND for riverfront access.

We don't have staff that we had in 2006.

CM Rivet said we can't think cheaply.

CM Scardino said we need personnel. We don't have that human infrastructure.

**MOTION: CM Scardino / CM Vail to direct staff to draft a contract for consulting services for Lisa Morrell as a Special Projects Consultant.**

Discussion: Mayor wanted to throw out 100k plus benefits. CM Scardino asked if this position could help with Code Enforcement? CM Acquaviva reminds him that the Town only has reactive Code Enforcement.

ITM Morrell states she has grown to really enjoy the Town of Malabar. She would be happy to continue to assist in its growth. She would like to discuss her options with her family but is very glad to see a succession plan coming into place.

**VOTE: All Ayes.**

**5. PUBLIC COMMENTS: General Items (Speaker Card Required) None:**

**6. REPORTS – MAYOR AND COUNCIL MEMBERS / STAFF**

CM Acquaviva: Nothing

CM Vail: Nothing

CM Rivet: Nothing

CM White: excused

CM Scardino: Nothing

Mayor: Nothing

Clerk: Franklin asked about a date for some publicity for the presentation of the SandHill Crane picture done for the Town by resident Lloyd Behrendt.

Thinking about a daytime "reveal" – The consensus was to do the reveal at a RTCM.

15. **ANNOUNCEMENTS:** Openings on T&G Committee.

16. **ADJOURNMENT:** There being no further business to discuss and without objection, the meeting was adjourned at 8:20P.M.

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

ATTEST:

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

Date Approved: 08/02/2021

DRAFT

# TOWN OF MALABAR

## COUNCIL MEETING

### AGENDA ITEM NO: 4.C

Meeting Date: July 28, 2021

Prepared By: Lisa Morrell, Interim Town Manager

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**SUBJECT:** Approve the Interim Town Manager to execute required American Rescue Plan Act (ARPA) agreements from U.S. Department Of The Treasury

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#### **BACKGROUND/HISTORY:**

The American Rescue Plan Act of 2021 (ARPA) appropriates \$19.53 billion to States for distribution to tens of thousands of no entitlement units of local government (NEUs), which are local governments typically serving a population under 50,000. The ARPA directs the Department of the Treasury (Treasury) to make payments to each State for distribution to NEUs within the State. Treasury has published additional guidance around the distribution process to NEUs.

Once payment from Treasury has been received, states will have 30 days to disburse payments to NEUs unless an extension is requested. States will issue further instructions on how NEUs can request their first distribution from the state. As this allocation and distribution process moves forward, NEUs with questions about the payment process should consult their state government.

#### **Preparing to Request Funding**

There are a few steps you can take now to prepare to request funding from your state, including:

- ✓ Obtain or confirm your local government's valid DUNS number
- ✓ Gather your local government's payment information:
  - Local government name, Entity's Taxpayer Identification Number, DUNS number, and address
  - Authorized representative name, title, and email
  - Contact person name, title, phone, and email
  - Financial institution information (e.g., routing and account number, financial institution name and contact information)
- ✓ Confirm your local government's top-line budget total (defined as your local government's total annual operating budget, including the general fund and other funds, in effect as of January 27, 2020)
  - Review award terms and conditions agreement (as provided by Treasury to be signed)
  - Review assurances of compliance with Title VI of the Civil Rights Act of 1964 (as provided by Treasury to be signed)

#### **After Requesting Funding**

After submitting your request for funding to your state, please retain the documents and information above for your first report. Additional reporting instructions should be forthcoming. If your local government is not registered in SAM.gov, please do so as soon as possible after receiving the award. You will be asked for the following information in your first report to Treasury, among others:

- ✓ NEU Recipient Number (a unique identification code for each NEU assigned by the state to the NEU as part of the request for funding)



- ✓ Copy of signed award terms and conditions agreement
- ✓ Copy of signed assurances of compliance with Title VI of the Civil Rights Act of 1964
- ✓ Copy of actual budget documents validating the top-line budget total provided to the state as part of the request for funding

**ATTACHMENTS:**

Agreements have yet to be received by Town Staff.

**ACTION OPTIONS:**

Motion to approve the Interim Town Manager to execute the Award Terms and Conditions Agreement and the Assurances of Compliance with Title VI of the Civil Rights Act of 1964 as provided by U.S. Department Of The Treasury after a review by the Town Attorney.

# TOWN OF MALABAR

## COUNCIL MEETING

**AGENDA ITEM NO: 10.a.**  
**Meeting Date: August 02, 2021**

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

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**SUBJECT: Amend Code regarding Home Based Businesses (Ord 2021-10) 2<sup>nd</sup> Reading**

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**BACKGROUND/HISTORY:**

This is a required update since legislation approved this year preempts the local government from many of the regulations previously used to govern home based businesses.

It was advertised for a Public Hearing in Florida today on 7/22/2021.

**ATTACHMENTS:**

Ordinance 2021-10

**ACTION OPTIONS:**

Council Action on 2<sup>nd</sup> Reading

ORDINANCE NO. 2021-10

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; REPEALING SECTION 1-5.25 IN ARTICLE V OF THE LAND DEVELOPMENT CODE REGARDING HOME OCCUPATIONS; AMENDING ARTICLE II OF CHAPTER 14 BY ADDING A NEW SECTION 14.40.2 RELATING TO HOME BASED BUSINESSES; AMENDING SECTION 14-46 BY ADDING HOME BASED BUSINESSES TO THE BUSINESS TAX RECEIPT FEE SCHEDULE; AMENDING SECTION 14-45 REGARDING FEES FOR BUSINESSES NOT SPECIFICALLY INCLUDED IN THE FEE SCHEDULE; PROVIDING FOR REPEAL; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, The Town Council for the Town of Malabar has determined that certain amendments to Chapter 14 of the Town code should be incorporated into the Code of Ordinances of the Town relating to business tax receipts; and

**WHEREAS**, the Florida Legislature adopted HB 403 relating to Home Business/Occupation Regulations; and,

**WHEREAS**, HB 403 Prohibits local governments from taking certain actions relating to the licensure and regulation of home-based businesses; and,

**WHEREAS**, the Town's Home Occupation regulations now appear to contain provisions which are contrary to HB 403; and,

**WHEREAS**, the Town council has determined that amendments to the Home Occupation Code of the Town are necessary to comply with HB 403.

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

**Section 1:** Section 1-5.25 in Article V of the Land Development Code of the Town is repealed in its entirety.

**Section 2:** A new section 14-40.2 is hereby added to Article II of Chapter 14 to read as follows:

**"Section 14-40.2. Home Based Businesses occupations.**

Within the RR-65, RS-21, RS-15, RS-10, RM-4, RM-6, and R-MH districts, a home based business ~~occupation~~ shall be regulated through the issuance of a home ~~occupation~~ based Business Tax Receipt. A home occupation shall be subject to all applicable Town Business Tax Receipts and other business taxes. Each applicant shall submit to the Town Clerk a sworn application on a standard form furnished by the Town Clerk with a fee determined by resolution

of the Town Council. The applicant shall also submit with the application a recent photograph of the residence showing the entire front yard and all driveways and carports, if any. The application form shall include but not be limited to the following information:

- Name of applicant;
- Location of residence wherein the home business occupation, if approved, will be conducted;
- Total floor area of the first floor of the residence;
- ~~Area of room or rooms to be utilized in the conduct of the home business occupation~~
- A sketch showing the floor plan and the area thereof to be utilized for the conduct of the home business occupation;
- The nature of the home occupation sought to be approved;
- The days and hours of operation;
- A recent photo of the dwelling showing the entire front yard, all driveways, and carports.

If the information contained therein is in compliance with the provisions or the intent of this Section, the Town may, in its discretion, issue a Business Tax Receipt for such home based business occupation. Any home occupation Business Tax Receipt may be revoked by the Council at any time it has been determined that the home occupation has become a public nuisance or no longer is in compliance with this Section.

