

**TOWN OF MALABAR
PLANNING AND ZONING ADVISORY BOARD
REGULAR MEETING
WEDNESDAY, APRIL 24, 2019
7:00 PM
MALABAR COUNCIL CHAMBER
2725 MALABAR ROAD
MALABAR, FLORIDA**

AGENDA

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

- D. CONSENT AGENDA:**
 - 1. Approval of Minutes** Planning and Zoning Meeting - 04/10/2019
 - Exhibit:** Agenda Report No.1
 - Recommendation:** Request Approval

- E. PRESENTATION: none**
- F. ACTION: 1**
 - 2. Recommended from Council to Review Article XIX "Signage Regulations" of Proposed Ordinance 2019-XXX for Final Review Regulations**
 - Exhibit:** Agenda Report No. 2
 - Recommendation:** Action

- G. DISCUSSION:**

- H. ADDITIONAL ITEMS FOR FUTURE MEETING:**

- I. PUBLIC:**

- J. OLD BUSINESS/NEW BUSINESS:**
 - OLD BUSINESS:**
 - NEW BUSINESS:**
 - Board Member Comments
 - Next Regular Meeting- May 8, 2019

- K. ADJOURN**

NOTE: THERE MAY BE ONE OR MORE MALABAR ELECTED OFFICIALS ATTENDING THIS MEETING. 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 the Americans with Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the Town's ADA Coordinator at 321-727-7764 at least 48 hours in advance of this meeting.

TOWN OF MALABAR
PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 1
Meeting Date: April 24, 2019

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

SUBJECT: Approval of Minutes

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 04/10/2019

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
APRIL 10, 2019 7:00 PM**

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

A. CALL TO ORDER, PRAYER AND PLEDGE:

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

B. ROLL CALL:

CHAIR:	WAYNE ABARE
VICE-CHAIR:	LIZ RITTER
BOARD MEMBERS:	GEORGE FOSTER
	DOUG DIAL, ABSENT
	MARY HOFMEISTER
ALTERNATE:	ALLEN RICE, EXCUSED
ALTERNATE:	DOUG HOYT, ABSENT
BOARD SECRETARY:	DENINE SHEREAR

ADDITIONAL ATTENDEES:

MAYOR	MAYOR PATRICK REILLY
COUNCIL MEMBER:	none

C. ADDITIONS/DELETIONS/CHANGE:

Abare said that Allen Rice is excused, and Doug Hoyt is not excused.

D. CONSENT AGENDA:

- Approval of Minutes**
Planning and Zoning Meeting – 01/09/2019
Planning and Zoning Meeting – 02/13/2019
Planning and Zoning Meeting – 02/27/2019
Planning and Zoning Meeting – 03/13/2019

Exhibit:	Agenda Report No. 1
Recommendation:	Request Approval

Motion: Ritter/Foster Recommend Approval of Minutes of 01/09/2019 as presented All Vote: Aye

Motion: Ritter/Foster Recommend Approval of Minutes of 02/13/2019 as presented All Vote: Aye

Motion: Ritter/Foster Recommend Approval of Minutes of 02/27/2019 as presented All Vote: Aye

Motion: Ritter/Foster Recommend Approval of Minutes of 03/13/2019 as presented All Vote: Aye

The Board reviewed all four sets of minutes and approved as presented.

E PUBLIC:
F. ACTION: 1

2. Recommendation from Council to Review Sign Ordinance in the Land Development Code for Final input concerning Regulations

Exhibit: Agenda Report No. 2
Recommendation: Discussion/Action

Abare explained to the PZ Board that he had attended the 4/1/2019 Regular Council Meeting and spoke about what the PZ Board was working on.

Abare explained that the Council had three issues to review and present the "Sign Ordinance" back to Council after this review.

The Board reviewed "Clean Copy" of Sign Ordinance to Recommend for Councils approval.

Abare said the Attorney discussed at Council Meeting 4/1/2019 the refresher rate was not in the "Signage Ordinance" that was presented to Council. The PZ Board discussed different seconds for the refresher rates.

(1) The Board discussed the refresh rate of the digital signage (depends on rotation & what is on the screens) as follows:

- Foster 6 sec refresh time
- Abare 6 sec refresh time
- Ritter 6 sec refresh time
- Hoffmeister 6 sec refresh time

Motion: Ritter/ Hofmeister Recommendation minimum refresh rate is no faster than six (6) seconds. All Vote: Ayes

Motion called 4 to 0

This verbiage was placed under Table (2) Sign regulations within Non-Residential Zoning Districts, Footnotes #4 If Illumination/Animation is permitted a minimum refresh rate is six (6) seconds.

