



# Planning and Zoning Board Meeting

Wednesday, February 12, 2020 at 7:00 pm

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

## APPROVAL OF MINUTES

- a. **Approval of Minutes of Planning and Zoning Board Meeting of 12/11/2019**

Exhibit: Agenda Report Number 4a

Recommendation: Request Approval

### Attachments:

- Agenda Report Number 4a (PZ\_Consent\_Agenda\_4a\_2020020713504197\_sw.pdf)

5. PUBLIC HEARING - NONE
6. ACTION ITEMS -1

- a. **Review & Make Recommendation to Council on Ordinance 2020-02 providing an amendment to Table 1-3.2 in Article III changing the Trades and Services use from Conditional to Permitted in Commercial General (CG) and adding Garden and Pine Streets to the footnote.**

Exhibit: Agenda Report Number 6a

### Attachments:

- Agenda Report Number 6a (PZ\_Disussion\_6a\_Action\_sw.pdf)

7. DISCUSSION - 2

- a. **Discuss Possible Local Regulations for Mobile Food Vendors**

Exhibit: Agenda Report Number 7a

**Attachments:**

- Agenda Report Number 7a (PZ\_Discussion\_Mobile\_Food\_Vendor\_7a\_sw.pdf)

**b. Discuss Tint Home Ordinance Proposed by the City of Palm Bay**

Exhibit: Agenda Report Number 7b

**Attachments:**

- Agenda Report Number 7b (PZ\_Discussion\_Tiny\_Homes\_7b\_sw.pdf)

**8. ADDITIONAL ITEMS FOR FUTURE MEETING**

**9. PUBLIC COMMENTS**

**10. OLD BUSINESS/NEW BUSINESS**

**a. Old Business**

**b. New Business**

Board Member Comments

Next regular Meeting - February 26, 2020

**11. ADJOURNMENT**

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

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 4.a.**  
**Meeting Date: February 12, 2020**

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

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**SUBJECT: Approval of Minutes**

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**BACKGROUND/HISTORY:**

The minutes must reflect the actions taken by the Board:

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

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

**ATTACHMENTS:**

Draft minutes of P&Z Board Meeting of 12/11/2019

**ACTION OPTIONS:**

Secretary requests approval of the minutes.

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

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING  
DECEMBER 11, 2019 7:00 PM**

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

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

Meeting called to order at 7:00 P.M. Prayer and Pledge led by Chair Wayne Abare

**2. ROLL CALL:**

CHAIR: WAYNE ABARE  
VICE-CHAIR: LIZ RITTER  
BOARD MEMBERS: GEORGE FOSTER  
DOUG DIAL, EXCUSED  
MARY HOFMEISTER  
ALTERNATE: VACANT  
ALTERNATE: SUSAN SHORTMAN  
BOARD SECRETARY: DENINE SHEREAR

**ADDITIONAL ATTENDEES:**

MAYOR MAYOR PATRICK REILLY  
COUNCIL MEMBER:

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

Abare said that Shortman will be a voting member tonight in place of Doug Dial.

Abare changed approval of minutes before nominations, no objection from Board.

**4. NOMINATIONS FOR CHAIR/ VICE CHAIR**

**Abare asks any nominations for Chair:**

Ritter nominated Wayne Abare for Chair, Foster seconds that nomination Wayne Abare for Chair. Abare asks for any other nominations?

**Motion Ritter/Foster To Nominate Wayne Abare for Chair of P & Z Board. All Vote: Ayes**

Foster nominated Liz Ritter for Vice-Chair, Hofmeister seconds that nomination Liz Ritter for Vice-Chair.

**Motion Foster/Hofmeister to Nominate Liz Ritter for Vice-Chair of P & Z Board. All Vote: Ayes**

**5. CONSENT AGENDA:**

5.a. **Approval of Minutes** Planning and Zoning Meeting – 10/23/2019  
**Exhibit:** Agenda Report No. 4.a.  
**Recommendation:** Request Approval

**Motion: Ritter/ Hofmeister Recommend Approval of Minutes of 10/23/2019 as revised All Vote: Aye**

Corrections:



Ritter/Abare/Foster Page 4 of packet 3<sup>rd</sup> sentence up from bottom correct:

Foster explained about the use of Huggins Park being used for the highest and best use for property value.

- 6. **PUBLIC HEARING: none**
- 7. **ACTION: none**
- 8. **DISCUSSION**

**8.a. Discuss Commercial Development in Malabar Along US Highway 1 and Malabar Road (Chair- Abare)**

**Exhibit:** Agenda Report No. 8.a.  
**Recommendation:** Discussion

Abare explained this is a start for Commercial for Us 1 and Malabar Road and wondered why other municipalities are growing and we are not. He came up with some ideas.

Abare said you need a base line to red line, and it is a start to review.

Ritter said that Malabar is not anti-growth, I believe Malabar is just anti-business, people just like the residential style. Shortman said this should be approached in two styles and keep Malabar Road separate from US 1, due to Malabar Road widening and businesses building along a road that is going to be widening.

Foster said that there are 3 arterials I think the Town & Council said that we are going to support and seek quality businesses on our 3 arterials. Foster said he would like to spend 2020 for welcoming business.

Abare went down the list of proposed discussion of Malabar Road (attached to these Minutes) \*

- 1.) No comment
- 2.) Spoke about the preamble  
 Ritter spoke about the road and water & sewer  
 Hofmeister how to work into all corridors  
 Shortman, what businesses are to be allowed

The complaint is mainly the road issues, Foster said the TPO has approached residents and the Town was offered for the road to be improved several times and historically the DOT could not get 3 people to approve.

Shortman moved here a year ago and tried to buy property on Malabar Road and no one would show the properties due to widening of Malabar Road.

Abare said going back 10 years ago a study was done. If Council would not go along 3 votes could cancel progress.

Mayor Pat Reilly Council wrote a Resolution and spoke about roundabouts and the road, they said that Malabar could not make up their mind 2014 or 2015. Council needs to do another Resolution and present to TPO. We lost our money for the improvement of Malabar Road.

Foster said that there is a big obstacle because of water and sewer on those roads. If we come to a consensus then yes, we are business friendly and we can get businesses in town. Foster said there is a lot of places already having water & sewer. Focus on quality businesses and recruit and solicit. Everyone has ideas and opinions.

## Commercial Development in Malabar along US1 and Malabar Road



wayne abare <wabare@cfl.rr.com>  
Wed 12/4/2019 8:57 AM  
Denine Sherear

TOWN OF MALABAR  
DEC 04 2019  
RECEIVED

### Commercial Development in Malabar along US1 and Malabar Road

1. The revised Comprehensive Land use Plan has allows more OI and R/LC zoning along our major arteries. This should help spur commercial growth.
2. The Malabar preamble states that "the people of Malabar wants to maintain the rural character ...", so a lot of residents have the mentality that Malabar really doesn't want commercial development.
3. Malabar has a reputation of being "Anti-growth" and difficult to deal with.
4. Malabar Road is only a two lane road. The DOT has approached Malabar Council about 4-laning Malabar Road over the last decade. They keep changing their design. The last change was to Roundabouts instead of traffic lights. Roundabouts require more right-of-way so Council was displeased. DOT has since diverted funding to another municipality.
5. Having R/LC and other Commercial zonings without water and sewer along US1 and Malabar Road greatly limits what kind of commercial businesses that can be built there.
6. Malabar Road does not have water and sewer East of Weber road to US1.
7. US1 does not have water and sewer South of the Yellow Dog Café.
8. Malabar Road has poor drainage.
9. US1 has the Indian River to the East and the rail road to the West. It is harder to get a good return on a business that can only attract people from the West. In addition, the only East/West road along US1 within Malabar's Town limits is Malabar road.
10. The density of residents along US1 is low. Harris has a large facility off Jordon Blvd., but they are only there during the day. A good place for child care or lunch.
11. When a Developer visits Malabar we do not have a simple checklist of the steps that a Developer has to go through.