All home based businesses occupation shall comply with the following regulations:

1. Place of Operation and Participants: A home business occupation shall be carried on entirely within a dwelling. Only members of the family permanently living therein shall participate in the home based business occupation except that up to a total of two employees or independent contractor's who do not reside at the residential dwelling may work at the business. The business may have 50 additional remote employees that do not work at the residential dwelling.
2. No Product to be Offered for Sale from an accessory building. No commodities or products shall be offered for sale from the premises. Retail transactions may only occur within the residential dwelling. In order to preserve the character, aesthetics, architectural and the use of the residential property so as to be consistent with the uses of the residential areas that surround the property, there shall be no display of goods visible from any street.
3. Restriction on Commercial Vehicles. No more than one commercial vehicles, having a maximum weight of one ton that can be found at a similar residence without a home business, may be kept on the premises. or parked overnight on the premises. Commercial 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 surface at the residence. No parking or storage of heavy equipment at the residence shall be visible from the street or adjacent property. "Heavy equipment" means commercial industrial or agricultural vehicles, equipment or machinery.
4. Restriction on Use. The use of the dwelling unit for the home based business occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and shall under no circumstances change the residential character thereof. No home-based business shall occupy a residence, exclusive of the area of any open porch or attached garage or similar space not suited or intended for occupancy as living quarters, which results in a situation where the home business becomes the primary use of the property and the residential use is secondary. A list of non-exclusive factors which may be considered are as follows:

a. Whether homestead tax exemption is maintained on the property;

b. The number of occupants of the dwelling compared to the number of bedrooms in the dwelling;

c. Whether the dwelling unit is owner/occupied;

d. Traffic generation to and from the property exceeds that which greater would normally be expected at a similar residence where no business is conducted;

e. Whether parking volume at the property exceeds that which greater would normally be expected at a similar residence where no business is conducted;

f. Whether the use of vehicles or trailers operated or parked at the business or on a street right-of-way, is greater than would normally be expected at a similar residence where no business is conducted.

5. Appearance of Structure and Signage. Within a rural residential or residential zoning district, there shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation and there shall be no signage, other than signage ~~required~~ allowed by Florida Statute. There shall be no display that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling.

~~6. No Home Occupation Activity Within Accessory Building. No home occupation shall be conducted in any accessory building. Incidental business uses and activities may be conducted at the property in accessory structures.~~

~~7. Restriction on Home Occupation Square Footage. No home occupation shall occupy more than twenty-five (25) percent of the first floor area of the residence, exclusive of the area of any open porch or attached garage or similar space not suited or intended for occupancy as living quarters.~~

~~No duly permitted residential structural additions to the dwelling nor any attached enclosed residential conversions shall be considered as floor area until two (2) years after the completion date thereof.~~

8. Traffic Generation and Off-Street Parking. No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood. ~~Parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.~~ Parking related to the business activities of the home-based business may not be greater in volume than would normally be expected at a similar residence where no business is conducted. The parking of vehicles and trailers shall conform to the parking requirements of the zoning district where the home-based business is located. Vehicles and trailers, if so permitted in the applicable zoning district, 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.

~~9. Use of Equipment, Including Power Motors. No motor power other than electric motors shall be used in conjunction with such home occupations. The total horsepower of such motors shall not exceed three (3) horsepower, or one (1) horsepower for any single motor.~~

10. Nuisance Impacts Regulated. In addition, no equipment or process shall be used in such home business ~~occupation~~ which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuation in line voltage off the premises.

~~11. Restriction on Number of Customers Served At Any One Time. Services shall be performed for no more than four (4) persons on the premises at any one time.~~

~~12. Prohibited Uses. Occupations which generate greater volumes of traffic than would normally be generated in a residential district are prohibited. The following shall not be interpreted to be home occupations:~~

- ~~Beauty shops and barber shops.~~
  - ~~Public dining or tea room facilities.~~
  - ~~Child care facilities accommodating five (5) or more children.~~
  - ~~Funeral homes.~~
  - ~~Gift shops.~~
  - ~~Massage parlors.~~
  - ~~Nursing homes, group homes and adult congregate living facilities.~~
  - ~~Medical laboratories.~~
  - ~~Outdoor repair or storage.~~
  - ~~Rental of any equipment or items.~~
  - ~~Veterinary hospitals.~~
  - ~~Similar uses not strictly in compliance with the provisions of this section.~~
  - ~~Any commercial, industrial, or commercial agricultural use as defined in Section 14-2.6, excepting specific office activities duly approved by the Town Council.~~
13. ~~Failure to continuously comply with all provisions of this subsection shall be grounds for revocation of the home occupation Business Tax Receipt by the Town Council."~~

**Section 3:** Article II of Chapter 14, Section 14-46 of the Code of Ordinances of the Town is hereby amended to include "Home Based Business" into the fee schedule I to read as follows:

**"Sec. 14-46. Business Tax Receipt fee schedule.**

The Business Tax Receipt fee which shall be paid by every person engaging or managing businesses, professions, or occupations for which a Business Tax Receipt is required is hereby fixed as follows:

A	
(1) Abstract/title companies/agencies	100.00
(2) Accounting/bookkeeping/auditing service, certified	100.00
(3) Accounting/bookkeeping/auditing service, noncertified	100.00
(4) Advertising:	
(a) Agents or agencies writing advertisements for profit	80.00
(b) Maintaining billboards or signboards upon which advertising is displayed either by permanent sign painted thereon or paper posted or attached thereto	200.00
(c) Outdoor advertising such as painted walls, bulletins, billposting, electrical displays, etc., for hire, per space, per year	50.00
(d) Contracting for advertising in, or on, buses or other public carriers	50.00
(5) Aircraft agency, including sales, service and for hire, new and used	200.00
(6) Aircraft, flying schools or flight lessons	100.00
(7) Ambulance service (not voluntary) Each vehicle	65.00 50.00
(8) Amusements:	
(a) Arcade operations (in addition to stickers)	200.00
(b) Billiards, pool:	
First table	20.00
Each additional table	6.00
(c) Bowling alley, per year	31.25
In addition, for each lane	6.25
(d) Golf course	300.00

(e) Golf driving range	50.00
(f) Miniature Golf	50.00
(g) Machines, (coin-operated) games, devices, each	25.00
Any person or firm who leases or rents or places under any kind of arrangement any coin-operated machine, except checking lockers, toilet locks and U.S. stamp machines, shall pay a fee for each machine.	
(h) Machines (coin-operated) one or two penny, each	2.00
(i) Machine vending cigarettes	10.00
(j) Motion picture theater, indoor, initial screen	200.00
Each additional screen, per screen	100.00
(k) Motion picture theater, outdoor	200.00
(l) Park operator, amusement	225.00
(m) Public performance for profit:	
1. Animal show or ride (first day)	31.00
Each additional day	18.00
2. Carnivals, each per week or fraction thereof	1250.00
3. Circuses, each per day	375.00
4. Riding devices (other than coin-operated), each per day	20.00
(n) Rinks, skating, each per year	50.00
(o) Shooting galleries, each per year	100.00
Appliances, stoves, refrigerators, dishwashers, dryers, air conditioners, heating, etc., dealers or agents and service	200.00
(10) Artist	100.00
(11) Astronomers (where fee is charged)	50.00
(12) Auction house or shop	200.00
(13) Auctioneers:	
(a) Per year	130.00
(b) Per day (does not apply to holder of yearly license)	37.50
(15) Automobiles:	
(a) New vehicle, agency/dealer, each location	200.00
(b) Used vehicles, agency/dealer, each location	50.00
(c) Service station, does not include mechanic, service, or repair shop, per station	50.00
(d) Automobile storage:	
Per 1,000 square feet up to 2,000 square feet	25.00
Each additional 1,000 square feet or fraction thereof	6.00
(e) Automobile parking lot (parking space rental):	
2,000 square feet or less	20.00
Over 2,000 square feet	40.00
(f) Vehicles for hire (rent-a-car, courtesy car, etc.)	225.00
(g) Auto parts, used	40.00
(h) Auto accessories	100.00
(i) Auto-vehicle wrecker service	80.00
B	
(16) Bait, live	40.00
(17) Bakeries, retail	50.00