Abare explained that the Attorney had recommended to remove the purple verbiage, due to possible supreme court decision on signage.

(2) Page 55 of PZ Meeting # (8) remove purple verbiage. "...with the intent of advertising, demonstrating, or identifying the nature of business or articles for sale."

Motion: Ritter /Hofmeister To Recommend Council Approve the Sign Ordinance as revised by Planning and Zoning on 04/10/2019.

Roll Call Vote: Foster; Aye, Abare; Aye, Ritter; Aye, Hofmeister; Aye.

Motion passed 4 to 0

Do clean copy for next meeting and present back to PZ at next meeting 4/24/2019 and make an "Action Item".

G. DISCUSSION: 1**3. Discuss Manufacturing Usages in Commercial General Land Use & Zoning:
Presented by Mayor Reilly**

Exhibit: Agenda Report No. 3
Recommendation: Presentation/Discussion

Mayor Reilly 1985 Howell Lane went before the PZ Board in October 2018 did presentation to PZ Board, to allow more uses in Commercial General (CG) and for PZ Board to review and discuss allowing Manufacturing Usage in the Commercial General Land Use District.

Mayor Reilly did power point presentation and discussed changing the Commercial General definition to allow manufacturing in the Land Use district, along Babcock Street, Malabar Road, and US Highway1, i.e., Harris Corp & Data Management.

Mayor Reilly did power point presentation for PZ Board.

The Board discussed the presentation with the PZ Board Members for future meetings. Foster said that this needs to be a sizable type impact, as far as adding verbiage and definitions
 Lot size- dimension of size
 Employee amount
 CG is 20, 000 sq. ft
 Explosive, chemical limitations

- Foster said to be a large business on our arterials instead of tiny operation
- Ritter not looking for larger, in our charter "Rural Residential"
- Abare said less than 60 people
- Ritter to look at lot size, and how many people per sq. feet
- Abare spoke about rezoning

Abare suggested to Mayor Reilly to create the frame work for the PZ Board to review this suggestion he presented.

Mayor suggest to the PZ Board to brainstorm what light manufacturing would be, look on Babcock Street, and triangle are on Malabar Road, Malabar Road and US 1.

Sherear said, that when Rice called to be excused, he said he would be support of this idea of Manufacturing with conditions.

Foster asked the Mayor about his opinion on "overlay", Mayor said he talk to others, and his understanding is that it would take a "visionary" to do this, he is not sure how it would assist Malabar. Ritter said it would clarify things. Mayor Reilly said it is already in the code. Abare said that there are different options, an exception or difference. Abare said it has value to fix or enhance an area. Mayor Reilly said to review what areas of the Town would an overlay benefit.

H. ADDITIONAL ITEMS FOR FUTURE MEETING**I. PUBLIC:****J. OLD BUSINESS/NEW BUSINESS:**

Old Business:

New Business:

- Board Member Comments
Ritter asked for update on building permits.
- Next Regular Meeting- April 24, 2019

K. ADJOURN

There being no further business to discuss

MOTION: Hofmeister / Ritter adjourn this meeting. Vote: All Ayes. The meeting adjourned 8:25 P.M.

BY:

Wayne Abare Chair

Denine Sherear, Board Secretary

Date Approved: as presented/corrected:

DRAFT

**TOWN OF MALABAR
AGENDA ITEM REPORT**

**AGENDA ITEM NO: 3
Meeting Date: April 24, 2019**

Prepared By: Denine Sherear, Planning & Zoning Board Secretary

SUBJECT: Recommended from Council to Review Article XIX "Signage Regulations" of Proposed Ordinance 2019-XXX for Final input concerning Regulations

BACKGROUND/HISTORY:

On April 1, 2019 Council reviewed the "Sign Ordinance" that PZ Recommended. Town Council & Town Attorney (per Memo # 2019-TC-024 from Debby Franklin) had some further suggestions for simplification of verbiage.

The PZ Board reviewed the suggestions that Town Council & Attorney Recommended at the 4/10/2019 PZ Meeting. The PZ will be reviewing "clean copy" and will be Recommending revised copy to Council after this final review on 4/24/2019.