Abare said the roads and drainage must be planned out. Shortman said that there is a plan. A past Town Administrator said the revenue is only a percentage more than a few years ago. The facts have been dire that the resource of this community is dire.

Foster said there is a 50/50split that 50 % of people say we need commercial growth and 50% say we do not.

Abare yes

Liz yes

Shortman no

- 3.) Foster yes  
Shortmans ?  
Abare yes  
Liz businesses yes  
Mary yes

- 5.Foster yes  
Shortman yes  
Abare yes  
Liz yes  
Mary yes

6. Fact

7. Fact

8. Foster yes  
Shortman no  
Abare yes  
Liz no  
Mary no

- Low spots on Malabar Road, Tillman Canal barely came into Malabar.
- Abare spoke of Brevard Health

9. Foster  
Shortman no  
Abare yes  
Liz no  
Mary no

The Board Collectively #10 & 11 discussed list that was presented.

\*Homework is for P & Z Board to Work on check list for new businesses and commercial

Board asked about having Planner Tod Mowery Attend a PZ Meeting.

Ritter spoke about a community center, funded by Town.

Hofmeister asked about revenue from Fall fest and communication of advertising was up only 4 days before. Shortman said the Christmas tree lightening. Ritter explained that they are representing their constituents on comments.

Mayor Reilly, about 8 years ago did research why is not anyone building residents along corridors now & along Malabar Road it was in 1981 new house on Malabar Road.

Reilly said that people have property rights. Malabar does not go look for people. The Indian river, you would build it on Babcock Street for general public. The land uses are water and sewer. You must look at where you want to see Malabar in the future,

Jeff Rinehart 2395 Corey Road, the secret is no storm water drainage plan you must have one the Town has been out of compliance since 1995. Malabar Road & DOT has not moved somewhere. The drainage plan must be in compliance. A Commercial business must contain 100% of detention.

Ritter asked about lots along corridors to use for drainage.

Rinehart said that every city is required to have a master drainage plan by state statutes. The FL ST 73.03 Drainage Plan.

Foster asks about cost for drainage plan. Rinehart said expensive. Rinehart spoke to board and explained drainage costs and process. Shortman asked if there are grants available? Response was no.

Mayor Reilly said that the Council approved the stormwater plan, he said that TM Matt has hired a company & money is coming out of reserve.

Roger Walters, 2395 Corey Road, Roger explained the process of the master drainage plan mandated by the state. Jeff Rinehart said the Town cannot assist with residents alone. There are 5 major basins around the Town and Roger spoke about drainage plan and out fall studies. There must be master plan.

Rinehart said he loves the residential part of Malabar also understand the commercial, the Board takes a piece of property and recommends how to start business and proceeds, Sales Tax is best revenue for a Town. Public Private Partnership (P3). You need to work with a developer to come in with the vision.

Foster said we are at the end of 2019, we need to start a process for 2020 with a vision how to go forward for the long term. There are talented people to help us with a vision.

#### **9. ADDITIONAL ITEMS FOR FUTURE MEETING:**

The Board discussed the Calendar for the Holidays.

#### **10. PUBLIC:**

Mike Cheatem, co-owner of Moveable Roots Tiny home builder. Cheteam wants to start other businesses and is looking at a property in the Town of Malabar. A potential enclave for small businesses beauty salon, ice cream shop, etc. approx. 700 sq. ft type businesses. He showed a plan on paper of his concept "mom & pop" rural small businesses.

Reilly spoke to PZ Board impact fee for water and sewer ¼ mile \$450, 000.00 on US 1.

Andy Leikan 100 Rialto Place, Melbourne, owns corner of Malabar Road & Corey Road. He was a developer, owns corner of Corey Road & Malabar Road. The other municipalities residential then commercial. The residential /professional limits you.

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

Old Business:

New Business:

- Next Regular Meeting- December 25, 2019 (cancelled)
- Next Regular Meeting- January 8, 2020?

**12. ADJOURN**

There being no further business to discuss

MOTION: Hofmeister/Ritter adjourn this meeting. Vote: All Ayes. The meeting adjourned 9:00

P.M.

BY:

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

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

\_\_\_\_\_  
Date Approved: as presented/corrected:

DRAFT

# TOWN OF MALABAR

## PLANNING AND ZONING

### AGENDA ITEM REPORT

**AGENDA ITEM NO: 6.a.**  
**Meeting Date: February 12, 2020**

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

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**SUBJECT: Review & Make Recommendation to Council on Ordinance 2020-02 providing an amendment to Table 1-3.2 in Article III changing the Trades and Services use from Conditional to Permitted in Commercial General (CG) and adding Garden and Pine Streets to the footnotes.**

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

This Ordinance was forwarded to P & Z Board for a courtesy review before being advertised for the second reading and public hearing. Please see attached back-up material memo's and information for your review.

Please make a Recommendation in the form of a "Motion" so that it can be forwarded to Council.

#### **ATTACHMENTS:**

- Memo 2020 TC/T-003 Debby Franklin – 2715 Garden Street Update with back up information
- Memo 2020-TC/T-006 Debby Franklin- Courtesy Review of Ordinance 2020-02 Amending Article III Table 1-3.2 with back up information

#### **ACTION OPTIONS:**

Recommendation to Council

# TOWN OF MALABAR

## MEMORANDUM

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**Date:** January 17, 2020 2020-TC/T-003  
**To:** Denine Sherear, P&Z Board Secretary  
**From:** Debby K. Franklin, C.M.C., Town Clerk/Treasurer  
**Ref:** 2715 Garden Street Update

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Council considered a request from the property owner of 2715 Garden Street (Nanna's House property), a 2.5-acre site within the Commercial General zoning classification and Land Use designation at their meeting of January 14, 2020. The request was for a change in the narrative in Article III, District Provisions.

Council has agreed to amend the Land Development Code to add *Garden and Pine Streets* to the footnote in Table 1-3.2 at their meeting of 1/14/2020. Also, because of the unique layout of the area and the fact that there are only three properties adjacent to these roads, they directed that the Table be further amended to list Trades and Skilled Services as a *Permitted Use* instead of the conditional use.

Staff will make the amendments and forward to Attorney for review and then plan to have the Planning and Zoning Board review and make a recommendation to Council.

All of the ordinances adopted since Supplement 22 of the Malabar Land Development Regulations have been sent to Municode for incorporation into Supplement 23. We anticipate delivery in late February.

We are also working to assemble the approved amendments into the Comprehensive Plan and forward to the printing vendor for copying. I will also be exploring the possibility of having it codified by Municode Corporation to improve timing of future updates.

Thank you.