(18) Bakeries, wholesale	70.00
(19) Banks	150.00
(20) Barbershop:	
(a) First operator (chair)	12.50
(b) Each additional chair	9.00
(21) Bath, public (Turkish, Swedish, or mineral) or health center (see F.S. § 501.012)	70.00
(22) Beauty parlor or salon:	
(a) First operator (chair)	12.50
(b) Each additional chair	9.00
(23) Bicycles (repair only)	20.00
(24) Bicycles, dealer/rent, repair and/or sales	50.00
(25) Boats for hire	30.00
(26) Boats, sales, service/marina	80.00
(27) Bondsmen	130.00
(28) Book agents or canvassers (taking orders or selling books or magazines)	80.00
(29) Boot, shoe repair and shine shop	40.00
Bottled water sales, distributor (See Item 194)	20.00
(30) Bottling works	200.00
(32) Broker:	
(a) Mercantile broker/agent	100.00
(b) Stocks and bonds, broker/firm, or office	100.00
Stocks and bonds, per agent or salesman	50.00
(c) Real estate broker <i>BTR requirement deleted in 2012 with HB 7125</i>	<del>75.00</del>
Each salesman/agent <i>BTR requirement deleted in 2012 with HB 7125</i>	<del>31.25</del>
(d) Pawnbroker	300.00
(33) Building materials or supply dealer	50.00
(34) Bus company, private (local), each vehicle	20.00
(35) Bus terminal	200.00
(36) Business machines, cash registers, typewriters, etc. (Sales, rentals and service only. Not to include office supplies.)	80.00
C	
(37) Cabinet or carpenter shop	40.00
(38) Cake decorating	30.00
(39) Carpet and upholstery cleaners	80.00
(40) Catering services	70.00
(41) Claim and Collection Agencies	100.00
(43) Childcare nurseries, preschool	70.00
(42) Clairvoyant, fortuneteller, mind reader, etc.	110.00
(44) Cold storage, bulk storage	50.00
(45) Concrete plant or block plant	250.00
(46) Consulting service	50.00
(47) Contractor :	
(a) General (Class 1)	175.00
(b) Building (Class 2)	150.00
(c) Residential (Class 3)	125.00
(d) Street paving	175.00



(e) House moving and wrecking	175.00
(f) Subcontractors (see "Subcontractors")	50.00
(49) Credit association/unit (firm or corporation)	100.00
(50) Credit card company	200.00
D	
Day care centers (see "Childcare nurseries")	
(52) Dairy, milk distributors or producers	70.00
(53) Dance hall or ballroom	300.00
(54) Decorator, interior	70.00
(55) Delicatessen	30.00
(56) Detective agency:	
(a) Fee for agency	100.00
(b) Each investigator	70.00
(57) Directory, city (to engage in compiling city directory. Required to furnish all copies required by the city.)	200.00
(59) Dressmaking shops	30.00
(60) Drycleaners:	
(a) Plant in city	70.00
(b) Pickup station with plant in city	20.00
(c) Pickup station with plant out of city	60.00
(61) Dynamite or high explosive dealer (in addition to all other licenses)	50.00
E	
(63) Employment agency	70.00
Equestrian related activities (See Item 58 – Schools)	
(64) Equipment rental	100.00
(65) Express companies	80.00
(66) Exterminator, termite, and pest	130.00
F	
Factories (see "Manufacturer")	
(68) Fertilizer, agent or dealership	100.00
Fireworks, wholesale or retail	Prohibited
(70) Fish market	40.00
(71) Flea market	175.00
(72) Florist	50.00
Fortuneteller (see "Clairvoyant").	
(74) Fruit and vegetable stand, each (see section 14-30(c))	50.00
(75) Funeral homes (including undertaking and embalming), state license required	150.00
(76) Furniture dealer	100.00
G	
(77) Garage, vehicle repair and maintenance:	

(a) Operating separately	50.00
(b) In connection with another business for which annual license tax has been paid	25.00
(80) Gas company, natural	180.00
(81) Gas company, natural and bottled gas	180.00
(79) Gas distributors, bottled	180.00
(78) Gasoline, kerosene, and oil:	
(a) Delivered in containers or by tank truck	200.00
(b) Wholesale with storage facilities in city	200.00
(c) Retail distributors retaining from tank wagon under 300-gallon capacity	70.00
(d) Gasoline sales by pump, not in connection with garage or filling station, per pump, per year	30.00
(82) Glass, plate installation	100.00
Glass, plate (see "Merchants, storekeepers, etc.")	
(84) Gunsmith, sales and repair when in connection with another business	40.00
H	
(85) Handyman	100.00
(86) Hauling contractor:	
(a) Per vehicle	30.00
(b) Per vehicle with tandem axles	50.00
(87) Health center (must possess approval and license from state)	70.00
(88) Hospital, sanitarium, or nursing home, operated for profit (must possess approval and license from state):	
(a) Ten rooms or less	62.00
(b) Each additional room over 10 rooms	6.00
(89) Hotels, motels, apartments, boardinghouses, and lodging homes, per unit (Must provide license from the state division of hotels and restaurants, department of business regulations)	5.00
(90) Hypnotist	50.00
(90.1) Home Based Business (Moved from Article V of LDC)	50.00
I	
(91) Ice cream and cold drink stands:	
When operated separately	70.00
(92) Ice cream carts and wagons, each annually	30.00
(93) Ice cream manufacturers	80.00
(94) Ice manufacturers	80.00
(95) Ice peddling vehicle or machine, each	80.00
(97) Insurance or bonding agency	80.00
(a) Insurance adjuster (each)	100.00
(b) Insurance salesman (each)	50.00
(96) Insurance company	80.00
J	
(98) Janitor and commercial cleaning service	80.00
(99) Jewelry, watch and clock repair, when operated separately	50.00

K	
(100) Kennels, animal	70.00
(101) Knife and scissors sharpener	20.00
L	
(102) Laboratories, dental, chemical, etc. (per F.S. ch. 483)	70.00
(103) Land development and excavating	150.00
(104) Landscaping (except contractors, architects, engineers, or florists with a city license as such)	80.00
(105) Laundries:	
(a) With plant in city	70.00
(b) Pickup station with plant in city	20.00
(c) Pickup station with plant out of city	60.00
(d) Pickup service with plant out of city	20.00
(106) Laundromat, self-service	100.00
(107) Loan company, broker, firm, person, corporation	150.00
(108) Locksmith and key smith, each Lumberyard (see "Building materials or supply dealer").	40.00
M	
(110) Machine shop and/or welder	70.00
(111) Maid service	80.00
(112) Mail order business (each person, company, or firm, etc.)	80.00
(113) Manicurist, each	20.00
(114) Manufacturer (manufacturing, producing, processing, assembly of apparel and accessories, chemical and allied products, metals, nonferrous metals, glass, plastics, electronics, shell novelties and other manufacturing):	
(a) Up to 25 people	60.00
(b) Up to 150 persons	125.00
(c) More than 150 persons	250.00
(115) Masseur (see F.S. § 501.012 for certain requirements)	40.00
(116) Merchants, itinerant	200.00
(117) Merchants, storekeepers, pharmacies, etc. Midwives (state certificate issued within the past year is required)	50.00 Exempt
(119) Mobile home manufacturers and dealers	100.00
(120) Mobile truck:	
(a) Food vendor	80.00
(b) Auto repair	80.00
(c) Car/mobile home washing	80.00
(121) Monument and tombstone (dealer in and/or agent for)	50.00
(122) Mower, dealer, rental, repair and/or sales	50.00
(123) Mower, repair only	20.00
(124) Mowing lawns	40.00