ATTACHMENTS:

- Draft Clean Copy Ordinance 2019-XXXX Article XIX Sign Ordinance
- Memo # 2019-TC/T-024 from Debby Franklin, Town Clerk/Treasurer

ACTION OPTIONS: Action

TOWN OF MALABAR

MEMORANDUM

Date: April 2, 2019 2019-TC/T-024
To: Denine Sherear, Planning & Zoning Board Secretary
From: Debby K. Franklin, C.M.C., Town Clerk/Treasurer
Ref: Sign Ordinance Request from Council

At the Council meeting of April 1, 2019 Council discussed the sign ordinance offered by the P&Z Board. Council and the Attorney were satisfied it met the request for simplification. The Attorney said the section on page 4 – under #8 should be stricken as it conflicts with the Supreme Court ruling. The P&Z Board Chair Wayne Abare agreed it was also the Board's intent to strike it.

Further discussion about the LED animated signage prompted questions about how long to allow images between changes and refresh times. Perhaps the P&Z Board could insert some standard times after verifying what other cities use. Council discussed that four seconds might be allowed, and thirty seconds may be too long to require before images change.

Council also wanted to clearly state they did not want to allow video streaming on these types of signs.

Council thanked the Planning and Zoning Board for their efforts to improve the sign ordinance regulations and asked if they would just review these three issues and provide input.

- 1) Prohibit video streaming
- 2) Provide guidance on image change intervals and refresh times
- 3) Strike the sub section #8 on page 4 of the draft ordinance

Thank you.

ORDINANCE 2019-XXXX

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY; AMENDING ARTICLE XIX; AMENDING DEFINITIONS; AMENDING SECTIONS RELATING TO EXEMPTIONS; PROVIDING FOR REGULATIONS OF TEMPORARY SIGNS; PROVIDING FOR PROHIBITED SIGNS AND EXCEPTIONS; PROVIDING FOR SIGN REGULATIONS FOR ALL ZONING DISTRICTS; PROVIDING FOR SIGNS EXEMPT FROM PERMITTING; PROVIDING FOR PROHIBITED SIGNS AND EXEMPTIONS; PROVIDING FOR ADMINISTRATION, ANNUAL LICENSE; PROVIDING FOR APPEALS AND VARIANCE; PROVIDING FOR REGULATIONS OF NONCONFORMING SIGNS; PROVIDING REGULATIONS CONCERNING HAZARDOUS SIGNS; PROVIDING FOR PERMIT, CERTIFICATE AND LICENSE FEES; PROVIDING FOR GENERAL SIGN REGULATIONS; AMENDING TABLE 1-19.18; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, The Town adopted a Sign Code which is part of the Town's Land Development Regulations; and,

WHEREAS, the United States Supreme Court issued a decision in *Reed v. Town of Gilbert*, ___ U.S. ___, 135 S. Ct. 2218, 192 L. Ed. 2d 236, 2015 U.S. LEXIS 4061, 83 U.S.L.W. 4444, 25 Fla. L. Weekly Fed. S 383 (U.S. 2015), whereby the Court held that content based sign regulations violate the First Amendment to the United States Constitution; and,

WHEREAS, the United States Supreme Court provided that local governments have ample content-neutral options available to resolve problems with safety and aesthetics, including, sign size, building material of signs, lighting, moving parts, portability, restricting location on public property, view obstruction, distraction to motorists, and such signs as traffic signs and signs identifying hazards, or street number signs may be justified by traditional safety concerns; and,

WHEREAS, the Town is amending its sign code to comply with the ruling of the United States Supreme Court to provide content-neutral regulations.

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

Section 1-19.1. - Definitions.

For the purposes of this article certain words and terms shall be interpreted as follows:

Abandoned Sign. A sign is considered abandoned if a business advertised on that sign is no longer licensed, no longer has a certificate of occupancy, or is no longer doing business on that location.

Banner/Flag. A sign having characters, letters, illustrations or ornamentations applied to cloth, paper or fabric of any kind with only material for a backing. The term shall include any animated, inflatables, rotating and/or fluttering device designed to attract attention.

District shall mean the various zoning districts established and described by the land development code.

Electric. Any sign containing electric wiring. This does not include signs illuminated by an exterior floodlight source.

Erect shall mean to build, construct, attach, hang, place, suspend, affix and, this shall include the painting of wall signs.

Freestanding. A sign erected and maintained on a freestanding frame, mast or pole not attached to any building, and not including ground mounted signs.

Government Sign. A government sign is a sign that is constructed, placed or maintained by the federal, state or local government or a sign that is required to be constructed, placed or maintained by the federal, state or local government either directly or to enforce a property owner's rights.

Ground Mounted. A sign which extends from the ground or has support which places the bottom of the sign less than two (2) feet from the ground.

Height. Maximum height is the vertical distance between the uppermost portion of a sign and ground level and minimum height is the vertical distance between the lowermost point of a sign and ground level.