**Attachments:**

- Table 1-3.2 – redlined
- Draft Minutes of January 14, 2020



TABLE 1-3.2. LAND USE BY DISTRICTS

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
Noncommercial Agricultural Operations	P													
Wholesale Agricultural Activities	P													
Commercial Stables	C													
<b>COMMERCIAL ACTIVITIES</b>														
Admit Activities										C				
Bars and Lounges										C				
Bed and Breakfast											P <sup>1</sup>			
Business and Professional Offices							P	P	P	P	P	P	P	
Enclosed Commercial Amusement										P				
Arcade Amusement Center/Electronic Gaming Establishment										C <sup>2</sup>				
Funeral Homes									P	P	C			
General Retail Sales and Services										P				
Hotels and Motels										P				
Limited Commercial Activities									P	P	P			
Marine Commercial Activities										C <sup>2</sup>				
Medical Services								P	P	P	P			
Mini Warehouse/Storage									C	P		P		
Parking Lots and Facilities								P	P	P	P			P
Retail Plant Nurseries									P	P	P			
Restaurants (Except Drive-Ins and fast food service)									P	P	P			
Restaurants (Drive-ins)										P				
Service Station, Including Gasoline Sales										C <sup>2</sup>		C <sup>2</sup>		
Trades and Skilled Services										P <sup>2</sup>		P		
Veterinary Medical Services								P	P	P	C	P		
Vehicular Sales and Services										C <sup>2</sup>		P		
Vehicular Services and Maintenance										C <sup>2</sup>		P		
Wholesale Trades and Services										C <sup>2</sup>		P		
<b>INDUSTRIAL ACTIVITIES</b>														
Kennels												C		
Manufacturing Activities												P		



DISTRICT PROVISIONS

1-3.2

TABLE 1-3.2. LAND USE BY DISTRICTS

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
Manufacturing Service Establishments														
Vehicle and Other Mechanical Repair and Services												P		
Warehouse, Storage and Distribution Activities										C*		P		
WATER DEVELOPMENT														
NONCOMMERCIAL ACTIVITIES														
Noncommercial piers, boat slips, and docks														C

C = Conditional Use<sup>1</sup>

P = Permitted Uses

A = Accessory Use

\* = These uses are permitted only on sites abutting Babcock Street, US 1, and West Railroad Avenue. *GARDEN ST AND PIPE ST.*

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.

<sup>1</sup> Any Bed and Breakfast which is proposed to have more than five (5) living quarters shall only be approved as a conditional use in accordance with Article VI of the Land Development Regulations.

<sup>2</sup> Any Arcade Amusement Center and Electronic Gaming Establishment as defined herein shall only be approved as a conditional use in accordance with Article VI of the Malabar Land Development Code.

<sup>3</sup> Allowed in RR-65, (1 to 2 residents/beds) as defined in FS Title XXX Chapters 419 & 429

<sup>4</sup> ALF Factor of "3" (see section 1-2.6.B.13.B, Part I) only applies to RM-4 & RM-6 for ALF's (Ord. No. 94-4, § 3, 4-3-95; Ord. No. 97-3, § 2, 3-17-97; Ord. No. 05-01, § 1, 3-7-05; Ord. No. 06-19, § 1, 1-11-07; Ord. No. 12-48, § 2, 1-23-12; Ord. No. 14-01, § 3, 2-3-14; Ord. No. 2016-03, § 1, 2(Exh. A), 10-3-16)



5. **UNFINISHED BUSINESS/GENERAL ORDERS:**

11.a. Agenda Item Request by Kim Frodge – 2715 Garden St., Commercial General Zoning

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

Kim Frodge introduced herself and thanked Council for their support over the last eight years while she operated Nanna's House Thrift shops in Malabar. She has moved to Babcock Street and is selling their property on Garden Street. Bill Buckman is the potential buyer, with ASAP. He started S.O.S. in 1995 and sold it in 2005.

She is asking to add Garden and Pine Streets in the footnote for trades and services and change the use from conditional to permitted.

**MOTION: CM White / CM Vail to have staff draft the amendments into an ordinance and route it to P&Z for a recommendation.**

**VOTE: All Ayes.**

**TOWN OF MALABAR  
AGENDA ITEM REPORT**

**AGENDA ITEM NO: 11.a.**  
**Meeting Date: January 14, 2020**

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

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**SUBJECT: Agenda Item Request – Allow Commercial General Trades and Services at 2715 Garden Street**

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**BACKGROUND/HISTORY:**

The property owner, Kim Frodge requested this agenda item. This property is zoned Commercial General and the Future Land Use Map designation is also Commercial General. Ms. Frodge operated the Nanna's House Thrift store on this 2.5-acre site. It consisted of retail sales in the main building and display and storage in three cargo structures. She is selling the property now and a septic company is interested in locating their business there.

The language in Article II and Article III of the Code would appear to allow the proposed use, but the Table in Article III adds a restriction to *trades and services* not referenced in the narrative. That restriction limits trades and services to a Conditional Use Permit and further requires them to abut only Malabar Road, Babcock Street or West Railroad Avenue.

The property owner is requesting Council expand on the streets that trades and services are allowed by adding Garden and Pine Streets.

The property owner would further request that such use be considered a *Permitted* use rather than a *Conditional* use.

The property owner prior to Ms. Frodge upgraded the building to meet current commercial building and fire codes. The property at that time was operating a well drilling service.

**ATTACHMENT:**

Agenda Request Form  
Zoning, aerial and land use maps  
Article III narrative and Table  
Minutes from P&Z Board dated 5/22/19

**ACTION OPTIONS:**

Direction to staff



**AGENDA ITEM REQUEST FORM  
MALABAR TOWN COUNCIL**

Please mail completed form to:

Town of Malabar  
2725 Malabar Road  
Malabar, Florida 32950

NAME: Nana's Childrens Home Inc

ADDRESS: 2715 Garden St  
malabar FL 32950

TELEPHONE: 321-266-3829                      321-724-5111  
~~(Home)~~ Cell                                              (Business)

Please state the item you wish to have placed on the Town Council Agenda.

Permission for ASAP Septic to move in and operate their business as is in current zoning.

Please summarize pertinent information concerning your requested Agenda item and attach applicable documents.

I have researched other septic companys in Brevard County and they are located in general commercial zoning.

Palm Bay Septic  
Gen. Comm.  
SOS Septic  
Gen. Comm.  
Ponce Septic  
Gen. Comm.

Please state desired action by Town Council.

Permission for ASAP Septic to move in and operate their business as is in current zoning.

Signed: Kim Fudge

Date: 2/2/2019







# TOWN OF MALABAR

## MEMORANDUM

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**Date:** February 5, 2020 2020-TC/T-006  
**To:** Denine Sherear, P&Z Board Secretary  
**From:** Debby K. Franklin, C.M.C., Town Clerk/Treasurer  
**Ref:** Courtesy Review of Ordinance 2020-02

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At the last Council meeting, Council approved the first reading of Ordinance 2020-02. Council directed that it be forwarded to Planning and zoning for a courtesy review before being advertised for the second reading and public hearing.

The ordinance was drafted at the direction of Council after a presentation by a property owner on Garden Street. The ordinance will change the Trades and Skilled Services use from Conditional to Permitted and in Table 1-3.2 and add Garden Street and Pine Street to the footnote where these uses are allowed.