(125) Muffler shop (sale and installation of mufflers only)	40.00
N	
(126) News bureau (representing newspapers published outside of the Town)	200.00
(127) Newspaper, daily (4 newspapers or more published per week)	200.00
(128) Newspaper, weekly, biweekly, or monthly	100.00
(129) Newsstand	30.00
(130) Nursery (trees, plants, shrubbery, etc.)	50.00
O	
(131) Office supplies and/or office furniture sales	70.00
P	
(132) Packing house (doing private order business)	50.00
(133) Paint and body shop	50.00
(135) Photocopy service	50.00
(136) Photofinishing, pickup station (when operated not in connection with another business)	50.00
(137) Photographers:	
(a) Resident	50.00
(b) Itinerant or transient	150.00
• Itinerant or transient photographer defined: For the purpose of this subsection, an itinerant or transient photographer is defined as one who does not regularly maintain his studio or place of business in the Town where the work of photographing, enlarging, copying, or coloring is conducted. Each agent or canvasser or solicitor representing an itinerant photographer shall pay the license fee for solicitors under this article.	
(138) Piano tuner:	
(a) Resident	20.00
(b) Itinerant	30.00
(139) Popcorn or peanut stand	10.00
(140) Printing, job printing	50.00
(141) Professionals	110.00
(a) Architects*	
(b) Attorneys	
(c) Chiropodists	
(d) Chiropractors	
(e) Computer programmers	
(f) Dentist	
(g) Electrologist	
(h) Electrolysis	
(i) Electrotherapist	
(j) Engineers*	
(k) Homeopathic physicians	
(l) Naturopaths	
(m) Oculists	

(n) Opticians	
(o) Optometrists	
(p) Osteopaths	
(q) Physicians	
(r) Psychiatrists	
(s) Surgeons	
(t) Veterinarians*	
(u) And other such professions	
*Must provide valid state certificate of registration.	
(142) Public relations	100.00
Public scales, coin-operated (see "amusements," item g.)	
(143) Public scales, truck weighing	20.00
(145) Pulpwood dealers	50.00
R	
(146) Radio and TV repair (for sales, see merchant)	80.00
(147) Radio and television stations	200.00
(148) Railroad companies	375.00
Real estate appraiser <i>BTR requirement deleted in 2012 with HB 7125</i>	400.00
Real estate broker <i>BTR requirement deleted in 2012 with HB 7125</i>	
(151) Reducing salon (see F.S. ch. 501.012)	50.00
(152) Repair of small appliances	40.00
(153) Restaurants:	
(a) First 50 chairs	40.00
(b) Each additional chair or seating space over 50 (Private boarding houses, 5 chairs or less are exempt. Must provide license from the division of hotels and restaurants, state department of business regulation.)	
(c) With alcoholic beverage sales, additional	20.00
(154) Restaurants, snack bars, fast food services, which maintain no seats	70.00
(155) Fishing equipment / Rod and reel repair	50.00
S	
(156) Sanding and finishing of floors	80.00
(157) Savings and loan associations	150.00
(158) Schools (such as dancing, business or commercial, beauty or barber, Dog training, music, physical ed, horse riding, driving, etc.)	50.00
(159) Secondhand dealer (to buy or sell secondhand merchandise, clothing, furniture, etc.)	70.00
(160) Selling, when not specifically covered herein. Persons selling magazines, bibles, encyclopedias, cosmetics, kitchenware, etc., and other door-to-door salespersons shall pay a fee; except those representing charitable organizations which are recognized as such by the Internal Revenue Service.	
(a) Per day	25.00
(b) Per year, maximum of	130.00
(161) Septic tank cleaners	60.00
Service station (see "Automobiles," item 15. c.).	

(163) Sewing machine/vacuum cleaners, dealers, and/or agents and service	80.00
(164) Shoeshine parlor	20.00
(165) Sign painters:	
(a) Resident	50.00
(b) Itinerant	100.00
(166) Solicitors and canvassers, per year	130.00
(167) Sports places and arenas	500.00
(168) Sprinkler system, selling and/or installing irrigation systems	150.00
(169) Stenographer, public and court reporter	30.00
(170) Storage and warehouse, public, with no business conducted on premises	100.00
Per unit, additional	10.00
(171) Subcontractors, including, but not limited to carpentry, painting, roofing, sheet metal, electrical, concrete construction, masonry, and plastering, lathing, clearing grading, etc.	50.00
(172) Surveyor (must have valid certificate of registration issued by the state)	70.00
T	
(173) Tailors	30.00
(174) Taxi or limo service	200.00
Plus, Each vehicle	30.00
(175) Taxidermists	80.00
(176) Telegraph systems and companies	200.00
(177) Telephone systems and companies	500.00
(178) Television cable systems and companies	225.00
Theater, movie (see "amusements," items 8. j. and k.).	
(180) Tire and recapping service:	
(a) Resident	50.00
(b) Itinerant	100.00
(181) Tourist camps or courts, each guest room	5.00
(182) Towel and linen supply	100.00
(183) Trading stamps	200.00
• To engage in the business of selling or furnishing to merchants or others, checks, tickets, or stamps, commonly known as trading stamps, on the terms of agreement to redeem them by exchange of goods, wares, or merchandise for them or otherwise.	
(184) Trailer, U-Haul, and similar operations	70.00
(185) Trailer camps, RV parks, per space	5.00
(186) Tree surgery - Arborist	50.00
(188) Truck lines (receiving and/or delivery) freight or express	150.00
(187) Trucks (temporarily conducting business in the Town and whose activity is not otherwise enumerated herein)	80.00
(189) Typing service	30.00
U	
(190) Upholsterers or furniture menders	50.00
V	

(163) Vacuum cleaner / Sewing Machines /, dealer or agents and service	80.00
W	
(192) Warehouse, with a business conducted on the premises . . . Watch repair (see Item 99)	80.00
(194) Water, bottled: (Pre-empted to the State)	
(a) Resident sales, distribution	50.00
(b) Nonresident sales, distribution	100.00
(195) Welder	40.00
(196) Well drillers	30.00
(197) Wholesale distribution center:	
First 10 employees	80.00
Each additional employee over 10 employees	5.00
(198) Wrestling or boxing (to promote or hold wrestling or boxing matches)	2100.00
(199) Equestrian related Boarding Stable	75.00

...

**Section 4:** Article II of Chapter 14, Section 14-45 is amended to read as follows:

**“Sec. 14-45. Fee for business not specifically included in schedule.**

Every business, ~~fixed or temporarily engaged in by any person, whether in a building or tent, or upon a street, vacant lot or anywhere within~~ in the Town not herein specifically designated shall pay a fee of three hundred dollars (\$300.00).”

**Section 5:** All ordinances, or parts of ordinances in conflict herein are hereby repealed and all ordinances or parts of ordinances not in conflict herewith are hereby continued in full force and effect.

**Section 6:** It is the intention of the Town Council that the provisions of this ordinance shall be made a part of the Code of Ordinances of the Town and the sections may be renumbered to accomplish such intention.

**Section 7:** This ordinance shall become effective immediately upon its adoption.

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

Council Member Marisa Acquaviva	_____
Council Member Brian Vail	_____
Council Member Steve Rivet	_____
Council Member David Scardino	_____
Council Member Danny White	_____

This Ordinance was then declared to be duly passed and adopted this 2<sup>nd</sup> day of

August, 2021.

By: TOWN OF MALABAR

(seal)

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Mayor Patrick T. Reilly,  
Council Chair

1st Reading: 7/19/2021 Vote: 4 to 0 (CM Acquaviva excused)

2nd Reading: 8/02/2021

ATTEST:

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

Approved as to form and content:

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Karl W. Bohne, Jr., Town Attorney



**TOWN OF MALABAR**

**COUNCIL MEETING**

**AGENDA ITEM NO: 10.b.**

**Meeting Date: August 02, 2021**

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

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**SUBJECT: Amend Chapter 8, Open Burning (Ord 2021-11) 2<sup>nd</sup> Reading**

---

**BACKGROUND/HISTORY:**

This is a housekeeping improvement to the Chapter on open burning to assist staff on when a burn permit is required and when it is not.

It was advertised for a Public Hearing in Florida today on 7/22/2021.

**ATTACHMENTS:**

Ordinance 2021-11

**ACTION OPTIONS:**

Council Action on 2<sup>nd</sup> Reading

ORDINANCE NO. 2021-11

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 8 FIRE PREVENTION AND PROTECTION; AMENDING ARTICLE III SECTION 8-72 DEFINITIONS; AMENDING SECTION 8-73 REGARDING REQUIRED PERMITS; PROVIDING FOR REPEAL, SEVERABILITY AND CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

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

**SECTION 1. AMEND:** Section 8-72 of Article III of Chapter 8 of the Code of Ordinances of the Town is amended to include the following new definition;

**“Sec. 8-72 Definitions.**

...

*Open Burning means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the outdoor atmosphere without passing through a stack or chimney.*

...

**SECTION 2. AMEND:** Section 8-73 of Article III of Chapter 8 of the Code of Ordinances of the Town is amended as follows:

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

- (a) It shall be unlawful for any person to conduct and open burn, a non-containerized burn, of any kind within the Town without first obtaining a written permit from the Chief of the Fire Department or his assigned designee.
- (b) All persons obtaining burnings permits will follow all FDACS regulations, FFS regulations, and/or the requirements of this article. If the requirements of this article differ from the requirements of the FDACS or the FFS, the more stringent requirement shall apply.
- (c) Recreational Open burning of vegetative debris and untreated wood in a contained fire ring no larger than 3x3, examples: campfire, ceremonial bonfire, outdoor fireplace, or other contained outdoor heating or cooking device, or on cold days for warming of outdoor workers is allowed on private property. A permit is required on town property. All fires must be attended.

...

**SECTION 2. REPEAL.** All ordinances or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances or resolutions not in conflict herewith are hereby continue in full force and affect.

**SECTION 3. SEVERABILITY.** In the event a court of competent jurisdiction shall hold or determine that any part of this ordinance is invalid or unconstitutional, the remainder of this ordinance shall not be affected, and it shall be presumed that the Town Council of the Town of Malabar did not intend to enact such invalid or unconstitutional provision. It shall further be assumed that the Town Council would have enacted the remainder of this ordinance without said invalid or unconstitutional provision, thereby causing said remainder to remain in full force and effect.

**SECTION 4. CODIFICATION.** It is the intention of the Town Council of the Town of Malabar, Brevard County, Florida, and it is hereby provided that the provisions of this ordinance shall become and made part of the Code of Ordinances of the Town of Malabar.

**SECTION 5. EFFECTIVE DATE.** The ordinance shall take effect immediately upon its adoption.

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

- Council Member Marisa Acquaviva \_\_\_\_\_
- 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 2<sup>nd</sup> day of August, 2021

BY:  
**TOWN OF MALABAR**

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

(Seal)

First Reading: 7/19/2021 Vote: 4 to 0 (CM Acquaviva excused)  
Second Reading: 8/02/2021

**ATTEST:**

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

Approved as to form and content:

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

# TOWN OF MALABAR AGENDA ITEM REPORT

AGENDA ITEM NO: 12.a.  
Meeting Date: July 19, 2021

Prepared By: Lisa Morrell, Interim Town Manager

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**SUBJECT:** Creation of a Recreation Vehicle Park (RVP) Zoning Designation First Reading (Ord 2021-09)

---

**BACKGROUND/HISTORY:**

This was discussed at the last Council meeting, reviewed by the Town Attorney and referred to Council by the P&Z Board.

This provides for regulations that are currently lacking in the Code Book.

The red font are additions made by the Town Attorney for additional clarification.

**ATTACHMENTS:**  
Ordinance 2021-09

**ACTION OPTIONS:**  
Action on first reading of Ordinance 2021-09

**ORDINANCE 2021-09**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; **AMENDING THE TOWN'S LAND DEVELOPMENT CODE; PROVIDING A NEW ZONING DESIGNATION FOR RECREATIONAL VEHICLE PARKS (RVP);** AMENDING ARTICLE II, SECTION 1-2.2, TABLE 1-2.1, TO **REFLECT SUCH** NEW DESIGNATION; AMENDING ARTICLE III, SECTION 1-3.1, BY CREATING A NEW SUBSECTION 1-3.1 "P. **RVP "RECREATIONAL VEHICLE PARK"** ; AMENDING SECTION 1-3.2, TABLE 1-3.2 TO INCLUDE RECREATIONAL VEHICLE PARKS **AS A PERMITTED USE IN THE R-MH ZONING DISTRICT;** AMENDING SECTION 1-3.3, SIZE AND DIMENSION CRITERIA, SUBSECTION "A", AND BY CREATING A NEW SUBSECTION "G"; PROVIDING FOR AN APPLICATION AND OPERATIONAL PROCEDURES FOR RECREATIONAL VEHICLE PARKS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

**WHEREAS**, in Florida State Statute, Chapter 513, entitled Mobile Home and Recreational Vehicle Parks, and Chapter 64E-15 of the Florida Administrative Code, the State of Florida regulates items pursuant to the permitting, fees, licensures, and operational components of mobile home and recreational vehicle park(s); and

**WHEREAS**, a local government agency has the authority to derive standards of placement, separation distance, setbacks, and fire protection of recreational vehicle parks upon initial approval by the building department and local government per Florida State Statute section 513.1115; and

**WHEREAS**, after the initial permitting and construction of the park, FSS Chapter 513 supersedes any local ordinances; and

**WHEREAS**, at present, there are no rules or regulations pertaining to Recreational Vehicle Parks and their operations in the Town Code; and

**WHEREAS**, on June 23, 2021, the Malabar Planning and Zoning Board held a publicly advertised meeting to discuss and recommend such amendments to the Town Code; and

**WHEREAS**, Town Council has determined that the proposed amendments serve the public health, safety and welfare of the citizens of the Town of Malabar, Florida.

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

**SECTION 1.** Article II, Section 1-2.2, Table 1-2.1 of the Town Land Development Code is hereby amended to provide a new Recreational Vehicle Park (RVP) Zoning District under the Future Land Use Designation High Density Residential (HDR), which shall read as follows:

...

Future Land Use Map Designations		Corresponding Zoning Districts	
OSR	Open Space and Recreation	CP INS	Coastal Preservation Institutional
RR	Rural Residential	RR-65	Rural Residential
LDR	Low Density Residential	RS-21	Single Family LDR
MDR	Medium Density Residential	RS-15 RS-10 RM-4	Single Family MDR Single Family MDR Multiple Family MDR
HDR	High Density Residential	RM-6 R-MH RVP	Multiple Family HDR Residential Mobile Home Recreational Vehicle Park
MRO	Multiple-family Residential or Office Space	RM-4 RM-6 OI	Multiple Family HDR Multiple Family MDR Office-Institutional
OI	Office-Institutional	OI INS	Office-Institutional Institutional
CL	Commercial Limited	CL	Commercial Limited
CG	Commercial General	CG	Commercial General
R/LC	Residential and Limited Commercial	R/LC	Residential and Limited Commercial
IND	Industrial	IND	Industrial
INS	Institutional	INS	Institutional
*PUD(R)	Planned Unit Development (Residential)	PUD(R)	Planned Unit Development (Residential)
*PUD(C)	Planned Unit Development (Commercial)	PUD(C)	Planned Unit Development (Commercial)
*PUD(I)	Planned Unit Development (Industrial)	PUD(I)	Planned Unit Development (Industrial)

...

**SECTION 2.** Article III Section 1-3.1, Purpose and Intent of Districts, is hereby amended to create a new subsection “P”, which shall read as follows:

...

*“P. RVP “Recreational Vehicle Park.” The RVP district is established to implement comprehensive plan policies for managing local zoning and site development design criteria on land specifically designated for Recreational Vehicle Park(s) as designated By Florida State Statute Chapter 513 entitled Mobile Home and Recreational Vehicle Parks, as well as Chapter 64E-15, Florida Administrative Code.”*

...

**SECTION 3.** Article III, Section 1-3.2, Table 1-3.2 Land Use by District is hereby amended to add and include Recreational Vehicle Parks (RVP) as a permitted use in R-MH, which shall read as follows:







C	=	Conditional Use
P	=	Permitted Uses
A	=	Accessory Use
*	=	These uses are permitted only on sites abutting Babcock Street, US 1, West Railroad Avenue, Garden Street and Pine Street.
1	=	Allowing up to 1,000 square feet of a church or educational institution for the housing of a caretaker or security guard serving the church or educational institution. No such use shall be allowed unless administrative approval is granted by the Town.

...

**SECTION 4.** Article III, Section 1-3.3, Subsection “A”, shall be amended to include specific direction for criteria regarding Recreational Vehicle Parks (RVP), which shall read as follows:

...

“A. *Minimum Lot or Site Requirements for All Uses.* Table 1-3.3(A) incorporates required size and dimension regulations which shall be applicable within each respective zoning district, except for Recreational Vehicle Park District, which is specifically described within section 1-3.3, Item G. All developments shall have a total land area sufficient to satisfy all standards stipulated within the land development code, including but not limited to:

...

**SECTION 5.** Article III, Section 1-3.3, Size and Dimension Criteria, is hereby amended to include a new Subsection “G”, which shall read as follows:

...

“G. Recreational vehicle park zoning district shall be to locate and establish areas within the town which are deemed to be uniquely suited for the development and maintenance of recreational vehicle activities, i.e., travel trailers, motor homes, camping tents, and trailers occupied as temporary living quarters; to designate those uses and services deemed appropriate and proper for location and development within the zoning district; and to establish such development standards and provisions as are appropriate to ensure proper development and functioning of uses within the district consistent with Florida State Statute Chapter 513 entitled Mobile Home and Recreational Vehicle Parks, as well as Chapter 64E-15, Florida Administrative Code, as amended from time to time .

(1) Principal uses and structures:

- a) Travel trailers, recreational vehicles, motor homes, camping tents and other vehicles with sleeping accommodations as defined by Florida Statute 320.01 (1)(b), as amended from time to time))
- b) Management offices and residence (a mobile home may be allowed for a manager's residence only).

(2) Accessory uses include:

- a) Grocery store.
- b) Bottled/Metered gas sales.
- c) Laundry facilities.
- d) Recreational facilities such as playgrounds, picnic areas, swimming pools, game courts, and recreation hall.
- e) Public & Private utility equipment and facilities.

(3) Conditional uses:

- a) Marina and boat rental including bait, fishing, and sports accessories sales serving guests of the park and/or the general public.

(4) Design standards for recreational vehicle parks.

- a) Minimum size: five (5) acres.
- b) Maximum density: fifteen (15) travel trailer/R.V. sites per gross acre of land. This shall also apply to any tent camping areas.
- c) Streets and parking:
  1. Direct access to the recreational vehicle park shall be from an arterial roadway. The administrative office of the park shall be so located as to assure that no recreational vehicles are parked in the right-of-way during the check-in process or while waiting for others to be checked in.
  2. Width of streets. Streets or driveways in a recreational vehicle park shall be private and shall have the following widths:
    - (a) A one-way street/drive shall be at least twelve (12) feet in width.
    - (b) A two-way street/drive shall be at least twenty-four (24) feet in width.
  3. Street surfacing. All roads or driveways shall be paved meeting town standards.
  4. Road curves. All road curves shall have a minimum turning radius of fifty (50) feet. All culs-de-sac shall have a maximum length of five hundred (500) feet and terminate in a turning circle having a minimum radius of fifty (50) feet.

5. Parking. Each R.V./travel trailer site shall have off-street parking pads for both recreational vehicles and for towing vehicles. The pads shall be composed of a stabilized material meeting town standards to accommodate the size of the vehicle and be composition of materials examples: asphalt, cement, gravel, pavers, or LID methods (pervious asphalt, pervious concrete, etc.)
- d) Buffer strips. A twenty-five (25) foot minimum yard setback shall be provided from all exterior property lines and rights-of-way for the rear and sides of the property and a minimum of fifty (50) foot for and roadway frontage of the property. The recreational vehicle park shall be entirely enclosed, exclusive of driveways, at its external boundaries by a solid wall, wood or PVC fence, or evergreen hedge not less than six (6) feet in height. The buffer strip shall be separate from recreational areas, streets, driveways, travel trailer sites (R.V. sites) and utility sites but may be utilized for stormwater drainage and retention purposes.
- e) Recreational areas. A minimum of ten percent (10%) of the total land area of a travel trailer park shall be devoted to one (1) or more common use areas for recreational activity. In addition, for every travel trailer and tent site, there shall be allocated an additional one hundred (100) square feet of land for recreational activity.
  1. However, this requirement is not necessary when the proposed development is a density of ten (10) sites per gross acre or less. Such recreational areas shall be exclusive of recreational vehicle sites, buffer strips, street right-of-way and storage areas; however, the periphery of such areas may contain utility sites, and other **non-recreational** service buildings, the area of which will be subtracted from the computed "recreational area." Recreational areas shall be easily accessible to all park users and management. Although the required space for recreational usage may be met through more than one (1) recreational site, the minimum size of any such area shall be ten thousand (10,000) square feet. Provision for all common open space and the construction of recreational facilities which are shown on the site plan shall proceed at an equivalent, or greater, rate as the construction of individual recreational vehicle sites.
- f) Tent camping. Areas may be set aside for tent camping in accordance with all provisions of this section, except:
  1. There shall be a stabilized pad on the site for parking of the transportation vehicle.
  2. Tent camping may be permitted on a travel trailer site.
- g) Design requirements for recreational vehicle site.
  1. Minimum size.
    - (a) Back-in parking sites shall have a minimum area of one thousand five hundred (1,500) square feet with a minimum width of thirty (30) feet and a minimum length of fifty (50) feet.

- (b) Pull-through parking sites shall have a minimum area of one thousand two hundred (1,200) square feet with minimum width of twenty (20) feet and a minimum length of sixty (60) feet.
2. Access. Each R.V. site shall abut on at least one (1) street or driveway within the boundaries of the travel trailer park and access to the site shall be only from such an internal street or driveway.
  3. Setback requirements. No part of a travel trailer placed on a travel trailer site shall be closer than five (5) feet to any site line and ten (10) feet to any street or driveway.
  4. Appurtenances. Temporary appurtenances, such as cabanas and awnings, may be erected on a travel trailer site as long as such appurtenances do not violate the setback requirements as set forth in this section and as long as such appurtenances are capable of being dismantled and stored within four (4) hours.
- h) Provisions of service in recreational vehicle parks.
1. Service buildings. All service buildings shall comply with the building code and regulations concerning buildings, electrical installations, plumbing and sanitation systems. Service building are intended to accommodate the servicing equipment used for the park maintenance and are not intended to service any recreational vehicle, trailer, camper or equipment of a park guest. No major service or repair of a recreational vehicle shall occur on the park site. For the purposes of this section the term "major service or repair" shall mean any service or repairs to a recreational vehicle which is anticipated to take more than 4 (four) hours to accomplish.
  2. Water supply. An adequate supply of water shall be provided in accordance with the regulatory agencies, Department of Environmental Protection and/or the Department of Health.
  3. Sewage disposal.
    - (a) All sewage disposal facilities shall be provided in accordance with the regulatory agencies, Department of Environmental Protection and/or the Department of Health.
    - (b) At least one (1) sanitary dumping station shall be provided in every travel trailer park. Such station shall be readily accessible and well-lighted. The following schedule shall be used in determining additional dumping stations based on the number of sites which are not connected individually to sewer lines: for every fifty (50) sites or fractional part thereof, beyond the first (50) sites, one (1) sanitary dumping station shall be provided.
    - (c) At least one (1) central bathhouse-restroom facility shall be located within three hundred (300) feet of all camping units which are either not supplied with sewer connections or not capable of utilizing such connections (e.g., tents, camper trailers). Any dispersed bathhouse-restroom facility provided to meet the distance requirement of three hundred (300) feet shall have at least two (2) of each of the following fixtures for men and women: Toilets,

urinals, lavatories and showers. Recreational areas shall be located within three hundred (300) feet of a bathhouse-restroom facility.