Highway Sign. A Freestanding sign or Integral Sign or Flat Mounted Sign that is erected and maintained within the view of motorists who are driving on a highway.

Integral. A sign that is embedded, extruded or carved into the material of a building façade. A sign made of bronze, brushed stainless steel or aluminum, or other material attached to the building façade.

Non-Conforming shall mean any existing sign which was lawful at the time of the enactment of the ordinance from which this article was derived but which does not conform to the provisions of this article and to the most recently enacted land development code of the Town.

Off site-sign. A sign which has no relation to the property it is located on.

Placement shall mean the location which a sign occupies on a lot or building.

Public Body shall mean any government or government agency of the Town, Brevard County, State of Florida, or the United States Government.

Replacing shall mean rebuilding, enlarging change in size, structure, or lettering other than maintaining original sign.

Sign shall mean a device which gives information to people that see it.

Sign Area shall mean that area within a line including the outer extremities of all letters, figures, characters, and delineations, or within a line including the outer extremities of the framework or background of the sign, whichever line includes the larger area. The support for

the sign background, whether it be columns, a pylon, or a building; or part thereof, shall not be included in the sign area. In measuring the area of a double-faced sign, only one face shall be calculated to determine the total area.

Sign Construction Class shall mean the manner in which any sign type is constructed and/or located, and in this article shall include as defined below:

- (1) *Animated, Spectacular or Intensely Lighted sign* shall mean any sign of which all or any part thereof revolves, swings or moves in any fashion whatsoever, and any sign which contains or uses for illustration any light, lights or lighting device or devices which change color, flash or alternate, shows movement or motion, or change the appearance of said sign or any part thereof automatically, including wind operated devices, this also includes Electronic, LED, and Digitally operated devices.
- (2) *Beacon Light* shall mean any light with one or more beams capable of being directed in any direction or directions, or capable of being revolved automatically, or capable of having any part thereof revolve automatically, or a fixed, flashing, or rotating high intensity light or beam, or light.
- (3) *Detached* shall mean a sign not attached to or painted on a building, but which is affixed to the ground. A sign attached to a flat surface such as a fence or wall not a part of a building, shall be considered a detached sign.
- (4) *Flashing* shall mean any sign on which the electrical lighting device or devices go on or off alternately, either all of such lights or lighting devices or part thereof. Any revolving illuminated sign shall be considered a flashing sign.
- (5) *Marquee* shall mean any sign attached to or projecting from a building, whether or not such a sign is capable of being raised or lowered to a position flat against a wall.
- (6) *Portable* shall mean any sign which is not securely and permanently attached to the ground or a building or other approved structure, such as banner/flag signs.
- (7) *Projecting* shall mean any sign that is affixed to any building, wall, or structure extending more than twelve (12) inches beyond such building, wall or structure. The term projecting sign includes a marquee sign.
- (8) *Snipe* shall mean any temporary sign of not over four (4) square feet in area.
- (9) *Wall* shall mean any sign which is erected on the wall of any structure or part of a structure and is not more than twelve (12) inches from that structure, including any sign which is painted or otherwise directly on the wall of any structure.

Sign, Double-Faced shall mean a sign with two (2) parallel or nearly parallel faces back to back and located not more than twenty-four (24) inches from each other at the nearest parts. A double-faced sign shall be considered a single sign.

Sign, Directly Illuminated shall mean a sign designed to give forth artificial light itself and/or designed to reflect light from one or more sources of artificial light that are part of the sign.

Sign, Indirectly Illuminated shall mean a sign which does not produce artificial light from within itself but which is opaque and backlighted or illuminated by spot lights or floodlights.

Sign, Number shall mean for the purpose of determining the number of signs, a sign shall be considered to be a display and/or display device containing elements organized, related,

and/or composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, each element shall be considered a single sign.

Sign Structure shall mean any construction designed to support a sign is considered separate from the sign itself.

Sign Type shall mean any one of the various signs as defined below:

- (1) *Accessory* shall mean a sign relating only to the premises on which the sign is located.
- (2) *Billboard* shall mean any sign or display that has no relation to the property it is located on, and over sixty (60) square feet.
- (3) *Construction* shall mean a temporary sign erected on a building site between the time of the issuance of the building permit and the completion and/or occupancy.
- (4) *Directional* shall mean any sign less than three (3) square feet in area used for public direction.
- (5) *Directory* shall mean signs which are located in close proximity to entrances of buildings generally used as a message board to assist visitors who desire to enter or use the building.
- (6) *Future Improvement* shall mean a temporary sign located on vacant land, parcel or lot prior to the issuance of a building permit on the site on which the sign is located.
- (7) *General Outdoor Advertising* shall mean any sign which is not herein described or limited by these definitions and regulations.
- (8) *Outdoor Display* shall mean each piece or portion of any matter, merchandise, or device displayed outside a building.
- (9) *Temporary*. Balloons, banners, flags, pennants, posters, portable signs, snipe or advertising displays constructed of paper, cloth, canvas, plastic sheet, cardboard, wallboard, plywood or other like materials and that appears to be intended to be displayed for a limited period of time.