Please put this on the P&Z Board agenda for action and request your Board review the ordinance and make a recommendation to Council in the form of a motion.

Thank you.

Attachment – Ordinance 2020-02

### **ACTION ITEMS: ORDINANCES FOR FIRST READING: 1**

Ord read by title only.

#### **12.a. Ord 2020-02 - Amend Art III Table 1-3.2**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE AMENDMENT TO TABLE 1-3.2 IN ARTICLE III OF THE LAND DEVELOPMENT CODE, PROVIDING FOR FINDINGS; PROVIDING FOR TRADES AND SERVICES IN COMMERCIAL GENERAL (CG) ZONING TO BE A PERMITTED USE INSTEAD OF A CONDITIONAL USE AND PROVIDING FOR THE ADDITION OF GARDEN AND PINE STREETS TO THE FOOTNOTE WHERE THESE USES ARE ALLOWED; PROVIDING FOR CODIFICATION AND REPEAL OF ORDINANCES OR PART OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 12.a.

**MOTION:** CM Rivet / CM White to approve first reading of Ord 2020-02 as submitted.

Discussion: none

**Rollcall VOTE:** CM Ball, Aye; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Aye; CM White, Aye.

Motion carried 5 to 0.

Route to P&Z Board for courtesy review.

**ORDINANCE 2020-02**

**AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE AMENDMENT TO TABLE 1-3.2 IN ARTICLE III OF THE LAND DEVELOPMENT CODE, PROVIDING FOR FINDINGS; PROVIDING FOR TRADES AND SERVICES IN COMMERCIAL GENERAL (CG) ZONING TO BE A PERMITTED USE INSTEAD OF A CONDITIONAL USE AND PROVIDING FOR THE ADDITION OF GARDEN AND PINE STREETS TO THE FOOTNOTE WHERE THESE USES ARE ALLOWED; PROVIDING FOR CODIFICATION AND REPEAL OF ORDINANCES OR PART OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS,** The Town Council has determined it should amend the regulations to provide for trades and services within commercial general zoning as provided in Table 1-3.2 within the District Provisions of the Land Development Code.

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

**Section 1.** Table 1-3.2 Land Use by Districts in Article III of the Land Development Code is hereby amended to read:

"Table 1-3.2 Land Use by District

Use	<u>RR-65</u>	RS-21	RS-15	Rs-10	RM-4	R M-6	R-MH	OI	C L	CG	R/L C	IN D	CP
Trades and Skilled Services										<u>ε</u> <u>P</u>		P	

..."

**Section 2.** Table 1-3.2 Land Use by Districts in Article III of the Land Development Code is hereby amended to provide for addition to footnote "\*" That provides for the following language:

"\* = These uses are permitted only on sites abutting Babcock Street, US 1, West Railroad Avenue, Garden Street and Pine Street.

**Section 3. Codification.**

It is the intention of the Town Council of the Town of Malabar, Brevard County, Florida, that Article III, District Provisions, Table 1-3.2 be codified into the next supplement update of the Land Development Code of the Town of Malabar, Florida.

**Section 4. 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 the 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 5. Conflicts.**

All ordinances or parts thereof in conflict herewith are hereby repealed to the extent of such conflict with this Ordinance.

**Section 6. Effective Date.**

This ordinance shall take effect immediately upon its adoption.

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

- Council Member 1 Grant Ball \_\_\_\_\_
- Council Member 2 Brian Vail \_\_\_\_\_
- Council Member 3 Steve Rivet \_\_\_\_\_
- Council Member 4 David Scardino \_\_\_\_\_
- Council Member 5 Danny White \_\_\_\_\_

This Ordinance will be declared duly passed and adopted this \_\_\_\_\_, 2020.

**TOWN OF MALABAR**

By:

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

1<sup>st</sup> Reading: 2/3/2020 5 to 0  
2<sup>nd</sup> Reading: \_\_\_\_\_

(seal)

ATTEST:

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

Approved as to Legal Sufficiency:

\_\_\_\_\_



**TOWN OF MALABAR**

**PLANNING AND ZONING**

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 7.a.**  
**Meeting Date: February 12, 2020**

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

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**SUBJECT: Discuss Possible local Regulations for Mobile Food Vendors**

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**BACKGROUND/HISTORY:**

The Staff would like input from the P&Z Board on whether Malabar should pursue regulations for Mobile Food Vendors. Other cities have established regulations to limit where and when these businesses may operate and restrict what can be offered.

After reviewing other cities there is attached information from North Port, Florida information concerning such vendors.

**ATTACHMENTS:**

- Memo # 2020-TC/T-007 from Debby Franklin Clerk/Treasurer
- Ordinance from City of North Port Florida

**ACTION OPTIONS:**

Discussion

# TOWN OF MALABAR

## MEMORANDUM

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**Date:** February 5, 2020 2020-TC/T-007  
**To:** Denine Sherear, P&Z Board Secretary  
**From:** Debby K. Franklin, C.M.C., Town Clerk/Treasurer  
**Ref:** Mobile Food Vendors – Consider Local Regulations

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Recently we have learned that the State is no longer providing specific regulations on how mobile food vendors operate at locations within Florida. We issue a business tax receipt once they provide evidence that they have the necessary health certificate and permission of the private property owner to locate on their property. The State had requirements that mobile food vendors could not accommodate customers with table and chairs, but they have now delegated all operational regulations to the local municipality having jurisdiction.

We have had multiple mobile food vendors located at the SW corner of Malabar Road and Highway 1 in the past and now have the potential for multiple on the NW corner of that intersection. We have also got one south of Riverview Drive on Highway 1 and another located at the Knights of Columbus.

Other cities have established regulations to limit where and when these businesses may operate and restrict what can be offered.

Staff is requesting input from Planning and Zoning on whether Malabar should pursue regulations on these businesses. Most cities in Brevard prohibit them entirely. Melbourne only allows them on Harris property. Satellite Beach only allows them at Paradise Beach Park.

The City of North Port allows them within their city parks, with permitting, and in other commercially zoned areas. Items they regulate are the total number of such vendors at one location, times of operation, products sold, access, parking and setbacks.

They also require an annual renewal of the permit.

Staff would appreciate your input.

Thank you.

Attachment – City of North Port Ordinance 2019-04



## City of North Port

### ORDINANCE NO. 2019-04

**AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, CREATING A MOBILE FOOD VENDOR PERMIT AND ASSOCIATED FEES FOR THE OPERATION OF MOBILE FOOD VENDORS AND ICE CREAM TRUCKS WITHIN THE CITY BY AMENDING THE CODE OF THE CITY OF NORTH PORT, FLORIDA, CHAPTER 34 – LICENSES, PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS, BY CREATING A NEW ARTICLE III – BUSINESS PERMITS AND APPENDIX A – CITY FEE STRUCTURE; PROVIDING FOR ADOPTION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, mobile food vending is a growing industry in the United States and serves as a means for individuals to start businesses or to supplement existing businesses; and

**WHEREAS**, there is an increasing demand for a greater variety of food options than are present in the City; and

**WHEREAS**, at present, mobile food vendors within the City are limited to being part of a special event held in the City; and

**WHEREAS**, on April 2, 2018 and July 5, 2018, the City Commission held properly-noticed workshops to discuss mobile food vendors in the City; and

**WHEREAS**, the City Commission has determined that the proposed amendments serve the public health, safety, and welfare of the citizens of the City of North Port, Florida.