- (d) The minimum number of bath and toilet facilities shall be determined by the latest adopted Florida Building Code.
4. Lighting. All entrances, exits, streets, and service buildings shall be well lighted during the hours of darkness. Site Lighting shall conform to the Town's adopted Land Development Code, Article V. – General Provisions, Section 1-5.28 entitles Site Lighting. All recreational facilities which are to be utilized during the hours of darkness shall be adequately lighted to ensure the safety of all users of such facilities.
  5. Electricity. All requirements of the National Electrical Code as contained in §§II.6.1 (PART II - CODE OF ORDINANCES, Chapter 6 - BUILDINGS AND BUILDING REGULATIONS) et seq. of this code of ordinances must be met.
  6. Service and utility lines. All service utility lines in a travel trailer park shall be installed underground and at a minimum depth of eighteen (18) inches.
  7. Fire protection. The park and park buildings and facilities shall be subject to the rules and regulations of adopted codes and/or of the Fire Department.
  8. Fuel supply and storage. All installations and tanks furnishing and/or storing any type of gaseous fuels to be used by the occupants of the park shall comply with the Fire Prevention Code of the National Fire Prevention Association, as adopted.
  9. Storage. Outdoor storage of travel trailers is permitted that such storage takes place within an area especially set aside for such use as depicted on the approved site plan.
  10. Signs. Those signs necessary for directional or safety purposes are permitted. Stop signs shall be required at all egress points onto public roads and may be required internally as required by the Town's Planner. All other signs as per the sign regulations set forth in Article XIX of this code of ordinances.
- i) Development site plan review. As part of the supplementary data required to complete an application for a public hearing for a recreational vehicle park development, a scaled and dimensioned plot or site plan of the development shall be submitted as part of such site plan application pursuant to Article VII (if the site plan is greater than eleven (11) inches by seventeen (17) inches, two (2) copies are needed, as well as a digital copy); and if the application is approved, the recreational vehicle park shall be built in accordance with such a plan. The site plan shall include, but not be limited to, location of all R.V. sites, service areas, drives, streets, signs, buildings, parking, recreational space, setbacks, public utility locations and any other pertinent information. Site plan approval is limited to one (1) year by the Town Council. What is this intended to mean? If const is not begun and progress made continuously
- j) Prohibited uses and Structures. All other uses and structures not specifically or provisionally permitted herein."

...

**SECTION 6. Severability.** If any provisions of this ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalid or unconstitutional portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the other portions of this ordinance, provided the remaining portions effectuate the purpose and intent of this ordinance.

**SECTION 7. Conflicting Provisions.** In the case of a direct conflict between any provisions of this ordinance and a portion or provision of any other appropriate federal, state, or town law, rule, code or regulations, the more restrictive shall apply.

**SECTION 8. Inclusion in Code.** It is intention of the Town Council that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the Town of Malabar.

**SECTION 9. Effective Date.** This Ordinance shall take effect immediately after the adoption of this Ordinance.

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

- Council Member Marisa Acquaviva \_\_\_\_\_
- Council Member Brian Vail \_\_\_\_\_
- Council Member Steve Rivet \_\_\_\_\_
- Council Member David Scardino \_\_\_\_\_
- Council Member Danny White \_\_\_\_\_

This ordinance was then declared duly passed and adopted this \_\_\_ day of \_\_\_\_\_ 2021.

**TOWN OF MALABAR**

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

**ATTEST:**

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

(seal)

Approved for Legal Sufficiency:

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

First Reading: 8/02/2021 Vote: \_\_\_ to \_\_\_  
Second Reading: 8/16/2021

# TOWN OF MALABAR AGENDA ITEM REPORT

AGENDA ITEM NO: 12.b.  
Meeting Date: August 02, 2021

Prepared By: Debby Franklin, Town Clerk/Treasurer

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**SUBJECT:** Amend Chapter to Require Recordable Road Payback Info (Ord 2021-13)  
First Reading

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## **BACKGROUND/HISTORY:**

This has been discussed many times over the years because there was no requirement to record the obligation of doing a road payback. We thought by providing the information in the lien search we were advising the buyer that there was a requirement for such payback in case the seller didn't disclose.

We recently found out when a parcel on Matthews sold, the Title company did not disclose that information to the buyer. When we asked why, they said they only disclose recorded obligations. In addition to learning this we realize that our paper and book tracking of who owes what needs improvement. This is the first step.

Then we will set up an internal electronic tracking report.

**ATTACHMENTS:**  
Ordinance 2021-13

**ACTION OPTIONS:**  
Action on First Reading

## ORDINANCE 2021-13

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 13, SECTION 13-47 PROVIDING FOR A ROAD REIMBURSEMENT RESOLUTION TO RECORD ROAD PAYBACKS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

**WHEREAS**, the Town Council desires to update the Code of Ordinances relating to road improvement requirements by adopting this ordinance.

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

**SECTION 1.** Chapter 13, Article II, Division 2, Section 13-47 is amended as follows:

**Sec. 13-47. - Reimbursement for expenses incurred by owner in connection with the construction of road improvement.**

The certified costs, as determined pursuant to Section 13-42 shall be reimbursed to the individual expending such monies to complete the improvement, or their assignees (provided such assignment is recorded as hereinbelow described), by monies obtained from property owners who subsequently apply for building permits on property adjacent to or abutting any street that has been improved by the owner seeking reimbursement, provided that such improvement has been accepted by the town and further provided that the construction of the improvement was commenced after the effective date of this division [February 5, 2001] and in accordance with the terms and conditions of this division.

Upon such certification the Town Council shall adopt a Reimbursement Resolution. The resolution shall be recorded in the Public Records of Brevard County. The resolution shall contain the certified costs as determined above and shall identify those parcels which abut an improved street or section thereof, that had been previously completely improved pursuant to this division and which will be subject to a road reimbursement based upon the formula established herein.

The method of reimbursement shall be as follows: In order for any property owner to obtain a development permit for a property that abuts any street that had previously been fully or partially improved pursuant to the terms and conditions set forth in this division, such owner must, at the time of application for a development permit, pay the Town in accordance with the formula hereinbelow described.

An owner who wants a development permit for a parcel of property that abuts an improved street or section thereof, that had been previously completely improved pursuant to this division, shall pay an amount equal to their pro rata share of the total certified costs of the completed permitted section based upon a formula whereby the total certified costs of the improved sections are multiplied by a fraction, the numerator of which shall be the number of front feet of such owner's parcel that abuts the fully improved section, and the denominator of which shall be the number of total front feet of all parcels that abut such section. These monies shall be paid to the town as a precondition for issuance of a building permit.



The monies received by the town from such owner shall be disbursed to the owners of record, or assigns of record, who expended the certified costs to improve such street, pro rata, based upon the amount by which such reimbursed owners expended funds in excess of what would have been their pro rata share of the total improvement as determined by the same manner described hereinabove, less an amount equal to fifty dollars (\$50.00) or one (1) percent of the monies received from the owner making such reimbursement, whichever is greater, which monies shall be retained by the town to cover its administrative costs. Such monies shall be disbursed to such owner within thirty (30) days after receipt of a written request for reimbursement by the owner.

**SECTION 2. Severability.** If any provisions of this ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalid or unconstitutional portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the other portions of this ordinance, provided the remaining portions effectuate the purpose and intent of this ordinance.

**SECTION 3. Conflicting Provisions.** In the case of a direct conflict between any provisions of this ordinance and a portion or provision of any other appropriate federal, state, or town law, rule, code or regulations, the more restrictive shall apply.

**SECTION 4. Inclusion in Code.** It is intention of the Town Council that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the Town of Malabar.

**SECTION 5. Effective Date.** This Ordinance shall take effect immediately upon passage and adoption.

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

Council Member Marisa Acquaviva	_____
Council Member Brian Vail	_____
Council Member Steve Rivet	_____
Council Member David Scardino	_____
Council Member Danny White	_____

This ordinance was then declared duly passed and adopted this \_\_\_\_ day of \_\_\_\_\_ 2021.

**TOWN OF MALABAR**

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

**ATTEST:**

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

(seal)

Approved for Legal Sufficiency:

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Karl Bohne, Jr, Town Attorney

First Reading: 05/03/2021 Vote to .

Second Reading:

# TOWN OF MALABAR

## COUNCIL MEETING

**AGENDA ITEM NO: 12.c**

Meeting Date: July 28, 2021

Prepared By: Lisa Morrell, Interim Town Manager

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**SUBJECT:** Requesting and Executive Session with Town Council regarding IAFF Union Contract Renewal for Malabar Fire Department

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**BACKGROUND/HISTORY:**

Requesting Town Council's availability for an executive session to meet with the Interim Town Manager regarding the renewal of the IAFF Contract.

Staff has proposed the following dates or a date and time to be determined by the availability of Town Council

Tuesday, August 10, 2021

Or

Tuesday August 17, 2021

**ATTACHMENTS:**

**ACTION OPTIONS:**

Motion by Council

# TOWN OF MALABAR AGENDA ITEM REPORT

AGENDA ITEM NO: 12.d.  
Meeting Date: August 02, 2021

Prepared By: Debby Franklin, Town Clerk/Treasurer

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**SUBJECT:** Committee Selection for Review of Solid Waste Proposals

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**BACKGROUND/HISTORY:**

As reported by ITM Lisa in past meetings and briefings, a committee will need to be selected to read, review, and rank the proposals on the solid waste bids. At the regular Council meeting Council seemed in agreement to have members from all Districts. We have put a list of potential volunteers from each District.

We would request input from Council on who in each District should be contacted to see if they are interested in serving in this capacity.

District 1	District 2	District 3	District 4	District 5
Grant Ball	Chuck Frazee	Richard Kohler	Fritz Braun	Thomas Wilson
Alan Wollard	Doug Dial	Rene Echols	David Tom	Barry Procter
David Sowards	Bobbie Moccia			Lloyd Behrendt
Donald LaFontane				

**ATTACHMENTS:**

None

**ACTION OPTIONS:**

Direction to Staff

# TOWN OF MALABAR AGENDA ITEM REPORT

AGENDA ITEM NO: 13.a.  
Meeting Date: August 02, 2021

Prepared By: Debby Franklin, Town Clerk/Treasurer

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**SUBJECT:** Discussion: Amend Art XVI regarding new roads in SD (Ord 2021-12)

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**BACKGROUND/HISTORY:**

This was discussed recently with the approval of Twin Lakes Subdivision Final Plat. Our current Code requires the develop to turn over the improved infrastructure such as new roads to the Town before final approval. It has been recommended that we change that to make the maintenance of new roads remain with the development.

Because this language is in the Land Development Code we are asking for Council direction to submit to P&Z Board for their review and recommendation.

**ATTACHMENTS:**

Ordinance 2021-12

**ACTION OPTIONS:**

Direction to Staff to route to P&Z Board.

ORDINANCE 2021-12

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE OF THE TOWN; AMENDING ARTICLE XVI SUBDIVISIONS; AMENDING SECTION 1 -16.4 PERTAINING TO ROAD DEDICATION AND REQUIRED LANGUAGE IN SUBDIVISION COMMUNITY ASSOCIATION RESTRICTIVE COVENANTS REGARDING MAINTENANCE OF ROADS, STREETS AND RIGHT OF WAYS; AMENDING SECTION 1-18.7 PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.

SECTION 1. Section 1-16.4 D. 4. j. and k. are amended as follows:

"j. *Restrictions, Reservations and Restrictive Covenants.* Restrictions pertaining to the type and use of water supply; type and use of sanitary facilities; use and benefits of water areas, canals and other open spaces, odd-shaped and substandard parcels; restrictions controlling building lines; establishment and maintenance of buffer strips and walls; and restrictions of similar nature shall require the establishment of restrictive covenants and such covenants shall be noted on the plat. Documents pertaining to restrictive covenants shall be submitted with the final plat.

All plats and replats submitted to the Town on or after July 1, 2021 shall contain the following plat note:

*Right to Repair Private Roadways:* All roads, streets, and right of ways in the subdivision are private and are not required to be maintained, repaired or replaced by the Town. Such maintenance, repair and replacement is the responsibility of the subdivision community association. The Town of Malabar shall have the right, but not the obligation, to maintain, replace and repair any private roadways within the Property and associated rights of way, and improvements thereon. The Town may use the Special Assessment powers provided for in the Declaration to pay for such maintenance; provided, however, that the Town shall not be required to obtain any approval of the Members before instituting such Special Assessment. Any Owner who does not pay a special assessment assessed against such Owner's Lot pursuant to this subsection may have a lien placed upon their property, which lien shall be superior to any other lien prescribed by the Declaration and Chapter 720, Florida Statutes, and may be enforced as provided by law. In the event the Town does undertake the task of maintaining, replacing and/or repairing said private roadways and/or rights of way, including any improvement thereon, the Association does hereby assign to the Town any and all assessment rights to collect and retain Special Assessments instituted pursuant to this subsection as they become due and to exercise such right as provided herein until the Town receives full reimbursement, including any costs, expenses and attorney's fees incurred for any such repair, replacement and/or maintenance, including such costs, expenses and attorney's fees incurred in enforcing the Town's rights as provided herein.

The Town shall not be responsible to the Association, Owner, or any other person or entity as a consequence of the determination not to exercise or of the determination to exercise any of the rights granted to the Town or for failure of the Town to perform any rights granted to the Town herein or by virtue of applicable law. No Owner shall be discharged from any obligations provided herein without the written consent of the Town. This subsection may not be amended without the written approval of the Town Council."

A similar provision shall appear in the subdivisions Restrictions, Reservations and Restrictive Covenants.

k. Private Streets and Related Facilities. All plats and replats submitted to the Town on or after July 1, 2021 shall provide that streets, roads and right of ways and their related facilities designed to serve more than one (1) property owner shall be for dedicated to the public private use. Notwithstanding, Private streets shall be permitted within property under single ownership, a property owners' association or a condominium or cooperative association as defined by Florida Law. Where private streets are permitted, ownership and maintenance association documents shall be submitted with the final plat and the dedication contained on the plat shall clearly dedicate the roads and maintenance responsibility to the association without recourse to the Town or any other public agency. The rights-of-way and related facilities shall be identified as tracts for road purposes under specific ownership.

...

**SECTION 2.** Section 1-18.7 B is amended as follows:

"Section 1-18.7. - Acceptance and maintenance of required improvements.

...

B. Procedure for Accepting Dedications. The dedication of public space, parks, ~~streets, rights-of-way, easements~~ or the like on the plat shall not constitute an acceptance of the dedication by the Town. The applicant shall apply to the Town for acceptance of required improvements by the Town Council. It is the general policy of the Town not to accept any dedication of roads, streets, right of ways and travel easements and that such shall remain private and subject to private maintenance and repair. The Any acceptance of the a dedication shall be subject to the inspection and approval of the Town Engineer. Such acceptance shall occur only upon adoption of resolution by the Town Council which shall accept the subject dedications at such time as all improvements meet or exceed the standards set forth by this ordinance. The applicant's engineer shall furnish to the Town Engineer in writing a sealed and signed certificate stating that the required improvements have been completed in accordance with the approved plan therefor and comply with this ordinance and all other applicable codes. Should the Town accept such a road, street, or right of way dedication, the unit owners and subdivision association shall be responsible for any repair, replacement or maintenance and the provisions of Section 1-16.4 D.4.j will apply regarding the Town's obligations to repair, replace or maintain such road, street, or right of way and improvements therein.

...

**SECTION 3:** Repeal. All Resolutions or Ordinances in conflict herewith are repealed.

**SECTION 4:** Severability/Interpretation Clause.

(a) In the event that any term, provision, clause or section of this ordinance shall be held by a court of competent jurisdiction to be partially or wholly unenforceable or invalid for any reason whatsoever, any such invalidity, or illegality, or unenforceability shall not affect any of the other or remaining terms, provisions, clauses, sentences, or sections of this ordinance, and this ordinance shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

**SECTION 5:** Codification. The provisions of this Ordinance shall be incorporated into the Town's Code of Ordinances.

**SECTION 6:** Effective date. This Ordinance shall take effect immediately upon passage and adoption.

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

Council Member Marisa Acquaviva	_____
Council Member Brian Vail	_____
Council Member Steve Rivet	_____
Council Member David Scardino	_____
Council Member Danny White	_____

This ordinance was then declared duly passed and adopted this \_\_\_\_ day of \_\_\_\_\_ 2021.

TOWN OF MALABAR

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

1<sup>st</sup> Reading:  
2<sup>nd</sup> Reading:

ATTEST:

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

(seal)

Approved for Legal Sufficiency:

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