Section 1-19.2. - Purpose and intent.

The purpose of these regulations is to promote the public safety, comfort, convenience, aesthetics, amenities, prosperity and general welfare of the Town. More particularly, these regulations which control the location, type, size, height, and illumination of signage and displays are intended to establish compatible land use character, an orderly appearance and stabilize land values.

Section 1-19.3. - Exemptions.

The following are exempted from the provisions of these regulations which require a permit, certificate, license or fee for erection or maintenance: Also, any and all allowed &/or required Federal, State, County, &/or Local Signage or Flags as covered per their regulations and as such shall abide by their rules and regulations relating to each. These may be regarding Public Display for; information, location, display protocol, public safety, traffic safety, etc.

The following signs are authorized in every area:

- (1) Signs not visible from areas other than the site on which they are located;
- (2) Integral decorative or architectural features of structures, except letter, trademarks, moving parts, or moving lights.
- (3) Memorial, historically signs, tablets or plaques or names of buildings and date of erection; when the same are permanent.
- (4) Changing the copy of a bulletin board, poster board, display encasement, or marquee provided, that the device upon which the copy is located meets all the requirements of this article;
- (5) Decals affixed to or signs painted on equipment used for dispensing retail products or services where such signs are not displayed in connection with a commercial promotion or as an advertising device;
- (6) Temporary signs as provided for in 1-19.10
- (7) Signs on motor vehicles while in use in the normal course of business. This section shall not be interpreted to permit parking of a vehicle or portable trailer on which signs are attached or painted in a manner or location where such signs are not permitted in order to avoid the requirements of this article.

Section 1-19.3. 1 (intentionally left blank)

Section 19.3.2 Prohibited Signs and Exceptions.

The following signs and message devices shall be expressly prohibited in all zoning districts, except as otherwise authorized by this Ordinance:

The following signs are strictly prohibited:

(A) Signs in public areas. No sign shall be placed or permitted to be placed on any curb, sidewalk, post, pole, hydrant, bridge, tree or any other surface located on public property or right-of-way or over or across any street or public thoroughfare, except as may otherwise be authorized by this Ordinance. Signs shall be considered litter and removed by the town without notice.

(B) Unclassified signs. The following signs having no distinct classification shall be prohibited:

(1) Signs which bear or containing statements, words or pictures of an obscene or pornographic character or which contain advertising matter which is obviously untruthful or offensive

(2) Signs which emit audible sound, odor or visible matter; and/or

(3) Signs which purport to be or are an imitation or resemble official traffic signs or signals or which bear the term "stop," "go slow," "caution," "danger," "warning" or similar term or which because of their size, location, movement, content, coloring or manner of illumination may be confused with or construed as traffic control signs, signals or devices or the light of an emergency or road equipment vehicle or which hide from view any traffic or street sign, signal or device.

(C) Roof signs. No roof signs shall be permitted.

(D) *Billboards.* Except as may be otherwise authorized by town code, billboards are prohibited.

Section 1-19.3.3. Regulations Applicable to all Districts. Additional All regulations relating to signs in all Zoning Districts are found in Table 1-19.18. Such regulations in Table 1-19.18 shall control over any conflicting provision of this sign code.

(E) In addition to the other types of signs permitted in this section a business establishment may erect one additional non-permanent ground sign, not exceeding four (4) square feet. Such sign may be double sided and shall have the sign face made of wood, metal or plastic. The post material for the sign shall be made of either steel or pressure treated wood. The top of the sign when installed into the ground shall not exceed ten (10) feet above the ground upon which it is placed. An application form provided by the Town along with a permit fee established by resolution of the Town council and consent of the owner of the property shall be submitted to the Building Department for review. If the owner does not give their consent no such sign shall be permitted. Any similar signs, including any banner signs, which have been installed or placed on property without a permit shall be removed by the owner of said sign or the proprietor of the business for which such sign relates to within 10 days of written notification of the Town and such notice shall inform the owner of such sign of the provisions, see Table 1-19.18.