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

#### **SECTION 1 – FINDINGS**

1.01 The recitals outlined above are incorporated by reference as findings of fact as if expressly set forth herein.

#### **SECTION 2 – ADOPTION**

2.01 The City Commission hereby approves and adopts the following amendments to the Code of the City of North Port, Florida:

**"Chapter 34 – LICENSES, PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE III. – BUSINESS PERMITS RESERVED**

**Sec. 34-54. – Definitions.**

When used in this article, the following terms and phrases shall have meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

(1) Ice cream truck. A motorized vehicle or vehicle-mounted trailer from which only prepackaged, individually portioned frozen novelties or desserts, such as ice cream sandwiches, frozen yogurt bars, popsicles, or other frozen dessert products defined in F.S. Section 502.012, are sold.

(2) Mobile food vendor. The operator of a motorized vehicle or vehicle-mounted trailer used for the operation of food service activities or for the operation of an ice cream truck.

**Sec. 34-55. – Mobile food vendor permit.**

(a) Applicability. It is a violation of this code for a mobile food vendor to sell any product at any location or in any manner that is not in compliance with the requirements of this section. The provisions of this section shall not apply to a mobile food vendor operating pursuant to a special event permit or temporary use permit.

(b) Permit requirement. When operating in the city, a mobile food vendor must have its mobile food vendor permit available for inspection at all times and must be licensed in accordance with the rules and regulations of any state agency having jurisdiction over the mobile food vendor or the products sold therein.

(1) Duration. A mobile food vendor permit is valid for one (1) year from the date of issue.

(2) Fee. An applicant must pay the mobile food vendor permit fee when submitting an application for a mobile food vendor permit.

(3) Application. A mobile food vendor must submit a complete permit application to obtain or renew a mobile food vendor permit. The permit application must include all the following:

a. The name, address, phone number, and email address of the mobile food vendor;

b. A list or description of all food, beverages, and other items intended to be sold;

c. Proof of a valid mobile food dispensing service license or hot dog cart license issued by the Florida Department of Business and Professional Regulation, a mobile food establishment permit issued by the Florida Department of Agriculture and Consumer Services, and a license or permit from any other state agency having jurisdiction over the mobile food vendor or the products sold therein as applicable to the mobile food vendor's intended operation;



- d. The mobile food vendor's notarized signature acknowledging review of, and agreement to abide by, the regulations set forth in this code and attesting that the vendor has not held a City issued mobile food vendor permit in the previous two (2) years that was revoked for any reason;
- e. Confirmation from City of North Port Fire Rescue indicating that the mobile food vendor has passed a fire and safety inspection based on the applicable Florida Fire Prevention Code; and
- f. Proof of any insurance required by this section if applicable.

(c) Location. A mobile food vendor permit allows a mobile food vendor to operate in the following locations:

(1) City-owned property.

- a. On the following city-owned property, total operation must be contained within the area designated for their operation by the City Manager or designee:
  - 1. Dallas White Park;
  - 2. The Garden of the Five Senses;
  - 3. Highland Ridge Park; and
  - 4. City Center Green.
- b. No more than four (4) mobile food vendors may operate on any single city-owned property at the same time.
- c. Conflict. A mobile food vendor may not operate at any location where the City Manager or designee determines that a conflict exists between a mobile food vendor's operation and an existing license or franchise agreement, contractual obligation, or any other public health or safety concern, including but not limited to a special event or facility rental.

(2) Private property.

- a. A mobile food vendor may operate on private property located within the following zoning districts, only with the written permission of the property owner(s). Evidence of a property owner's written permission must be available for inspection by the city upon request while the mobile food vendor is operating.
  - 1. Commercial General (CG);
  - 2. Industrial Light Warehouse (ILW);
  - 3. Neighborhood Commercial High/Low (NC-HI/NC-LI);

4. Office, Professional, Institutional (OPI);
  5. Village (V); and
  6. Planned Community Development (PCD).
- b. Set-back requirement. When operating on private property, a mobile food vendor may operate only if set-back at least fifty feet (50') from any abutting residential district and at least one hundred and fifty feet (150') from any exclusively single-family residential structure, unless the owner(s) of the residential structure provides the mobile food vendor with express written permission to operate. The one hundred and fifty foot (150') set-back requirement is reduced to fifty feet (50') where an intervening non-residential building, such as a commercial building, screens the operation from the direct view of the single-family residential structure.
  - c. Maximum number of mobile food vendors. No more than four (4) mobile food vendors shall operate on any private property at any one time, except as may be allowed by a city issued special event permit or temporary use permit.
  - d. Access. A mobile food vendor shall not operate or park in any location that impedes the ingress or egress of traffic, building entrances, emergency exits, or access to businesses.
- (3) Construction areas. A mobile food vendor may operate on private property that has an active building permit as part of a commercial or multi-family construction site. Such operation may also occur on a site undergoing master infrastructure construction within a single-family subdivision until the first certificate of occupancy is issued.
  - (4) Principal structure requirement. Except as otherwise provided by this article, a mobile food vendor may only operate on a lot that has a principal structure. However, operating on a vacant lot is permitted where the vacant lot is under the same ownership as, and is abutting, a lot that has a principal structure. Lots located across a public right-of-way shall not be considered abutting.
  - (5) Stationary location requirement. A mobile food vendor must operate from a stationary location but may operate from multiple locations throughout the day, except as otherwise permitted in this article. An ice cream truck may operate as a moving vendor but only along a roadway defined as a local road in the Transportation Element of the North Port Comprehensive Plan.
- (d) Operation.
- (1) Hours. A mobile food vendor may only operate during the posted operating/business hours of the park or on-site office, business, or construction, or between the hours of 9:00 a.m. and 10:00 p.m. if no such activity is on-site. Operating hours includes time required for setup and breakdown of the mobile food vending operations.



- (2) Items authorized for sale. A mobile food vendor permit only allows a mobile food vendor to sell food and beverages.
- (3) Noise requirements. Amplified music or other sounds from a mobile food vendor shall comply with the noise requirements in chapter 46 of this code.

(e) Placement of items.

- (1) Except as provided herein, the placement or storage of any item related to a mobile food vendor's business is prohibited from being on the street, sidewalk, or ground immediately surrounding an operating mobile food vendor. The following items may be placed in the immediate area of operation as long as they do not impede, endanger, or interfere with pedestrian or vehicular traffic:
  - a. Two (2) trash receptacles;
  - b. One (1) recycling receptacle; and
  - c. One (1) menu board no larger than thirty inches by fifty inches (30" x 50") in height.
- (2) A mobile food vendor must provide receptacles for trash and recycling. The area immediately surrounding an operating mobile food vendor shall be kept neat and orderly at all times and garbage or trash shall be removed prior to departure of the mobile food vendor.
- (3) Mobile food vendors are responsible for the proper disposal of all waste generated on-site. No grease, waste, trash, or other by-product from a mobile food vendor's business may be deposited or released onto city-owned property, including but not limited to the streets, sidewalk, into the gutter or storm drainage system, or other public place.
- (4) If a generator or open-flame is utilized, a fire extinguisher must be located on-site.

(f) Limitations on sales.

- (1) The sale of alcoholic beverages is prohibited unless authorized by a special event permit.
- (2) The sale or display of items that are obscene, offensive, or are otherwise deemed inappropriate by the city is prohibited.