Section 1-19.4. - Administration requirements.

A. *Permits/Required Inspections.* Before any sign (other than temporary) is erected, constructed, posted, painted, altered, maintained, affixed, or relocated in the Town, a permit for such sign shall be obtained from the Building Official.

The contractor or owner securing the permit for any sign shall call the Building Official and request an inspection whenever any sign requiring a permit is being installed, and before any concrete is poured; a final inspection shall be requested upon completion. At the time of a request for final inspection, a photograph of the completed sign shall be taken by the inspector. (Minimum 2¼" × 2¼", maximum 3" × 5" for filing purposes.) No sign permit shall be approved unless it has been inspected by the Building Official and it is found to comply with this code, the building code, electrical code, and other applicable land development regulations. Unless otherwise provided herein, all signs shall meet the yard requirements of the zoning district in which the sign is located.

B. *Filing of Application.* Before any permit is issued, an application provided by the Building Official shall be filed in triplicate together with two (2) sets of drawings and/or specifications as may be necessary to fully advise and acquaint the Building Official with the location, construction, materials, manner of illumination, securing, wording of the sign, and any other data that may be required to ensure the enforcement of these regulations. One (1) set of drawings and/or specifications will be returned to the applicant with the permit. A separate application shall be made for each and every sign.

As a minimum the sign application shall include the following information:

- (a) Name, address and telephone number of the sign erector and the sign owner.
- (b) Written statement signed by landowner, or a lease or rental agreement, authorizing the placement of the proposed sign.
- (c) Location of building (or structure) and lot to which or upon which the sign is to be placed or maintained.
- (d) Purpose of sign.

- (e) Estimated value of sign.
- (f) Position of the sign in relation to lot lines, nearby buildings or structures, sidewalks, streets and intersections.
- (g) Type of sign and general description of structural design and construction materials to be used.
- (h) Two (2) copies of detailed scaled drawings of the plans which shall contain specifications concerning structural details of the method of sign construction, installation, [and] anchoring to the building or ground. The specifications shall show height, perimeter and area dimensions, elevations, means of support, method of illumination and any other significant aspect of the proposed sign.
- (i) A statement indicating whether or not an electrical permit is required for said sign and any support data required for the same.
- (j) A layout with sign colors shown or specified.
- (k) Any other information required by the Building Official in order to carry out the purpose and intent of this article.
- (l) All signs having unusual structure features shall be designed by an engineer, who shall submit to the Building Official complete plans and calculations so as to determine whether the sign complies with the Town's Code.

C. *Permit Expiration.* All signs shall be erected on or before the expiration of thirty (30) days from the issuance date of the permit, otherwise the permit shall become null and void and a new permit and fee shall be required.

D. *Notice Required for Violations.* In case any sign shall be installed, erected, constructed, or maintained in violation of the terms of this article, the building inspector shall in writing, notify the owner thereof, to alter, change, or remove, such sign so as to comply with this article with ten (10) days notice.

E. *Revocations.* The Building Official may revoke a permit or approval, issued under the provisions of this Code, if it is found that there has been any false statement, concealment or misrepresentation as to any material fact in the application or plans on which the permit or approval was based.

Section 1-19.5. - (Intentionally left blank)

Section 1-19.6. - Appeals and variances.

Matters involving appeal of an administrative decision or variance of these regulations shall be handled pursuant to Section 1-12.2 of Article 12 of the Land Development Regulations.

Section 1-19.7. - Nonconforming signs.

A. *Replacement of Nonconforming Signs:* Any replacement sign needs to meet current codes.

B. *Nonconforming Signs:* There presently exist certain signs that are not in compliance with current regulations, if they were to code when approved and are being maintained they are allowed to remain.

C. *Signs and Disrepair.* A sign should be removed or repaired to original condition. If not repaired within sixty (60) days of written notification, sign will be removed at owner's expense.

Section 1-19.8. - Fees for permit, certificate, and license fees.

A. *Status of Fees Required for Signs.* Fees for the issuance of sign permits or certificates and annual licenses shall be in addition to any other fees, charges, or obligations legally required by the Town.

B. *Schedule of Fees Set By Town Council.* The fee schedule for the issuance of sign permits, certificates of nonconformance, and annual licenses and the inspections herein authorized or required shall be set by the Town Council and shall be maintained in the Town Clerk's office.

Section 1-19.9. (Intentionally left blank)**Section 1-19.10. – Temporary Signs**

Regulations involving Temporary Signs

(1) The sign face of any temporary sign must not be larger than four (4) square feet.

(2) Temporary Signs shall not require a sign permit

(3) Also, any and all allowed &/or required Federal, State, County, &/or Local Signage or Flags as covered per their regulations and as such shall abide by their rules and regulations relating to each. These may be regarding Public Display for; information, location, display protocol, public safety, traffic safety, etc.

Section 1-19.11. - General regulations.

A. *Signs on Public Property.* No sign shall be placed on property owned or leased by any government agency except by a public body or as otherwise specifically provided herein.

B. *Signs Indicating Point of Public Interest.* Signs indicating points of local interest may be placed on public property only with the express consent and formal approval of the Council.

C. *Signs Affixed to Public Property or Infrastructure.* No signs shall be attached to or painted on utility poles, seawalls, retaining walls or other supporting structure.

D. *Signs On or Over Public Streets.* No sign shall be erected or located on or over any public street, sidewalk, alley, or right-of-way other than duly approved traffic signs authorized by a governmental entity.

E. *Illuminated Signage.* The lighting of illuminated signs shall be controlled in direction, focus, and intensity so as to prevent glare on surrounding streets or property, or any objectionable illumination of nearby property or buildings.

F. *Beacon Light.* No beacon light shall be permitted on a sign in the Town.

G. *Billboards.* No billboards shall be permitted in the Town.

H. *Multiple Street Frontage.* The regulations contained in this article shall apply separately and individually to each street frontage of a premises.

Section 1-19.12. - Construction standards.

All signs shall comply with all applicable standards of the Town's building code, fire code, health code, and all other applicable codes.

Section 1-19.13. - Maintenance.

All signs, together with all their support braces, guys, and anchors, shall be maintained in good repair and appearance. The Building Official may, upon written notice, cause to be removed within sixty (60) days any sign which becomes a safety hazard, or which shows gross neglect or becomes dilapidated or where the area around such sign is not well maintained. Such removal shall be at the expense of the owner or lessee of any sign that is not properly maintained.

Section 1-19.14. (Intentionally left blank)

Section 1-19.15. - Obstructing exits prohibited.

No sign, including guys wires and supports, shall be erected, constructed or maintained so as to obstruct any fire escape, or any window or door opening, used or required as a means of ingress, egress or ventilation, or so as to prevent free passage from one part of a roof in any form, shape, or manner to a fire escape.

Section 1-19.16. - Signs not to constitute a traffic hazard.

No sign shall be placed at any location in the Town where it may interfere with or obstruct the view of any motorist, or be confused with any authorized traffic sign, signal or device. The Town Council shall have the authority to refuse the erection, or to order the removal by the Building Official, if any signs constituting an obstruction to motorists or pedestrians or otherwise are viewed to be impediments to traffic safety or traffic flow.

Section 1-19.17. - Signs not to encroach into electric utility clear zone.

No sign shall be placed closer than eight (8) feet from the nearest part of any utility pole which supports electrical transmission lines. No sign shall be placed closer than eight (8) feet from the nearest part of any electric transmission line. If the National Electric Safety Code is now or hereafter more restrictive than the provisions of this subsection, its more restrictive provisions shall supersede the provisions herein.

Section 1-19.18. - District sign regulations.

The provisions of Table 1-19.8 "Zoning District Sign Regulations" shall apply to each lot or parcel of land, and/or each business establishment as may be applicable in each case. In the following zoning classifications, the specified sign types and construction classes shall be permitted subject to the restrictions and limitations contained herein.

Also, any and all allowed &/or required Federal, State, County, &/or Local Signage or Flags as covered per their regulations and as such shall abide by their rules and regulations relating to each. These may be regarding Public Display for; information, location, display protocol, public safety, traffic safety, etc.

TABLE 1-19.18. ZONING DISTRICT SIGN REGULATIONS

Sign Regulations Within Residential Zoning Districts: (1)

Sign Type	Accessory	Construction	Directory	Directional
Construction Class	Wall or Detached	Wall or Detached	Wall or Detached	Wall or Detached
Maximum Number	1	1	1	1
Maximum Area	4 sq. ft.	32 sq. ft.	10 sq. ft.	3 sq. ft.
Maximum Height	10 ft.	Detached: 10 ft. Wall: Roof line of building	10 ft.	Detached: 3 ft. Wall: 12 ft.
Placement	Must observe all yard regulations	Front setback: 10 ft. Side and Rear: 25 ft.	Must observe all yard regulations	Non-Restricted
Illumination	None	None	Indirect	None
Special Regulations	Permitted only in conjunction with a permitted home occupation. See Footnote 1.	Must be removed immediately upon completion of construction or occupancy	None	None