(g) Insurance.

- (1) When operating on city-owned property, a mobile food vendor must maintain insurance and coverage in occurrence form, as required by this section. The mobile food vendor must also have a current certificate of insurance on file with the city, naming the City of North Port, Florida as an additional insured.

- a. Commercial General Liability Insurance. The policy must include a minimum limit of \$300,000 for each accident, \$600,000 for general aggregate, \$600,000 for products and completed ops, and \$100,000 damage to rented premises.
  - b. Commercial Auto Liability Insurance. The policy must include a minimum limit of \$1,000,000 for each accident for property damage and bodily injury with contractual liability coverage.
  - c. Workers' Compensation Insurance. The policy must include a minimum limit of \$100,000 for each accident, \$100,000 for each employee, a \$500,000 policy limit for diseases; coverage must apply for all employees at the statutory limits provided by state and federal laws. Including proof of current Workers' Compensation Coverage or Workers' Compensation Exemption (notarized affidavit).
- (2) Upon the cancellation or lapse of any policy of insurance required by this section a mobile food vendor is prohibited from operating on city owned property. A mobile food vendor must notify the city within three (3) business days of any changes in the insurance coverage required by this section.
- (3) At all times, a mobile food vendor must maintain all insurance policies required by local, state, and federal law and regulation.
- (h) Enforcement. Any code enforcement officer or sworn law enforcement officer may initiate enforcement proceedings for a violation of this section. This section shall be enforced by the city's hearing officer pursuant to chapter 2, article IX of this code.
- (1) The City Manager or designee may immediately revoke a mobile food vendor permit by providing written notice to the mobile food vendor upon the occurrence of any of the following:
- a. The state agency having jurisdiction over the mobile food vendor or the products sold therein revokes or terminates the license or permit allowing for the mobile food vendor's continued operation; or
  - b. Pursuant to order of the city's hearing officer.
- (2) The city's hearing officer may order any penalty authorized under chapter 2, article IX of this code if the hearing officer determines that a mobile food vendor has failed to abide by the regulations set forth herein and may also order the revocation of a mobile food vendor's permit upon finding any of the following:
- a. A repeat violation of this code within the preceding twelve (12) months;
  - b. The mobile food vendor no longer qualifies for the issuance of a new mobile food vendor permit;



c. The state agency having jurisdiction over the mobile food vendor or the products sold therein revokes or terminates the license or permit allowing for the mobile food vendor's continued operation; or

d. The City issued the permit based upon the mobile food vendor providing false information, a misrepresentation of material fact, or a mistake of fact or law.

(3) Upon the effective date of revocation of a mobile food vendor permit, a mobile food vendor shall not qualify for a new mobile food vendor permit for a period of twenty-four (24) months.

Secs. ~~34-56~~ ~~34-54~~ – 34-100. - Reserved.”

2.02 The City Commission hereby approves and adopts the following amendments to the Code of the City of North Port, Florida:

“APPENDIX A – CITY FEE STRUCTURE

...

B. PLANNING AND ZONING FEES

PLANNING AND ZONING FEES	
...	
FEMA research letter	\$100.00
<u>Mobile food vendor permit</u>	<u>\$100.00</u>
...”	

SECTION 3 – CONFLICTS

3.01 In the event of any conflict between the provisions of this ordinance and any other ordinance or portions thereof, the provisions of this ordinance shall prevail to the extent of such conflict.

SECTION 4 – SEVERABILITY

4.01 If any section, subsection, sentence, clause, phrase, or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 5 – CODIFICATION:

5.01 In this ordinance, additions are shown as underlined and deletions as ~~strikethrough~~. Any additional codification information and notations appear in *italics*. These editorial notations shall not appear in the codified text.

SECTION 6 – EFFECTIVE DATE

6.01 This ordinance shall take effect immediately upon adoption by the City Commission of the City of North Port, Florida.

READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida in public session the 25th day of June 2019.

PASSED and ADOPTED by the City Commission of City of North Port, Florida on second and final reading in public session this 9th day of July 2019.

CITY OF NORTH PORT, FLORIDA

  
CHRISTOPHER HANKS  
MAYOR

ATTEST:

  
KATHRYN WONG  
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS:

  
AMBER L. SLAYTON  
CITY ATTORNEY

# TOWN OF MALABAR

## PLANNING AND ZONING

### AGENDA ITEM REPORT

**AGENDA ITEM NO: 7.b.**  
**Meeting Date: February 12, 2020**

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

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**SUBJECT: Discuss Tiny Home Ordinance proposed by City of Palm Bay**

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

The PZ Board discussed "Tiny Homes" in the past due to inquiries by potential property owners. I have explained that there is presently nothing in our code with the square footage of a "Tiny Home" that is allowed.

The Town of Rockledge did establish an Ordinance allowing Tiny Homes called a "Pocket Community Subdivision" but was never developed. (possible speaker from City of Rockledge)

The City of Palm Bay is proposing a "Tiny Home Subdivision", they have an Ordinance that is going before their Council on Thursday 2/6/2020 for review.

There are Tiny houses on wheels that are RVs and are not suitable for permanent residence, according to the Recreational Vehicle Industry Association. From RV Business, "The RVIA will continue to shy away from allowing members who produce products that are referred to as "tiny houses" or "tiny homes"

#### **ATTACHMENTS:**

- Article III District Provisions Table 1-3.2 & Table 1-3.3(A)
- City of Palm Bay Ordinance 2020-12
- City of Rockledge Ordinance 1682-2015
- Possible handouts at meeting

#### **ACTION OPTIONS:**

Discussion

DISTRICT PROVISIONS

§ 1-3.2

TABLE 1-3.2. LAND USE BY DISTRICTS

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
<b>RESIDENTIAL USES</b>														
Duplex					P	P					P			
Mobile Homes							P							
Multiple Family Dwelling					P	P					P			
Single Family Dwellings	P	P	P	P	P	P					P			
<b>COMMUNITY FACILITIES</b>														
Administrative Services (Public and Not-for-Profit)								P	P	P	P		P	
Child Care Facilities								C			C		C	
Churches, Synagogues and Other Places of Worship								P, A <sup>1</sup>	P	C	C		P	
Clubs and Lodges (Not-for-Profit)									P	P				
Cultural or Civic Activities								P	P	P	P		P	
Educational Institutions								C, A <sup>1</sup>					C	
Golf Course Facilities	C													
Hospital and other Licensed Facilities									C				C	
Nursing Homes and Related Health Care Facilities					C	C		C					C	
Protective Services					C	C		C	C	C	C		C	
Public Parks and Recreation	C	C	C	C	C	C		C	C	C	C		C	
Public and Private Utilities	C	C	C	C	C	C		C	C	C	C		C	
<b>COMMUNITY RESIDENTIAL HOME</b>														
Level 1 (1 to 6 residents/beds)					C	C								
Level 2 (7 to 14 residents/beds)					C	C								C
<b>ASSISTED CARE COMMUNITIES</b>														
<b>I Assisted Living Facility</b>														
Level 1 (1 to 5 residents/beds)		C	C	C	C <sup>4</sup>	C <sup>4</sup>							C	
Level 2 (6 to 15 residents/ beds)					C <sup>4</sup>	C <sup>4</sup>								
Level 3 (16 or more residents/ beds)					C <sup>4</sup>	C <sup>4</sup>								
<b>II Adult Family-Care Homes</b>														
(1 to 5 residents/beds)		C	C	C	C	C							C	
<b>III Adult Day Care Centers</b>														
					C	C		C					C	
<b>AGRICULTURAL ACTIVITIES</b>														

MALABAR LAND DEVELOPMENT CODE

TABLE 1-3.2. LAND USE BY DISTRICTS

	RR-65	RS-21	RS-15	ES-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
Noncommercial Agricultural Operations	P													
Wholesale Agricultural Activities	P													
Commercial Stables	C													
<b>COMMERCIAL ACTIVITIES</b>														
Adult Activities										C				
Bars and Lounges										C				
Bed and Breakfast											P <sup>1</sup>			
Business and Professional Offices							P		P	P	P	P	P	
Enclosed Commercial Amusement										P				
Arcade Amusement Center/ Electronic Gaming Establishment										C <sup>2</sup>				
Funeral Homes								P	P	P	C			
General Retail Sales and Services										P				
Hotels and Motels										P				
Limited Commercial Activities								P	P	P	P			
Marine Commercial Activities										C*				
Medical Services							P	P	P	P	P			
Mini Warehouse/Storage								C	P	P	P	P		
Parking Lots and Facilities							P	P	P	P	P	P	P	
Retail Plant Nurseries								P	P	P	P			
Restaurants (Except Drive-Ins and fast food service)									P	P	P			
Restaurants (Drive-ins)									P	P	P			
Service Station, Including Gasoline Sales										C*		C*		
Trades and Skilled Services										C*		P		
Veterinary Medical Services							P	P	P	P	C	P		
Vehicular Sales and Services										C*		P		
Vehicular Services and Maintenance										C*		P		
Wholesale Trades and Services										C*		P		
<b>INDUSTRIAL ACTIVITIES</b>														
Kennels												C		
Manufacturing Activities												P		

DISTRICT PROVISIONS

§ 1-3.2

TABLE 1-3.2. LAND USE BY DISTRICTS

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
Manufacturing Service Establishments														
Vehicle and Other Mechanical Repair and Services												P		
Warehouse, Storage and Distribution Activities										C*		P		
WATER DEVELOPMENT														
NONCOMMERCIAL ACTIVITIES														
Noncommercial piers, boat slips, and docks														C

C = Conditional Use

P = Permitted Uses

A = Accessory Use

\* = These uses are permitted only on sites abutting Babcock Street, US 1, and West Railroad Avenue.

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.

1 Any Bed and Breakfast which is proposed to have more than five (5) living quarters shall only be approved as a conditional use in accordance with Article VI of the Land Development Regulations.

2 Any Arcade Amusement Center and Electronic Gaming Establishment as defined herein shall only be approved as a conditional use in accordance with Article VI of the Malabar Land Development Code.

3 Allowed in RR-65, (1 to 2 residents/beds) as defined in FS Title XXX Chapters 419 & 429

4 ALF Factor of "3" (see section 1-2.6.B.13.B, Part D) only applies to RM-4 & RM-6 for ALF's

(Ord. No. 94-4, § 3, 4-3-95; Ord. No. 97-3, § 2, 3-17-97; Ord. No. 05-01, § 1, 3-7-05; Ord. No. 06-19, § 1, 1-11-07; Ord. No. 12-48, § 2, 1-23-12; Ord. No. 14-01, § 3, 2-3-14; Ord. No. 2016-03, § 1, 2(Exh. A), 10-3-16)

**Section 1-3.3. Size and dimension criteria.**

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. All developments shall have a total land area sufficient to satisfy all standards stipulated within the land development code, including but not limited to:

- Setback requirements;
- Open space, buffers, and landscaping;
- Surface water management;
- Water and wastewater services;
- Access, internal circulation and off-street parking;
- Wetland protection; and
- Soil erosion and sedimentation control standards.

Conventional single family lots shall be required pursuant to square footage requirements stipulated in Table 1-3.3(A). Similarly, more intense development within multiple family residential districts and other specified nonresidential districts shall maintain sites having minimum acreage requirements stipulated in Table 1-3.3(A).

TABLE 1-3.3(A), SIZE AND DIMENSION REGULATIONS

Zoning District	Minimum Lot (L)			Maximum Height (ft./stories)	Minimum Living Area (sq. ft.)	Setback (ft./ft.)				Maximum Impervious Surface Ratio (%)	Maximum Building Coverage	Minimum Open Space (%)	Maximum Density (units per acre) with Central Water and Wastewater
	Size (sq. ft.)	Width (ft.)	Depth (ft.)			Front	Rear	Side (I)	Side (C)				
<b>Rural Residential Development</b>													
RR-46	65,840	180	260	35/3	1,500	40	30	30	30	20	N/A	80	0.88
<b>Traditional Single Family Residential Development</b>													
RS-21	21,780	120	180	35/3	1,800	35	20	15	15	36	N/A	65	2.00
RS-15	15,000	100	120	35/3	1,500	30	20	15	15	45	N/A	55	2.904
RS-10	10,000	75	100	35/3	1,200	25	20	10	10	50	N/A	50	4.00
<b>Multiple Family Residential Development</b>													
RM-4	5 Acre Minimum Site	200	200	35/3	1 Bedroom: 900 2 Bedrooms: 1100 3 Bedrooms: 1300 Each Additional Bedroom: 120	60	40	40	40	50	N/A	50	4.00
RM-6	5 acres Minimum Site	200	200	35/3	Single Family: Multiple Family: 1 Bedroom: 500 2 Bedrooms: 700 3 Bedrooms: 900 Each Additional Bedroom: 120	25	20	10	10	50	1/2	50	6
<b>Mixed Use Development</b>													
R/C	20,000	100	150	35/3	Single Family: Multiple Family: 1 Bedroom: 500 2 Bedrooms: 700 3 Bedrooms: 900 Each Additional Bedroom: 120	25	20	10	10	50	N/A	50	4
<b>Mobile Home Residential Development</b>													
RMH	5 Acres Site Lot 7000				Commercial: Min. Area: 900 Max. Area: 4,000	10	8	8	10	60	N/A	50	6.00
<b>Office Development</b>													



TABLE 1-3.3(a) SIZE AND DIMENSION REGULATIONS FOR PRINCIPAL STRUCTURES

Zoning District	Minimum Lot (L)			Setback (ft.) <sup>1,2</sup>			Maximum Impervious Surface Ratio (%)	Minimum Building Coverage	Minimum Open Space (%)	Maximum Density (units per acre) with Central Water and Wastewater
	Size (sq. ft.)	Width (ft.)	Depth (ft.)	Maximum Height (ft.)	Minimum Living Area (sq. ft.)	Front				
DI	20,000	100	150	35/3	Minimum Floor Area: 1000	35/60	25	20	35	N/A
Commercial Development										
CL	20,000	100	150	35/3	Minimum Floor Area: 800	60	25	10' 15'	20	N/A
CG	20,000	100	150	35/3	Min. Area: 800 Max. Area: 4,000 Minimum Floor Area: 1200 Minimum Hotel/Motel Area: 300 Each Unit	60	25	20' 15'	30	N/A
Industrial Development										
IND	20,000	100	150	35/3	Minimum Floor Area: 1200	50 100'	25 100'	20 100'	30 100'	N/A
Institutional Development										
INS	20,000	100	150	35/3	Minimum Floor Area: 1200	50	25	20	30	N/A
Conservation										
CP	No Size or Dimension Standards Adopted									

<sup>1</sup>Minimum site sizes and lots include one-half of adjacent public right-of-way.  
<sup>2</sup>Minimum setbacks determined from the existing right-of-way line where the yard abuts a public street pursuant to the above cited standards or from the center of the right-of-way pursuant to Table 1-3.3(E) whichever is most restrictive.  
<sup>3</sup>Setback where rear lot line abuts an alley.  
<sup>4</sup>Setback shall be greater where side property line abuts a district requiring a larger setback on the abutting yard. In such case the more restrictive abutting setback shall apply.  
<sup>5</sup>Where any yard of industrial zoned property abuts a residential district, the building setback for such yard shall be 100 feet.  
<sup>6</sup>Recreation activities maximum FAR shall be .10.

ORDINANCE NO. 1680 - 2015

AN ORDINANCE OF THE CITY OF ROCKLEDGE, BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 7 OF THE ROCKLEDGE LAND DEVELOPMENT REGULATIONS TO ADD A SECTION 70.90 PROVIDING FOR TINY HOUSES IN POCKET NEIGHBORHOODS AS A USE WITHIN THE REDEVELOPMENT MIXED USE (RMU) AND PLANNED UNIT DEVELOPMENT (PUD) DISTRICTS; DECLARING THAT INVALIDITY OF ANY PORTION HEREOF SHALL NOT AFFECT THE REMAINING PORTIONS OF THIS ORDINANCE; PROVIDING FOR THE EFFECTIVE DATE HEREOF AND FOR OTHER PURPOSES.

**WHEREAS**, the Rockledge Planning Commission has reviewed the necessity for an ordinance creating a Land Development Regulation allowing and controlling Tiny House construction and uses within the City of Rockledge; and

**WHEREAS**, the Rockledge Planning Commission has recommended that a Tiny Houses in Pocket Neighborhoods category be added to the City's Land Development Regulations; and

**WHEREAS**, the Rockledge City Council has determined that an addition to the Rockledge Land Development Regulations be created to provide a category allowing and regulating Tiny House uses in Pocket Neighborhoods within the City;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCKLEDGE, FLORIDA, AS FOLLOWS:**

**SECTION 1.** The Rockledge Land Development Regulations are amended by adding a new Section 70.90 as contained in Exhibit "A" attached hereto.

**SECTION 2.** The provisions of this Ordinance are severable,

and if any section, sentence, clause, or phrase hereof is for any reason held to be unconstitutional, invalid, or ineffective, such holding shall not affect the validity of the remaining portions of this Ordinance, it being expressly declared to be the City Council's intent that it would have passed the valid portions of this Ordinance without the inclusion therein of any invalid portion or portions.

**SECTION 3.** This Ordinance shall become effective ten (10) days following its adoption and signed by the Chairman of the City Council.

**ADOPTED** at a regular meeting of the City Council of the City of Rockledge, Florida, this 23rd day of September 2015.

/s/ Thomas J. Price  
Chairman, City Council of the  
City of Rockledge, Florida

ATTEST:

/s/ Betsi Beatty Moist  
City Clerk

1st Reading: 09/09/15

2nd Reading: 09/23/15

**SECTION 70.90. TINY HOUSES IN POCKET NEIGHBORHOODS**

- A. A tiny house shall be defined as a principal residential dwelling that has a square footage of between 170 and 1,100. Tiny Houses are only permitted within the Redevelopment Mixed Use district (RMU) or a Planned Unit Development (PUD) in a Pocket Neighborhood setting.
1. Each dwelling unit shall have a minimum gross floor area of not less than 170 square feet for the first occupant and not less than 100 square feet for each additional occupant.
  2. Required space in sleeping rooms. In every dwelling unit of two or more rooms, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each occupant thereof.
  3. Minimum ceiling height. Every habitable room, foyer, bathroom, hall or corridor shall have a ceiling height of at least seven feet. If any room has a sloping ceiling, the prescribed ceiling height for the room is required in only one-half the area thereof, but the floor area of that part of any room where the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.
  4. Structure width. The minimum width of a tiny house must be at least 8.5 feet, with a maximum of 20 feet.
- B. A tiny house on wheels (THOW), *for the purposes of these Guidelines*, is a structure which is intended as a full time residence or year-round rental property and meets these conditions:
1. Built on a trailer that is registered with the builder's local DMV.
  2. Towable by a bumper hitch, frame-towing hitch, or fifth-wheel connection, cannot move (and was not designed to be moved) under its own power.

3. Is no larger than allowed by applicable state law. (The typical THOW is no more than 8'6" wide, 30' long, and 13'6" high. Larger tiny houses may require a special commercial driver license and/or special permits when being towed.)
  - a. Verify with the DMV that the THOW is with limits of the law.
  - b. Roof height is from bottom of tires to the top of the highest exterior point on the house, including any protrusions. The roof height may be taller when stationary, as long as it is collapsible for towing of the THOW. Chimney piping may need to be removed for travel and then reinstalled to meet clearance requirements for use.
  - c. Built to the standards of a Florida ASCE structural engineer's approved plans
4. Has at least 170 square feet of first floor interior living space.
5. Includes basic functional areas that support normal daily routines (such as cooking, sleeping, and toiletry).
6. The following documentation will be required to be submitted for building permit for a THOW in a pocket neighborhood:
  - a. Detailed structural plans illustrating the location of studs, joists, rafters, and engineered connectors (hurricane clips, tension ties, etc.). Plans should clearly address how the structure is secured to the trailer, and how the floors, walls, and roof are framed and sheathed. Plans should also include an illustration of a floor, wall and roof section, showing the building members, insulation, vapor barrier, moisture barrier, sheathing, siding and roofing.
  - b. Detailed diagram of the electrical plan.
  - c. Photographs of the framing, roof, insulation, rough plumbing, and rough electrical.

- d. A statement describing your construction methods along with the names and addresses of any subcontractors you may have hired.
- C. A tiny house will be permitted within a planned pocket neighborhood. A pocket neighborhood is defined as meeting the following requirements:
1. A minimum of 4 tiny houses and maximum of 12 tiny houses per pocket neighborhood. Twenty-five percent (25%) of these house sites may be for THOWs.
  2. Centralized common area. The common open space area shall include usable public spaces such as lawn, gardens, patios, plazas or scenic viewing area. Common tables, chairs and benches are encouraged, with all houses having access to it.
    - a. Four hundred square feet of common open space is required per unit.
    - b. Fifty percent of units must have their main entry on the common open space.
    - c. All units must be within five feet of each common open space(s). Setbacks cannot be counted towards the common open space calculation.
    - d. The principal common open space must be located centrally to the project. Additional common open space can only account for twenty-five percent of the total requirement with trails and pathways connecting the total development. Passive trails are allowed and may count towards the common open space requirement.
    - e. Community buildings or clubhouses can be counted towards the common open space calculation.
    - f. Tiny Houses must surround the common open space on a minimum of two sides of the green.
    - g. Common open space shall be located outside of stormwater/detention ponds, wetlands, streams, lakes, and critical area buffers, and cannot be located on slopes greater than ten percent.