Sign Type	Future Improvement	General Outdoor Advertising
Construction Class	Detached	Wall or Detached
Maximum Number	1	1
Maximum Area	10 sq. ft.	32 sq. ft.
Maximum Height	10 ft.	10 ft.
Placement	Front setback: 10 ft. Side and Rear: 25 ft.	No signs to impede vision at any intersection
Illumination	None	None
Special Regulations	None	See Footnotes 1 and 2

Sign Regulations Within Non-Residential Zoning Districts: (2)

Sign Type	Accessory	Accessory	Accessory
Construction Class	Wall	Detached, Marquee, and Projecting	Snipe
Maximum Number	3	2 total from this group	4
Maximum Area	10% of the wall area, and no more than 60 sq. ft. of cumulative area	60 sq. ft. total cumulative area	4 sq. ft. each
Maximum	Roof line of building	Detached: 25 ft.	Roof line of

Height		Others: Roof line of building	building
Placement	Non-Restricted	Must observe yard regulations and Front setback: 10 ft.	Must observe yard regulations
Illumination	Direct, Indirect	Direct, Indirect	None
Special Regulations	See Footnotes 1, 3, and 4	See Footnotes 4 and 5	None

Sign Type	Construction	Directory	Directional	General Outdoor Advertising
Construction Class	Wall or Detached	Wall or Detached	Wall or Detached	Wall or Detached
Maximum Number	1	2	2	1
Maximum Area	32 sq. ft.	Sum of 30 sq. ft.	3 sq. ft. each	Detached: 3 sq. ft. Wall: 10 sq. ft.
Maximum Height	Detached: 10 ft. Wall: Roof line of building	10 ft.	Detached: 3 ft. Wall: 10 ft.	10 ft.
Placement	Front Setback: 10 ft. Rear and Side: 25 ft.	Must observe all yard regulations	Non-Restricted	Front setback: 10 ft. Rear and Side: 25 ft.
Illumination	Indirect	Indirect	Indirect	Indirect
Special Regulations	Must be immediately removed upon completion of construction or occupancy	None	None	See Footnotes 1 and 2

Sign Regulations Within Non-Residential Zoning Districts: (3)

Sign Type	Future Improvement
Construction Class	Detached
Maximum Number	1
Maximum Area	32 sq. ft.
Maximum Height	10 ft.
Placement	Front setback: 10 ft. Side and Rear: 25 ft.
Illumination	Indirect
Special Regulations	None

Footnotes to charts:

- (1) All inside signs within five (5) feet of a window shall be counted as wall signs and in addition shall not exceed twenty (20) inches of the glassed area of the window in which the sign is located.
- (2) Only permitted are those signs which may be off the premises for which they relate and are within two hundred (200) feet of the property for which they relate to. However, if the sign is three (3) square feet or less in area, the property to which the sign relates may be within one (1) mile of the sign.
- (3) Apartment complexes and dwellings of up to ten (10) units are permitted thirty-two (32) square feet. For excess of ten (10) units, one (1) square foot may be added for each unit, up to a maximum of forty-eight (48) square feet in cumulative area.
- (4) If illumination/animation is permitted a minimum refresh rate is six (6) seconds
- (5) One additional sign of this construction class up to thirty (30) square feet in area shall be permitted for each two hundred (200) feet of street frontage.
- (6) For a group of more than four (4) sites and in lieu of the nine (9) square foot individual lot sign, one thirty-two (32) square feet shall be permitted.

SECTION 2. Conflicting Provisions. In the case of a direct conflict between any provision of this ordinance and a portion or provision of any other appropriate federal, state or county law, rule code or regulation, the more restrictive shall apply.

SECTION 3. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 5. Inclusion in Code. It is the intention of the Town Council of Malabar that the provisions of this ordinance shall become and be made a part of the Town Code, and that the sections of this ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 6. Effective Date. This ordinance shall take effect upon adoption.

SECTION 7. The foregoing Ordinance was moved for adoption by Council Member _____. The motion was seconded by Council Member _____ and, upon being put to a vote, the vote was as follows:

Council Member Grant Ball	_____
Council Member Brian Vail	_____
Council Member Steve Rivet	_____
Council Member Dick Korn	_____
Council Member Danny White	_____

Passed and adopted by the Town Council, Town of Malabar, Brevard County, Florida this ____ day of _____, 2019.

TOWN OF MALABAR

BY:

Mayor Patrick T. Reilly, Council Chair

ATTEST:

Debby K. Franklin, CMC
Town Clerk/Treasurer

(seal)

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney