

TOWN OF MALABAR
PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 1
Meeting Date: March 12, 2017

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 March 8, 2017
Draft minutes of P&Z Board Meeting of March 22, 2017

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
MARCH 8, 2017 7:30 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 7:30 P.M. Prayer and Pledge led Chair Liz Ritter.

B. ROLL CALL:

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

ADDITIONAL ATTENDEES:

MAYOR	PAT REILLY
COUNCIL MEMBER	LAURA MAHONEY
COUNCIL MEMBER	

C. ADDITIONS/DELETIONS/CHANGE:

Ritter said that Allen Rice will vote in place of Wayne Abare, and Mary Hofmeister will vote in place of Bud Ryan for his meeting.

D. CONSENT AGENDA:

- | | |
|-------------------------------|--|
| 1. Approval of Minutes | Planning and Zoning Meeting – 01/25/2017 |
| Exhibit: | Agenda Report No. 1 |
| Recommendation: | Request Approval |

Corrections:

Dial:

Page 4/53:

1st sentence remove “have landowner”

5th sentence year = years

6th sentence a period at end of sentence.

2nd to last parag add “s” to suggestion= suggestions

Motion: Dial/ Foster Recommend Approval of Minutes of 01/25/2017 as corrected All Vote:

Aye

E. PUBLIC HEARING

F. ACTION:

G. DISCUSSION:

2. **Discussion on Zoning/Land Use Change/Conditional Use in RR-65 (Mrs. Karissa Tolliver-Potential Land Owner)**
Exhibit: Agenda Report No. 2
Recommendation: Discussion

Mrs. Karissa did not confirm attendance and did not attend this meeting.

Mayor Reilly, 1985 Howell Lane, cautioned the Board about any land changes would be present to future, for example, RR-65 to LC and that is the only LC in that area it would be "spot zoning". The comprehensive plan needs to be followed and along with the Land Use Ordinances. The change would need to fit in that category and to have a school in this area would not be a conditional use. Mayor suggested considering all things when reviewing these types of changes.

Sherear explained that Mrs. Tolliver had some type of Therapy School with Horses and Children in Palm Bay, and was considering moving this to Malabar, she is presently a resident in Malabar. Mrs. Tolliver was supposed to submit more information on this consideration.

3. **SR 514 (Malabar Road) Widening Project (Florida Today Article 3/1/ 2017)**
Exhibit: Agenda Report No. 3
Recommendation: Discussion

Ritter talked about the studies done for Malabar Road widening and the packet of information concerning the widening that Doug Hoyt, Town Administrator sent to Gov. Rick Scott and other outside agencies. Dial spoke about the 4-laning of Malabar Road. Dial said they should be thinking now about what could happen in the future.

Dial asked if the state looked at this 4-laning. Foster said he would be in favor. Ritter explained that they could not take EELs and Conservation land. Foster said he talked to Mike Knight (EEL's Representative); he said you have to go through all the different agencies. The state FDOT was not interested.

Ritter said the "Down Town" area of Malabar might move towards the Malabar Community Park & Fire Department.

Foster talked about communicating with FDOT concerning the Malabar Road study of 4-laning, his house could be in the path for the road widening. The agencies he (Foster) had contacted said they would keep him informed about the progress of the road widening. The agencies talked about saving his house, and they would have a new plan February 7, 2017.

The Board discussed the widening and the progress of Malabar Road.

CM Laura Mahoney, 2475 Malabar Road said she had called FDOT and they told Laura that they had "fully funded safety money." The FDOT told Laura that in February they had gone for a re-drawing of the road widening to save Fosters house. There have been studies done in reference to the traffic flow on Malabar Road and there is not much traffic by the railroad tracks, there is more traffic by Weber Road. The traffic is heavier at Babcock Road, and it is possible they are doing 4-laning from Babcock to Weber Road. The next phase is 4-laning from Weber Road to Corey Road. There is fully Funded Safety monies, this is extra and the design should be done by 2019. It is Federal monies specifically for safety and we do qualify. This is supposed to improve the Weber & Corey Road intersections. The Towns responsibility is the turn lanes approaching Malabar Road on Corey & Weber Road.

Foster asked Laura about information concerning saving his house with the proposed 4-laning on Malabar Road. Laura said she spoke to Georgianna Gillet with FDOT, and she told Laura that FDOT would not have to "clip" his land and that they solved the problem. Foster thanked Laura for information.

Ritter said we need to look at the vision of where we would like to see the Town is going in the future, and where the Town is presently.

Foster asked about the lowering of the speed limit on Malabar Road, Sherear responded that a letter was received at the Town explaining that the current speed limit of 55 east of Weber Road is going to be reduced to "50mph" within the next 2 weeks.

Don Krieger 2345 Lineberry Lane, Malabar (representative for the TPO for the Town) he is the coordinator spokesperson. The speed limits on Malabar Road it is designated a C2 T rural by-way, it is the same as Valkaria Road (speed limit is 45mph), and if we want to keep a Rural Town we do not want the 4-laning of Malabar Road. There is no funding until 2035; nothing is going to happen for widening Malabar Road right now. Krieger explained that 75% of all road monies are taken up by buying land to develop the roads.

Krieger explained that he had created the Resolution 6-2016 creating a "No Build"; Krieger said that they are going to build something, re-pave the road, put a bike path, reinforce it, widen the road. Krieger is working with Drew Thompson (Trails & Greenways) to work on multi-modal format that are paved 12-14ft. wide pathways throughout Malabar.

Krieger's suggested to the PZ Board to stick to the Resolution of 6-2016 to work towards the future for the two intersections of Corey & Weber Road and to get "SU Funds".

CM Laura Mahoney, talked about multi-modal path paved and reinforced to take a vehicle. The major thing TPO is working on presently.

Ritter talked about eco-tourism destination.

Foster said we have three arterial roads in Malabar; we can encourage business to bring revenue to the Town to build the parks, etc. We need to be a little more flexible to businesses and more inviting.

Ritter said if you go 6 miles, you could have everything.

- 4. Draft Moratorium Ordinance on Medical Marijuana prepared by Town Attorney Bohne**
- | | |
|------------------------|---------------------|
| Exhibit: | Agenda Report No. 4 |
| Recommendation: | Discussion/Action |

The Board discussed the Draft Ordinance for Medical Marijuana.

The opinion of the PZ Board is:

- Dial, the way it is written, with commercial limits it drastically with this and the conditions it is limited more and the Attorney provided a great start, it made restriction in our Town. Realistically you cannot say it is not allowed in our Town, if it is legal, it is allowed in certain areas and with this Draft Ordinance; the Attorney is assisting in regulating areas.
- Foster, same as Dial
- Rice, same as Dial the attorney did a good job
- Mary, same as Dial

- Ritter, said if someone just want to grow the Medical Marijuana since we have rural property , ask Attorney’s opinion for growing & cultivation, dispensing

Provide Attorney opinion for next meeting 3/22/2017

H. ADDITIONAL ITEMS FOR FUTURE MEETING

Rice asked about the non-motorized boat ramp at the north end of Rocky Point.

Krieger 2345 Lineberry Lane – reference to area at the north end of Rocky Point. Krieger said they do not know exactly who owns it.

Trails and greenways ask about tracking north of Rocky Point Road (Title Company) 5 year - Capital Improvement Plan- (put in the packet for March 3/22/2017)

- Sign Ordinances for the Commercial properties- future meeting

(Non-Residential, Largest signs and any additional signs and smallest signs and how many signs) for future meeting

I. PUBLIC

Krieger, 2345 Lineberry Lane- There were two major meetings about the north end of Rocky Point when he was on Council, 1st with Rocky Point Homeowner’s not wanting the boat ramp in triangle area(north end of Rocky Point Road), it was explained to the homeowners the plan of non-motorized dock. The 2nd meeting the Trail & Greenways asked for the money to get the property surveyed to stabilize the ownership of the property. Krieger suggested putting a Town flag. Unless you own it, you cannot put anything on it.

J. OLD BUSINESS/NEW BUSINESS:

Old Business:

- List of building permits for New Single Family Residence & Commercial

New Business:

Next meeting March 22, 2017

K. ADJOURN

There being no further business to discuss, MOTION: Dial /Hofeister to adjourn this meeting. Vote: All Ayes. The meeting adjourned 9:28P.M.

BY:

Liz Ritter, Chair

Denine Sherear, Board Secretary

Date Approved: as presented/corrected

“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
MARCH 22, 2017 7:30 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 7:30 P.M. Prayer and Pledge led Chair Liz Ritter.

B. ROLL CALL:

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

ADDITIONAL ATTENDEES:
COUNCIL MEMBER LAURA MAHONEY

C. ADDITIONS/DELETIONS/CHANGE:

D. CONSENT AGENDA:

1. **Approval of Minutes** Planning and Zoning Meeting – 03/08/2017
Exhibit: Agenda Report No. 1
Recommendation: Request Approval

Minutes not ready

E. PUBLIC:

Laura Mahoney (Laura), 2475 Malabar Road Malabar Road. Discussed the concerns for Weber & Corey Road, Laura had spoken to Georgianna Gillet, Transportation Program Specialists for FDOT about George Fosters property, Laura thought that Fosters property was spared from being touched in the road widening on Malabar Road, but after further discussion with Ms. Gillet the analysis is not complete yet. The Weber & Corey Road project is fully funded with safety monies, it will be started 2018-2019, the actual construction 2019. Megan is the engineer doing the drawings and Laura did not talk to Megan.

Laura proposed if P&Z would work on an improvement plan to improve Corey and Weber Road, and set aside monies to improve those roads while FDOT is working on Corey & Weber Road at the same time and the Town could work with engineers and possibly get SU Funds, (extra money from the government). The Board discussed working with the state to do this work simultaneously.

Laura adds that In April, the FDOT comes out with what the road names will be categorized, for example, Valkaria Road is a “CT-2”, which is a rural road and making the speed limit 35-45 mph

F. ACTION:
G. DISCUSSION:

2. Annual Review of Capital Improvement Plan
Exhibit: Agenda Report No. 2
Recommendation: Discussion

Ritter/Board discussed the worksheet (5-Year Plan dated 8/10/16)) of priorities about the turn lanes at Weber & Corey Road coming out onto Malabar Road, and make these a priority.

Dial asked about turn lanes at Corey & Weber Road, and encroaching on private land. Ritter responded that there are ditches in that area. Ryan/Sherear asked if (Sherear) could confirm the right of way area for turn lane construction on these two intersections leading up to Malabar Road. Abare said it should be a 50 ft. ROW. Abare explained that FDOT would coordinate these projects with the Town to work together, but the funding leading up to Malabar Road, for Corey Road & Weber Road would be town's money. (General funding or TIFT fund) Sherear was asked to find out how much is in the TIFT fund and where it has been spent.

The Board went over the August 10, 2016 5 year CIP (Capital Improvement Plan) and 2014/2015. Board asked the following:

- Has Old Mission been resurfaces?

The PZ Board discussed the following:

- Atz Road extension to Jordan Blvd.
- Updating Map with Fire Hydrants- provide Fire Department list of Hydrants (Sherear)
- The Board updated the Five Year Plan Priorities and added to the list, bring back to next meeting 4/12/2017.

Dial asked about the Fire Department and using it as a multi-use, the PZ should be thinking in the future to use the land we have.

Don Krieger, 2345 Lineberry Lane. Malabar spoke about the improvements on Corey & Weber Road only effecting Malabar Road (SR – 514).

Krieger spoke about the follow:

- 12 foot path way from Eva Lane to Port Malabar Blvd through Brook Hollow (multi-modal pathway)
- Multi-modal travel on Malabar Road. (3rd lane)
- Krieger referenced a C2-T by-way, which Valkaria Road is classified.
- Spoke about possible light at Weber Road, but not at Corey Road

The Board discussed Malabar Road & corresponding east & west parallel roads north and south of Malabar Road.

Bring revised list back to next meeting 4/12/2017.

Ritter/Board reviewed Chapter None the "Capital Improvement Plan"(CIP)-August 2009 page 9-1/9-2 this needs to be updated about the selling of water utilities back to City of Palm Bay and remove anything about schools (reference memo# 16-AABO-010, Debby Franklin, Town Clerk/Treasurer).

Ritter asked about Table 9-7: Revenues-and Expenditures page 9-6 (CIP)

- Storm water Utility going from 163,815 to 70,000? (ask Clerk)
- Abare asked about Brook hollow Bridge repair, if this was taken out of storm water fund
- Ritter asked if the FY17 is this the projected budget?
- Dial said maybe to get projected 2014 through present, & Actual 2012 through 2016

Ritter explained this well assist with where the money is projected and where the monies are being spent.

3. Draft Ordinance 2017-02 on Medical Marijuana prepared by Town Attorney Bohne

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

The Board discussed the Draft Ord. and the Agricultural aspect of the cultivation of medical marijuana.

Ritter said to review the response from attorney received on 3/22/2017 and bring back to next meeting for possible "Action"

H. ADDITIONAL ITEMS FOR FUTURE MEETING

I. PUBLIC

J. OLD BUSINESS/NEW BUSINESS:

Board discussed requested building permits that were generated between January 2017- March 2017.

Ritter asked for just New Single Family & Commercial projects with addresses to see where improvements are being done throughout Malabar.

Old Business:

Sherear, said she will have information on signage for next PZ Meeting on 4/12/2017

Next Meeting - April 12, 2017

K. ADJOURN

There being no further business to discuss, MOTION: Ryan/ Abare to adjourn this meeting. Vote: All Ayes. The meeting adjourned 9:28 P.M.

BY:

Liz Ritter, Chair

Denine Sherear, Board Secretary

Date Approved: as presented/corrected

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 2
Meeting Date: April 12, 2017

Prepared By: Denine Sherear, Planning & Zoning Board Secretary

SUBJECT: Recommend Approval to Council Re: Ordinance 2017-02 Regulating Medical Marijuana

BACKGROUND/HISTORY:

At the last P&Z Meeting on 3/22/2017 The Board questioned about the cultivation of Medical Marijuana due to the rural nature of Malabar. A clarification by Town Attorney was provided at the last meeting. I have enclosed all information for the review of this Board to possibly make a recommendation to Council for approval of this Ordinance 2017-02.

ATTACHMENTS:

- Attorney email dated March 21, 2017
- *Draft Ordinance 2017-02 Medical Marijuana*

ACTION OPTIONS: Discussion/Action

Reply all | Delete | Junk | ...



RE: Med Marijuana

Debby Franklin

Yesterday, 7:08 PM

kbohne@fla-lawyers.com; Denine Sherear

Reply all |

Inbox

Thanks Karl,

Debby K. Franklin

Certified Municipal Clerk

Town Clerk Treasurer

townclerk@townofmalabar.org

Town of Malabar
2725 Malabar Road
Malabar, FL 32950
www.TownofMalabar.com

RESPONSE FROM ATTORNEY

From: kbohne@fla-lawyers.com [mailto:kbohne@fla-lawyers.com]

Sent: Tuesday, March 21, 2017 6:50 PM

To: Debby Franklin <townclerk@townofmalabar.org>

Subject: RE: Med Marijuana

The Compassionate Medical Cannabis Act was passed by the Legislature 2014. FS 381.986. This legalizes certain forms of cannabis for medical use only. The following is a review of the Act.

The Act provides for the cultivation, processing and dispensing of low THC cannabis for medical use. Medical use does not include any possession, use or administration by smoking. So such low THC cannabis could be administered in pill form, oil form, cream or salve form or by vaporization.

The cannabis can only be cultivated, processed and dispensed by an organization approved by the Florida Department of Health known as a Dispensing Organization. The Dispensing Organizations are to be located in 5 regions of the state: NE, NW, Central, SE and SW. Each such organization must meet a myriad of criteria including, but not limited to the following:

- the applicant must possess a certificate from the Florida Department of Agriculture that it can cultivate 400,000 plants and be operated by a nurseryman defined by FS 581.011 and has been operated as a nursery for 30 continuous years;
- post a 5 million dollar bond;

11/71

 Reply all | 
 Delete
  Junk | 




- must provide certified financials of the ability to maintain operations for the duration of the 2 year approval cycle; and
- employment of a medical director who is a Florida licensed physician to supervise the activities.

In addition the bill allows physicians to order the low THC cannabis. This will be allowed beginning 1/1/2015. The physician must be licensed by the state. The order must be for the treating of cancer or a medical condition that chronically produces symptoms of seizures or severe or persistent muscle spasms if no other satisfactory alternative treatment options exist and the physician must meet all of the following:

- the patient is a permanent resident of the state;
- the risks of ordering are reasonable in light of the patient's condition;
- registers the order on the compassionate use registry;
- maintains a patient treatment plan;
- the plan is submitted quarterly to the University of Florida College of Pharmacy;
- obtains a voluntary informed consent from the patient.

The physician must meet certain educational requirements before being allowed to order the low THC cannabis for use by a patient. What the law does not appear to allow is for the physician to actually receive and dispense the cannabis. I believe that there is a bit of confusion in the statute concerning whether a physician can dispense the cannabis. The language in the bill addressing dispensing organizations [FS 381.986 (6)] whereby it states that:

“before dispensing low-THC cannabis to a qualified patient, the dispensing organization shall verify that the patient has an active registration in the compassionate use registry, the order presented matches the order contents as recorded in the registry, and the order has not already been filled”

Please remember the order is placed by a physician. However, it seems like this section states that the order is filled and dispensed by the dispensing organization to the qualified patient and not the physician. However, a “Qualified Patient” is defined as a resident of this state who has been added to the compassionate use registry by a physician licensed under chapter 458 or 459 to receive low THC cannabis from a dispensing organization.

This definition would seem to indicate that the physician receives the cannabis from the dispensing organization and presumably can dispense it to a qualified patient. This confusion may have to be addressed by rule adopted by the Department of Health. The statute allows qualified Dr.s to order the marijuana from an approved dispensary and presumably the Dr will receive it and dispense it.

It seems to me that the law currently allows Dr.s to dispense the order so why not tell them it must be from their medical office this way we head off any of the arguments that under the ordinance low THC cannabis can only be dispensed from a facility in CL.

What is also not clear from the new bill is whether a dispensing organization, once licensed can establish satellite facilities and if so what the rules are for these satellite facilities. That may very well be addressed by rule from the Department. Also, the law is not clear if the cultivation has to be in one spot or can it be in multiple spots within one of the approved 5 regions. For example can the dispensing organization have 4 facilities capable of cultivating 100,000 plants? If each such facility is run by a nurseryman and has been in continuous existence for 30 years it could qualify.

With the passage of the amendment we can safely say the following has resulted:

- There is a constitutional right for people with specific “debilitating” conditions – such as cancer, epilepsy, AIDS, Parkinson’s disease and multiple sclerosis – to use marijuana as long as a physician has certified they have one of the

 Reply all | 
 Delete
  Junk | 




- Permit caregivers can assist patients with marijuana treatments as long as that person possesses a caregiver identification card issued by the states. Caregivers must undergo a background check and are not allowed to use marijuana themselves.
- Require patients and caregivers to get a state-issued ID.
- Retain state and federal prohibitions on recreational marijuana use, as well as prohibitions on operating vehicles and boats while under the influence.
- Create "medical marijuana treatment centers" to cultivate and dispense drugs to certified patients or caregivers.
- Shield physicians from criminal or civil actions for issuing patient certifications.

Rules by the Dept of Health have not been finalized. So what we have are the provisions of Chapter 381 and the Amendment. The ordinance attempts to cover both and state law does appear to dictate the laws relating to these mega farms that can grow marijuana on a large scale. The statute and amendment both discuss cultivation on a smaller scale which is what we are, in part, trying to address. the state really gets to choose where these mega farms are located and at least for now Malabar is not one of these areas.

Karl W. Bohne, Jr.
 Schillinger & Coleman, P.A.
 1311 Bedford Drive
 Melbourne, FL 32940
[321-255-3737](tel:321-255-3737) Telephone
[321-255-3141](tel:321-255-3141) Facsimile
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8:30 a.m. to 5:00 p.m. Monday thru Thursday

8:30 a.m. to 12 Noon on Friday

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From: Debby Franklin [<mailto:townclerk@townofmalabar.org>]
Sent: Tuesday, March 21, 2017 4:33 PM
To: kbohne@fla-lawyers.com; Denine Sherear <dsherear@townofmalabar.org>
Subject: Med Marijuana

So the draft ordinance from you addresses the medical marijuana treatment center portion of the constitutional amendment approved by the voters.

The State governs who will be allowed to farm the medical marijuana and they have already done that separately from this. So per the State, there will be no medical marijuana grown in this area. Any future changes to that will come from the State with no local input.

Debby K. Franklin
 Certified Municipal Clerk

13/71

ORDINANCE 2017-02

AN ORDINANCE OF THE TOWN OF MALABAR RELATING TO ZONING AND LAND USE; AMENDING ARTICLE III DISTRICT PROVISIONS OF THE LAND DEVELOPMENT CODE OF THE TOWN; AMENDING TABLE 1-3.2; PROVIDING FOR MEDICAL MARIJUANA TREATMENT CENTER IN THE COMMERCIAL ACTIVITIES PORTION OF SAID TABLE; PROVIDING MEDICAL MARIJUANA TREATMENT CENTER AS A CONDITIONAL USE IN THE COMMERCIAL LIMITED ZONING CATEGORY; AMENDING ARTICLE VI OF THE LAND DEVELOPMENT CODE OF THE TOWN; CREATING A NEW SUBSECTION D, "ADDITIONAL CONDITIONAL USE CRITERIA FOR MEDICAL MARIJUANA TREATMENT CENTER" TO SECTION 1-6.1; SETTING FORTH ADDITIONAL REQUIREMENTS AND CRITERIA FOR MEDICAL MARIJUANA TREATMENT CENTERS; AMENDING TABLE 1-6.1 (B) CONDITIONAL LAND USE REQUIREMENTS; PROVIDING FOR MEDICAL MARIJUANA TREATMENT CENTERS; PROVIDING FOR CONFLICTING PROVISIONS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE

WHEREAS, the Florida Right to Medical Marijuana Initiative was on the November 8, 2016 ballot as Amendment 2 under the title "Use of Marijuana for Certain Medical Conditions," and, it passed and become Section 29 to Article X of the Florida Constitution; and,

WHEREAS, Florida Statute sect. 381.986 as well as passage of Amendment 2 legalized the medical use of marijuana, allows for the creation of medical marijuana treatment centers, and allows for licensed caregivers to dispense medical marijuana; and,

WHEREAS, the Town of Malabar regulates the use of land within the Town of Malabar in accordance with the Future Land Use Map designations in the Comprehensive Plan and the Land Development Regulations; and,

WHEREAS, the Town Council has determined that it is in the best interests of the citizens of the Town to adopt zoning regulating the location of Medical Marijuana Treatment Center; and'

WHEREAS, The Town Council finds that protecting patients, caregivers of patients, physicians, persons lawfully engaged in activities associated the operation of a medical marijuana dispensary, property and the general health, safety and welfare of the Town is of a paramount concern; and

WHEREAS, the Town Council finds that protecting the public from criminal activity and to ensure the highest degree of conduct of owners, patients and business invitees of medical marijuana TREATMENT CENTER will promote the general welfare; and,

WHEREAS, the Town council has determined that it is in the best interest of the public to set siting requirements and other restrictions for medical marijuana TREATMENT CENTER; and,

NOW, THEREFORE, BE IT ORDAINED BY THE Town of Malabar of Brevard County, Florida, as follows:

SECTION 1. Table 1-3.2 is hereby amended to include Medical Marijuana Treatment Centers in the "Commercial Activities" section as a conditional use in "CL" zoning district to read as follows:

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
COMMERCIAL ACTIVITIES														
<u>Medical Marijuana Treatment Centers</u>									C ⁵					

5. See criteria in Article VI, Section 1-6.1 D

SECTION 2. Article VI, Section 1-6.1 is amended by adding a new subsection "D" to read as follows:

"D Medical Marijuana Treatment Center. Medical Marijuana Treatment Center, with a minimum 1,500 square foot facility, shall be allowed as a Conditional Use in the Commercial Limited (CL) zoning district. Medical Marijuana Treatment Center shall be defined as any business which has been approved by the State of Florida under chapter 381 of the Florida Statute and/or the Florida Administrative Code and Article X, Section 29 of the Florida Constitution. All activities of Medical Marijuana Treatment Center as authorized by this code shall occur wholly within the structure, or in the case of a multi-unit structure such unit upon which such medical marijuana facility is located. When considering an application for a medical marijuana treatment center, the planning and zoning board and the town council shall consider the criteria below. The town council may impose additional reasonable conditions and safe guards not inconsistent with Section 29 to Article X of the Florida Constitution as deemed necessary.

1. Criteria to be considered concerning an application for a medical marijuana dispensary:

a. Controlled substance. The on-site sale, provision, or dispensing of medical marijuana is prohibited except as specifically authorized by applicable federal or state law;

b. Adequate facilities. Medical marijuana Treatment Center shall provide adequate seating for its patients and business invitees. The medical marijuana treatment center shall not direct or encourage any patient or business invitee to stand, sit (including in a parked vehicle), or gather or loiter outside of the building where the dispensary is located and operates, including, but not limited to, sidewalks, parking areas, right-of ways, or neighboring properties for any period of time longer than that is reasonably required to arrive and depart. The medical marijuana treatment center shall post conspicuous "No Loitering" signs on all sides of that portion of a building occupied by the medical marijuana dispensary.

- c. *Queuing or stacking of motor vehicles.* The medical marijuana treatment center shall ensure that there is no queuing or stacking of motor vehicles in any right-of-way.
- d. *Outside display.* There shall be no outside display of any products, wares or merchandise.
- e. *Alcoholic beverages.* There shall be no sale, service or consumption of alcoholic beverages on the premises or in any parking area, sidewalk, or right-of-way.
- f. *Separation distance.* A medical marijuana treatment center shall not be located within twenty five hundred (2,500) feet of any pharmacy, school (as defined in section 1002.01 or 1003.01, Florida Statutes), medical office, day care center, day care home, adult living facility or similar type of facility, playground, religious institution, public park, another medical marijuana treatment center, any zoning permitting residential structures, or residential structure. All distance requirements shall be measured by drawing a straight line from the nearest property line of the premises upon which a medical marijuana dispensary is located to the nearest property line of the preexisting protected use.
- g. *Hours of operation.* Medical marijuana treatment centers shall only operate between the hours of 8:00 a.m. and 6:00 p.m. Monday through Friday and 8:00 a.m. through 12:00 p.m. on Saturday. Medical marijuana treatment center shall not operate on Sunday.
- h. *Other Activities.* Other than the cultivation, processing and dispensing of medical marijuana permitted herein no medical marijuana treatment center shall sell, market, dispense, provide, exchange, or otherwise vend any other services; product; or drug paraphernalia as defined by federal or state law.
- i. *Compliance with other laws.* In addition to the laws and ordinances of the Town of Malabar all medical marijuana treatment centers shall comply with all federal and state laws.
- j. *Security Measures.* Each medical marijuana treatment center shall provide the following, at the owner's expense:
- i. Drive through facilities are prohibited.
 - ii. A silent alarm that notifies the Brevard County Sheriff's Office or a private security agency that a break in or robbery is taking place
 - iii. Full time private armed security personnel from a licensed security firm during all hours the facility personnel are on the premises.
 - iv. A security camera capable of recording and retrieving an image. Such security camera system shall be operational at all times during and after business hours. The security cameras shall be located at every ingress and egress site of the facility, including doors and windows, as well as on the interior where any monetary transaction shall occur and shall also be located at the ingress and egress site where the medical marijuana is grown and/or stored;

v. Install a secure safety enclosure of transparent polycarbonate or other material with an indirect pass through or window to transact business that meets the following standards:

1. American Society for Testing and Materials Standard D3935 (classification PC110 B 3 0800700) and that has a thickness of at least 0.375 inches and has an impact strength of at least 200 foot pounds; or
2. Underwriters Laboratory Standard UL 752 for medium power small arms (level one), Bullet Resisting Equipment;

vi. A drop safe or cash management device that provides minimum access to the facility's cash receipts

vii. A lighted parking lot illuminated at an intensity of at least 2 foot-candles per square foot at 18 inches above the surface.

viii. Window signage must allow clear and unobstructed view from the outside of the building and in normal line of sight of the cash register and sales transaction area.

ix. The facility shall not have window tinting that reduces exterior or interior view in a normal line of sight.

x. Height markers at the entrance and exit of the facility that displays height measures.

k. *Fire Suppression.* The facility shall have installed, at the owners expense, a fire sprinkler system designed by a licensed fire suppression firm registered in the State of Florida, approved by the Fire Marshall, permitted by the Town Building Department, and installed by a licensed fire sprinkler system installer.

l. *Parking.* The facility shall provide 1 parking spaces per 200 square feet of gross floor area. In additional, any parking spaces designated for or used by a medical marijuana treatment center shall meet the requirements of subsection 1.f, above.

m. *Public Use or Consumption Prohibited.* The use, ingestion, consumption or smoking of medical marijuana or non-medical marijuana on any public property or property open to the public is prohibited. The term "public property or property open to the public" means, but is not limited to, any property owned, or controlled by any governmental body, including streets, right-of-ways, easements, parks, recreation area, any quasi-public area including stores, parking lots, malls, business establishments, shopping centers, private recreation area, common property of any community association; and any other area which is visible from any public property or property open to the public, except a private residence.

Any medical marijuana treatment center must, at all times when such establishment is open to the public or is selling marijuana or marijuana-based products, have a sign on the premises located where it can be readily seen and read by all customers of the marijuana dispensary which is at least six by eight and one-half inches (6" x 8½") in size and with seven-sixteenth inch minimum lettering and contains the following information:

"IT IS UNLAWFUL TO SMOKE, INGEST, OR CONSUME MARIJUANA INSIDE, OR IN THE PARKING LOT, OF THIS ESTABLISHMENT. MALABAR TOWN CODE SEC. 1-6.1 D. 1.m.

TOWN OF MALABAR
PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 3
Meeting Date: April 12, 2017

Prepared By: Denine Sherear, P&Z Board Secretary

SUBJECT: Annual Review of Capital Improvement Plan (CIP)

BACKGROUND/HISTORY:

Please bring PZ Packet from March 22, 2017 with attachments to continue review of the CIP. I have additional information that was requested by the Board to continue discussion of Annual Review.

I have provided Chapter 9 of the Malabar Comprehensive Plan (3/22/2017) that provides guidance on capital improvements. The Capital Improvement "Plan" (CIP) deals with five and ten-year planning horizons.

NEW ATTACHMENTS:

- Revised Worksheet from PZ Meeting 3/22/2017
- Memo # 2017-TC/T-026 From Debby Franklin, Town Clerk/Treasurer (Requested Information)
- Revised list of Fire Hydrants Locations as requested/map
- Update on non -motorized boat launch at north end of Rocky Point

ACTION OPTIONS:

Discussion

**TOWN OF MALABAR
 FIVE YEAR PLAN PRIORITIES
 AUGUST 10, 2016 Revised MARCH 22, 2017
 (WORKSHEET)**

LAND ACQUISITION	INFRASTRUCTURE
1. SW corner of Fire Station Entrance on the North side of Malabar Road	1. Corey & Weber Roads that approaches to Malabar Road (SR514) 3 lanes per side
	2. Multi Mobile trail from Northside of Malabar Road from US-1 to Palm Bay Hospital
2. 1. River Access – Potential <u>north end of Rocky Point</u>	2. Jordan Blvd to Atz Road & Improve- Reconnect ROW add bi-mobile path
2. East side of Malabar Woods Blvd to work with EEL's for shared building for Town Hall	3. Consider Road resurfacing now due to oil prices being low (economic advantage)
4.	4. Connect drainage to west side of Malabar Road to the Tillman Canal
5.	5. Update the topology/Elevation survey map of Malabar (1988) for drainage * (ask Morris)
	6. Possibility –clearing creeks on private property
FACILITIES	PUBLIC SAFETY
1. Community Center (Land Use Fire Dept./ Park)	1. Continue process for traffic lights @ Corey And Weber Road's
2. New Town Hall Land (Land Use Fire Dept./ Park)	2. Fire Department to provide list
3. Public Works Pole Barn for Equipment	3. Fire Hydrants- Artesian Well to have Strategically located throughout the Town
4.	4.
5.	5.
EQUIPMENT	
1. Slope Mower	
2. External Security Camera's for Town Hall	
3.	
4.	
5.	

TOWN OF MALABAR

MEMORANDUM

Date: April 7, 2017 2017-TC/T-026
To: Planning and Zoning Board / Denine Sherear, Board Secretary
From: Debby Franklin, Town Clerk / Treasurer
Ref: Questions from P&Z Meeting of March 22, 2017

Denine stated the P&Z Board was reviewing the C.I.P. Element of the Comp Plan and referenced Table 9-7: Revenues and Expense. Those were all projections made during the update of the Comp Plan in 2009. She indicated you were interested in knowing why the storm water revenue and expenditure line items only reflected \$70,000 for FY 2017.

Storm water assessment revenue must be tracked separately and is restricted for storm water related expenses. The Budget is a spending plan and represents the anticipated revenues and expenses for the upcoming year.

The \$70,000.00 SW assessment figure is provided to us by the Property Appraisers Office for budget purposes to show anticipated new revenue. In the prior year's columns you are seeing both the anticipated "new" revenue PLUS carried forward from prior years storm water funds. We no longer include the carried forward monies in the budget as "new" revenue but rather on the Balance sheet.

The attached Revenue and Expenditure Summary sheets are the first two pages of the annual budget. Storm water revenue is now reported under the account "36" for Miscellaneous. This account includes interest, the storm water assessment, sale of surplus material, donations, insurance refunds for an estimated receipt of \$80,400.00. To date we have received just over \$68,081.00. Please see the highlighted Revenue sheet (page 4 of budget)

There was also a request to provide the budget and actual figures for the years 2014 to current. That can also be found in the Summary sheets referred to above.

Attachments: Pages 1, 2 and 4 of Budget

Projected Revenues-and Expenditures

The following table projects revenues and expenditures for the Town through the year 2013. FY09 revenues and expenditures were adopted by the Town Council in the Town's annual budget. Projections for FY10-F13 were calculated based upon a 4% yearly increase in expenses and revenues. The Town maintains a balanced budget with expenditures not surpassing revenues.

*Project 2014 Budget Present +
 # of items for 2012-2016
 ask about*

TABLE 9-7: REVENUES AND EXPENSE FY09-FY13

Revenues	FY09	FY10	FY11	FY12	FY13
Taxes	1,024,150	1,065,116	1,107,721	1,152,029	1,198,111
Licenses and Permits	95,630	99,455	103,433	107,571	111,874
Intergovernmental Revenue	238,059	247,581	257,485	267,784	278,495
Charges for Services	44,600	46,384	48,239	50,169	52,176
Fines and Forfeitures	120	125	130	135	140
Miscellaneous	169,801	176,593	183,657	191,003	198,643
Other Sources	44,769	46,560	48,422	50,359	52,373
Total General Fund	1,617,129	1,681,814	1,749,087	1,819,050	1,891,812
Stormwater Utility	140,030	145,631	151,456	157,515	163,815
Utility Fund	169,899	176,695	183,763	191,113	198,758
Total Revenues	1,927,058	2,004,140	2,084,306	2,167,678	2,254,385
Expenses	FY09	FY10	FY11	FY12	FY13
Legislative	16,117	16,780	17,818	18,535	19,281
Executive	142,712	148,582	157,772	164,121	170,724
Finance and Administrative	193,932	201,909	214,397	223,025	231,998
Legal	35,610	37,075	39,368	40,952	42,600
Comprehensive Planning	44,500	44,500	10,500	10,500	10,500
General Government	103,392	107,645	114,303	118,903	123,686
Fire Control	325,844	339,247	360,230	374,726	389,802
Protective Inspections	127,429	132,670	140,876	146,546	152,441
Public Works	24,771	25,790	27,385	28,487	29,633
Streets and Roads	561,688	584,791	620,962	645,951	671,939
Parks and Recreation	37,134	38,661	41,053	42,705	44,423
Special Events	4,000	4,165	4,422	4,600	4,785
Total Expenses	1,617,129	1,681,814	1,749,087	1,819,050	1,891,812
Stormwater Utility	140,030	145,631	151,456	157,515	163,815
Utility Fund	169,899	176,695	183,763	191,113	198,758
Total Expenses	1,927,058	2,004,140	2,084,306	2,167,678	2,254,385

*FY17
 876,926
 323,600
 237,788
 29,644
 150
 80,400
 15,000
 1,513,582
 70,000
 1,563,508*

*FY17
 24,761
 64,618
 189,442
 30,306
 5,000
 72,320
 487,513
 75,113
 455,974
 79,850
 6,500
 70,000
 1,562,697*

Source: Town of Malabar, Calvin Giordano and Associates, Inc.

*15 for 15
 project*

REVENUE - EXPENSE SUMMARY

ACCT NO.	ACCOUNT DESCRIPTION	BUDGET FY12/13	BUDGET FYTD 9/13	BUDGET FY 13/14	FYTD FY 9/2014	BUDGET FY 14/15	FYTD 9/30/2015	BUDGET FY 15/16	FYTD 9/19/2016	FINAL FY 16/17
	REVENUES									x 1.10
31	TAXES	706,062	763,028	771,073	747,677	800,126	825,112	852,884	858,764	876,926
32	PERMITS, FEES, & SPECIAL ASSESSMENTS	240,100	249,919	334,214	230,849	338,525	334,472	321,925	282,165	323,600
33	INTERGOVERNMENTAL REVENUE	194,020	191,603	208,316	195,460	238,349	226,343	238,644	214,885	237,788
34	CHARGES FOR SERVICES	41,060	36,655	42,435	29,745	32,515	33,791	37,260	31,106	29,644
35	FINES AND FORFEITURES	164	254	381	104	200	69	200	152	150
36	MISCELLANEOUS	195,270	78,837	81,857	74,158	81,857	71,661	177,642	108,297	80,400
38	OTHER SOURCES	0	0	0	4,224	20,000	18,568	25,000	32,235	15,000
	TOTAL REVENUES	1,376,676	1,320,296	1,438,276	1,282,216	1,511,572	1,510,017	1,653,555	1,527,604	1,563,508

REVENUE - EXPENSE SUMMARY

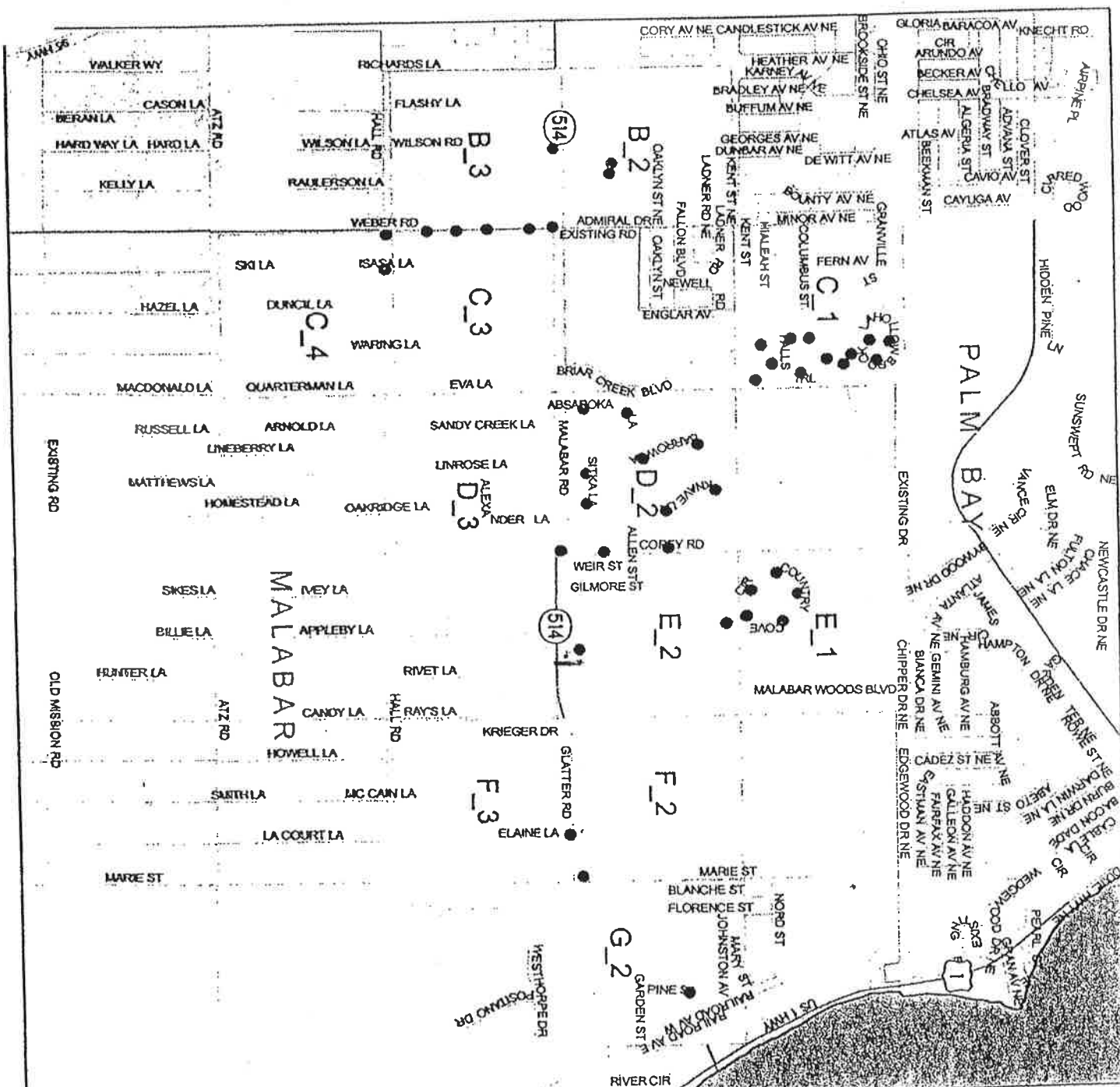
ACCT NO.	ACCOUNT DESCRIPTION	BUDGET FY12/13	BUDGET FYTD 9/13	BUDGET FY 13/14	FYTD FY 9/2014	BUDGET FY 14/15	FYTD 9/30/2015	BUDGET FY 15/16	FYTD 9/19/2016	Proposed FY 16/17
	EXPENDITURES							BUDGET FY15/16	FYTD	x 1.10
511	LEGISLATIVE	22,173	27,535	23,500	22,716	27,429	24,874	8,174	11,294	26,061
512	EXECUTIVE	101,419	106,733	114,880	112,029	115,978	142,022	83,950	55,736	64,618
513	FINANCE & ADMINISTRATIVE	185,976	193,983	171,171	162,401	177,408	171,438	182,216	174,460	189,442
514	LEGAL	30,653	29,980	30,653	29,504	83,863	51,790	31,500	26,593	30,306
515	COMPREHENSIVE PLANNING	1,750	0	1,750	310	1,000	0	500	0	5,000
519	GENERAL GOVERNMENT	113,716	103,378	115,681	105,989	106,517	92,734	67,198	82,324	72,320
522	FIRE CONTROL	235,436	240,869	282,648	298,311	385,259	393,826	465,857	410,587	488,324
524	PROTECTIVE INSPECTIONS	73,987	104,499	104,469	95,571	104,950	99,918	89,586	72,159	75,113
538	FLOOD CONTROL/SW MANAGEMENT	297,223	150,580	123,388	18,118	157,522	164,481	252,078	82,440	70,000
541	STREETS AND ROADS	339,255	379,041	624,716	331,057	435,746	417,254	446,251	294,325	455,974
572	PARKS AND RECREATION	30,952	29,757	37,639	17,690	31,760	19,768	19,995	102,677	79,850
574	SPECIAL EVENTS	10,000	10,000	10,000	10,000	10,000	10,000	6,500	7,000	6,500
	TOTAL EXPENDITURES	(1,442,540)	(1,376,355)	(1,640,495)	(1,203,696)	(1,637,432)	(1,588,105)	(1,653,805)	(1,319,594)	(1,563,508)

GENERAL FUND REVENUES											
ACCT	ACCOUNT DESCRIPTION	BUDGET FY12/13	FYTD FY 9/2013	BUDGET FY13/14	FYTD FY 9/2014	BUDGET FY 14/15	FYTD FY 9/2015	BUDGET FY 15/16	FYTD 09/19/16	Final BUDGET FY 16/17	
349.8010	Golf Cart Registration Fee	0	0	0	850	200	450	200	100	100	
349.9000	Lien Searches	600	1,130	1,695	2,110	1,700	2,250	1,900	2,355	2,500	
-	Historical Revenue Accounts	2,800	2,872	4,627	0	800	0	0	0	0	
	TOTAL CHARGES FOR SERVICES	41,060	36,655	42,435	29,745	32,515	33,791	37,260	31,106	29,644	
35	FINES & FORFEITURES										
351.5000	Fines & Forfeitures	164	254	381	104	200	69	200	152	150	
	TOTAL FINES & FORFEITURES	164	254	381	104	200	69	200	152	150	
36	MISCELLANEOUS REVENUES										
361.1000	Interest	2,500	519	778	333	778	210	300	90	100	
363.1000	SW Assessment	65,000	66,416	68,529	66,234	68,529	65,487	72,000	67,499	70,000	
363.2300	TIFT Recieved	0	0	0	0	0	0	0	28,247	0	
365.1000	Sale of Surplus Materials	0	0	1,000	0	1,000	272	1,000	0	1,000	
366.1000	Donations FD	1,650	7,800	6,000	320	6,000	1,760	7,000	9,822	6,000	
369.3000	Insurance Refund	0	3,500	5,250	7,052	5,250	2,476	6,000	2,429	3,000	
369.9000	Miscellaneous Revenues	1,000	602	300	219	300	1,456	300	210	300	
-	Historical Revenue Accounts	125,120	0	0	0	0	0	91,042	0	0	
	TOTAL MISCELLANEOUS REVENUE	195,270	78,837	81,857	74,158	81,857	71,661	177,642	108,297	80,400	
38	OTHER SOURCES										
389.2000	General Grant Revenue										
389.3000	VFA State Grant	0	0	0	4,224	20,000	14,781	20,000	32,235	10,000	
389.4000	Safety Grants	0	0	0	0	0	3,787	5,000	0	5,000	
	TOTAL OTHER SOURCES	0	0	0	4,224	20,000	18,568	25,000	32,235	15,000	
	TOTAL REVENUES	1,376,676	1,320,296	1,438,276	1,282,216	1,511,572	1,510,017	1,653,555	1,527,604	1,563,508	

Hydrant Gps Location

Address	Latitude	Longitude	Hydrant Name
1000 Hollowbrook Ln	28.010517	80.59864	BH-1
1060 Hollowbrook Ln	28.011919	80.598836	BH-2
1130 Hollowbrook Ln	28.012421	80.599736	BH-3
1270 Hollowbrook Ln	28.011581	80.59981	BH-4
905 Brookshire Cir	28.010791	80.599122	BH-5
900 Hollowway Tr	28.009066	80.600001	BH-6
1005 Steeplechase Cir	28.008228	80.60004	BH-7
End of Briar Creek	28.006928	80.599678	BH-8
1220/1230 Pemberton Tr	28.00745	80.598896	BH-9
1310 Pemberton Tr	28.006684	80.597993	BH-10
980/990 Falls Tr	28.008654	80.598295	BH-11
1035/1045 Oak Tree Pl	28.009759	80.598571	BH-12
1606 Country Cove Cir	28.007476	80.588277	CC-1
1626-1632 country Cove	28.006336	80.587504	CC-2
1653 Country Cove Cir	28.006118	80.586099	CC-3
1330 Oak Harbor Ln	28.005261	80.585855	CC-4
1674 Country Cove Cir	28.007604	80.58585	CC-5
1707 Country Cove Cir	28.008314	80.587202	CC-6
Entrance of Stillwater	28.002769	80.589622	SW-1
1362 Knave	28.00486	80.592498	SW-2
Corner of Knave/Absaroka	28.002745	80.591496	SW-3
End of Barrow Ln	28.004108	80.594842	SW-4
Corner of Barrow/Absaroka	28.001817	80.594129	SW-5
On Absaroka	28.002739	80.591499	SW-6
End of Absaroka	28.999317	80.596644	SW-7
Corner of Nome/Sitka	27.999397	80.59345	SW-8
End of Sitka	27.999377	80.591916	SW-9
1585 Corey Rd	28.000069	80.589539	SW-10
Corner of Cory/Malabar	27.998193	80.589562	SW-11
Corner of Weber/malabar	27.998113	80.605859	WW-1
1830 Weber Rd	27.995318	80.605771	WW-2
Weber Rd	27.997224	80.605743	WW-3
Weber Rd	27.994106	80.605776	WW-4
Corner of Hall/Webber	27.991036	80.605645	WW-5
Hall/Isasa	27.990994	80.60395	WW-6
Berry Patch Entrance	27.99822	80.610494	BP-1
APX 50 yds E of Berry Patch	27.998173	80.609787	BP-2
Mima Front Parking Lot	28.000676	80.608974	MM-1
Mima Front Parking Lot	28.000664	80.60854	MM-2
AAA Mini storage 1	28.003304	80.567223	AAA-1
AAA Mini Storage 2	28.003827	80.566842	AAA-2
1675 Marle St	28.998975	80.57924	Marle-1
2580 Malabar Rd	28.002469	80.569454	SH-1
5150 US 1 S Y/D	28.0045.4	80.3403.8	NE1

Artesian Wells
 ↳ Palm Bay Hydrant we get credit (Town of Malabar)

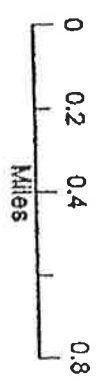


TOWN OF MALABAR

Fire Hydrants



- Fire Hydrants
- Index Grid



NOTE:
This map resembles Public Land Survey
Index Grid System (PLSS) 1/4 sections, approximately 160
acres.



**REQUESTED
INFORMATION ON
PROPERTY LOCATED
ON THE NORTH END
OF ROCKY POINT
ROAD FOR NON-
MOTORIZED BOATS
LAUNCHING**

From: Kemmler, Hans <hans.kemmler@lmco.com>
Sent: Wednesday, March 15, 2017 11:10 AM
To: Douglas C. Hoyt
Cc: Dorothy Carmel; 'Hans Kemmler'; Debby Franklin; Drew Thompson (drew.thompson@prosolent.com)
Subject: FW: FDOT ROW Rocky Point Road North End
Attachments: Deed 1939.pdf

REFERENCE TO PARCEL
NORTH END OF ROCKY PT ROAD

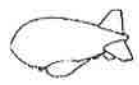
Doug,
It looks like the property on the north end of Rocky point will forever be a no-man's land.



Wasn't that fun?
Dorothy: Please have the email below and the attachment available at tonight's meeting.

Thanks,
~Hans
~Hans Kemmler
Electronics Engineer Sr
Lockheed Martin
4401 Fortune Place
Melbourne, FL 32904
(321) 327-6352

"We are what we repeatedly do. Excellence, then, is not an act, but a habit." -Aristotle (~2300 years ago)



From: Premo, Leslie [mailto:Leslie.Premo@dot.state.fl.us]
Sent: Wednesday, March 15, 2017 9:44 AM
To: Kemmler, Hans (US) <hans.kemmler@lmco.com>
Cc: Moynihan, Todd <Todd.Moynihan@dot.state.fl.us>
Subject: EXTERNAL: RE: FDOT ROW Rocky Point Road North End

Good Morning Hans,

I wanted to let you know that the department has further researched the requested area and according to the 1939 deed (attached) we do not own the property in fee. The department only has a perpetual easement that includes a reverter clause which states (page 1):

"TO HAVE AND TO HOLD the area unto said party of the second part, for public road uses and purposes, forever.

Provided, that if said right of way is abandoned for road purposes, all rights thereunder shall revert to parties of the first part, his (their) heirs and assigns."

We appreciate your time and efforts in pursuing this lease, however, at this time the department is unable to lease this property as our research states that we don't own the parcel and our easement is for road purposes only. If you have any questions please don't hesitate to call or email me.

Thank you,

Leslie M Premo
AECOM
Consultant for Florida Department of Transportation
District 5 Right of Way
719 S. Woodland Blvd. - MS 551
DeLand, FL 32720
Direct (386) 943-5102
Leslie.Premo@dot.state.fl.us
Work Hours 8:00-4:30

RESPONSE
FROM DOT

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 4
Meeting Date: April 12, 2017

Prepared By: Denine Sherear, Planning & Zoning Board Secretary

SUBJECT: Review & Revise Table 1-19.18 "Zoning District Sign Regulations"

BACKGROUND/HISTORY:

The Council suggested that there needs to be a review of the Zoning District Sign Regulations and some revisions need to be made due to some non-conforming sign sizes throughout the Town of Malabar. I have attached Table 1-19.18 from the Town of Malabar Code book.

I have done research on other Municipalities in Brevard County.

ATTACHMENTS:

- Memo from Debby Franklin, Town Clerk/treasurer
- Memo from Daryl Munroe, Building Official
- Town of Malabar Article XIX, Table 1-19.18
- West Melbourne (portion of Sign regulations)
- Indian Harbor Beach Sign regulations

ACTION OPTIONS: Discussion/Action

TOWN OF MALABAR

MEMORANDUM

Date: March 7, 2017 2017-TC/T-023
To: Planning and Zoning Board / Denine Sherear, Board Secretary
From: Debby Franklin, Town Clerk / Treasurer
Ref: Code Amendment re: Signage, Art XIX, Table 1-19.18

The Malabar Town Council approved the proposed signage at the Route 1 Motor Sports project on March 6, 2017. Staff requested Council approval because the language in the Code does not differentiate between non-residential zoning and commercial zoning. It also does not provide for regulations for signage on major highways with speed limits of 55 mph and along Malabar Road in the 30 mph areas.

The Building Official wrote a memo to Council supporting the approval stating the size of the building and the lot should also be considerations.

I have attached Table 1-19.18, Zoning District Sign Regulations, the memo from the Building Official and the portion of Draft minutes from 3/6/17.

Council would like the P&Z Board to update the Table and the Footnotes.

Attachments:

TOWN OF MALABAR

MEMORANDUM

Date: February 21, 2017 2017-BO-012
To: Honorable Mayor and Town Council
From: Daryl Munroe, Building Official
Ref: Approval for Signs in CG Zoning – Route 1 Motor Sports
1300 Highway 1, Malabar

KellWill Inc. has received Site Plan approval and the Building Permit has been issued for construction of their 25,000 sf retail and service facility known as Route1 Motorsports.

The height of the building is 25 feet and is being constructed towards the back of the 2.97 acre lot with a finished floor elevation (FFE) of 28 feet. The applicant is now ready to contract with a sign company to begin the advertising portion of the development.

The size, color, material and type of signage was not provided as part of the site plan review. Because of this staff desires Council approval of the proposed construction of the signage so the building permit package is complete.

The applicant is requesting a 20-foot tall freestanding sign near the driveway entrance and then the manufacturers logos on the mansard roofline. Illustrations for these signs are attached.

The proposed signs comply with the Malabar Code for height and setbacks. There is language in the Code that restrict the sign "faces" from exceeding a maximum of 60 *cumulative* square feet.

Staff is requesting Council approval of the proposed signs, noting that this restriction in the Malabar Sign regulation dates to the original code and is not based on the size of the building or parcel. It would be staff's recommendation to delete this restriction from the Code. Such a restriction is not consistent with commercial development on a major arterial roadway like Highway 1.

TOWN OF MALABAR

Section 1-19.18. - District sign regulations.

The provisions of Table 1-19.18 "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.

TABLE 1-19.18. ZONING DISTRICT SIGN REGULATIONS

(1) Sign Regulations Within Residential Zoning Districts:

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 sq. 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	None	None

Sign Type	Future Improvement	General Outdoor Advertising	Real Estate	Subdivision
Construction Class	Detached	Wall or Detached	Detached	Wall or Detached

Maximum Number	1	1	1	1 per public entrance
Maximum Area	10 sq. ft.	32 sq. ft.	5 sq. ft.	32 sq. ft.
Maximum Height	10 ft.	10 ft.	4 ft.	10 ft.
Placement	Front setback: 10 ft. Side and Rear: 25 ft.	No signs to impede vision at any intersection	Front setback: 10 ft. Side and Rear: 25 ft.	No signs to impede vision at any intersection
Illumination	None	None	None	Indirect
Special Regulations	None	See Footnotes 1 and 2	None	None

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

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	1½ sq. ft. each
Maximum Height	Roof line of building	Detached: 25 ft. Others: Roof line of building	Roof line of 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	None	None	See Footnotes 1 and 2

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

Sign Type	Future Improvement	Real Estate	Subdivision
Construction Class	Detached	Wall or Detached	Wall or Detached
Maximum Number	1	3	1 per public entrance
Maximum Area	32 sq. ft.	9 sq. ft. each	12 sq. ft.
Maximum Height	10 ft.	Detached: 4 ft. Wall: 8 ft.	10 ft.
Placement	Front setback: 10 ft. Side and Rear: 25 ft.	Front setback: 10 ft. Side and Rear: 25 ft.	No sign shall impede vision at any intersection
Illumination	Indirect	None	Indirect
Special Regulations	None	Buildings of over 10,000 sq. ft. may erect a wall sign of 12 sq. ft. See Footnotes 1 and 6.	See Footnote 3

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 identify, advertise, and/or direct to a licensed business within two hundred (200) feet of the sign. However, if the sign is three (3) square feet or less in area, the business 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 is permitted, sign may not be animated and/or flashing.
- (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.

Indian Harbour Beach

Sec. 105-1. - Title; purpose.

This chapter shall be known as the sign ordinance of the City of Indian Harbour Beach, Florida. The purpose of this chapter is to control the number, type, height, size, location and area of signs which are permitted in the city; and for the purpose of protecting and promoting the health, safety, morals and general welfare of the people, business and property of the city, and to enhance the beauty of the city.

(Ord. No. 2016-3, § 2, 3-22-16)

Sec. 105-2. - Building official to enforce.

The building official is hereby designated and authorized to enforce this chapter.

(Ord. No. 2016-3, § 2, 3-22-16)

Sec. 105-3. - Variances authorized.

A variance from the terms of this chapter as to height, area, location, duration or number of signs may be granted by the city council, when not contrary to public interest and where owing to conditions peculiar to the property or structure where the sign will be located or the activity associated with the proposed sign and not the result of the actions of the applicant, prior to filing of the variance application, a literal enforcement of the ordinance would result in unnecessary and undue hardship. Additionally, a variance from the terms of this chapter as to height, area, location, duration or number of signs may be granted by the city council if it is determined that the currently applicable regulation violates the First Amendment to the United States Constitution.

(Ord. No. 2016-3, § 2, 3-22-16)

Sec. 105-4. - Conditions to variances authorized.

In granting any variance, the city council may prescribe appropriate conditions as will serve the intent of this chapter. Violation of such conditions, when made part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

(Ord. No. 2016-3, § 2, 3-22-16)

Sec. 105-5. - Nonconforming signs to be corrected or removed.

- (1) All signs erected, placed, or designed in a manner contrary to the provisions of this chapter, including signs permitted under a special exception or variance, prior to the enactment of the provision of this chapter which rendered them nonconforming, shall be deemed nonconforming signs and such nonconforming signs shall be removed, or altered so as to comply with this chapter, including the utilization of all procedural steps, within one (1) year of the effective date of the ordinance or amendment which rendered such sign nonconforming.
- (2) Any nonconforming sign that requires repair, replacement or re-erection for any reason, and such cost exceeds fifty (50) percent of the original value, shall be re-erected or replaced in a conforming manner or not at all. No such nonconforming signs may be modified to advertise different businesses or services from those which they advertised on the effective date of the ordinance or amendment which rendered them nonconforming.

(Ord. No. 2016-3, § 2, 3-22-16)

Sec. 105-6. - Obsolete signs to be removed.

Any sign advertising a nonexistent or defunct business or activity or a business or activity for which a required occupational license has not been procured shall be removed by the owner of the property on which the sign stands within thirty (30) days of notice to do so by the city building official.

(Ord. No. 2016-3, § 2, 3-22-16)

Sec. 105-7. - Definitions.

Sign. A name, identification, description, display or illustration, which is affixed to, painted or represented directly or indirectly upon a building, or other outdoor surface which directs attention to or is designed or intended to direct attention to the sign face or to an object, product, place, activity, person, institution, organization or business and where sign area means the space enclosed within the extreme edges of the sign for each face, not including the supporting structure or where attached directly to a building wall or surface, the outline enclosing all the characters of the word. Signs located completely within an enclosed building, and not exposed to view from a street, shall not be considered a sign. Each display surface of a sign or sign face shall be considered to be a sign.

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

Flashing. Any illumined sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. For the purpose of this Code any moving illuminated sign, except digital billboards, shall be considered a flashing sign.

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.

Highway sign. A Freestanding sign, 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 facade. A sign made of bronze, brushed stainless steel or aluminum, or similar material attached to the building façade.

Marquee. A canopy or covering structure bearing a signboard or copy projecting from and attached to a building.

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

Portable sign. Any structure without a permanent foundation or otherwise permanently attached to a fixed location, which can be carried, towed, hauled or driven and is primarily designed to be moved rather than be limited to a fixed location regardless of modifications that limit its movability.

Projecting. A sign, other than a wall sign, which projects from and is supported by a wall of a building or structure.

Roof sign. A sign located on or above the roof of any building, not including false mansard roof, canopy, or other fascia.

Spectacular or animated and intensely lighted signs. Any sign is animated by means of flashing, scintillating, blinking or traveling lights or any other means not providing constant illumination, with the exception of LED signs or other electronic message centers using liquid crystal displays, fiber optics, plasma display or other signs using similar technology or public information message centers showing time and temperature or where the message board of the sign: changes, spins, blinks, travels, flashes, scintillates or moves no more than once every two (2) seconds. Provided that no spectacular or animated and intensely lighted signs shall simulate any emergency vehicle lights or traffic control device lighting. For example, and not by way of limitation any lights which flash red, blue, green, yellow, or any combination thereof would be prohibited.

Temporary. A banner, pennant, poster, portable sign or advertising display 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.

Flat wall (façade-mounted). A sign affixed directly to or painted on or otherwise inscribed on an exterior wall and confined within the limits thereof of any building and which projects from that surface less than twelve (12) inches at all points.

(Ord. No. 2016-3, § 2, 3-22-16)

Sec. 105-8. - Determination of area.

For the purpose of determining the area of a sign, the total area is that within the smallest parallelogram, triangle, circle, or semi-circle which will completely enclose the outside perimeter of the overall sign, including the border, if any, but excluding supports. Three-dimensional signs shall be measured at the largest vertical cross section.

(Ord. No. 2016-3, § 2, 3-22-16)

Sec. 105-9. - Determination of number.

For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, or composed to form a unit. Where matter is displayed on more than one (1) set of supports, or the face of the sign is on more than one (1) plane, or there is a reasonable doubt as to the relationship of elements, each element shall be considered a single sign. Signs consisting of a group of detached letters or two (2) or more panels on the same plane and on the same supports presented as a single

advertisement shall be considered as one (1) sign and the area shall be as above defined. A double-faced sign in which the faces are parallel shall be considered a single sign and the area computed using one (1) face. Exempt signs shall not be counted in the allowed number of signs.

(Ord. No. 2016-3, § 2, 3-22-16)

Sec. 105-10. - Authorized signs.

The following signs are authorized under section 105-10 in every district:

- (1) Government signs in every zoning district when erected and maintained according to law and include the signs described and regulated in (2), (3), (4) and (5).
- (2) Traffic control devices on private or public property must be erected and maintained to comply with the Manual on Uniform Traffic Control Devices adopted in this state and if not adopted by this state with the Manual on Uniform Traffic Control Devices adopted by the Federal Highway Administration.
- (3) Each property owner must mark their property using numerals that identify the address of the property so that public safety departments can easily identify the address from the public street. Where required under this code or other law the identification must be on the curb and may be on the principal building on the property. The size and location of the identifying numerals and letters if any must be proportional to the size of the building and the distance from the street to the building. In cases where the building is not located within view of the public street, the identifier shall be located on the mailbox or other suitable device such that it is visible from the street.
- (4) Where a federal, state or local law requires a property owner to post a sign on the owner's property to warn of a danger or to prohibit access to the property either generally or specifically, the owner must comply with the federal, state or local law to exercise that authority by posting a sign on the property.
- (5) A flag that has been adopted by the federal government, this State or the local government may be displayed as provided under the law that adopts or regulates its use.

(Ord. No. 2016-3, § 2, 3-22-16)

Sec. 105-11. - Temporary signs.

- (1) Temporary signs allowed at any time:

- (a) A property owner may place one (1) sign with a sign face no larger than four (4) square feet on the property at any time.
 - (b) A property owner may place a sign no larger than eight and one-half (8.5) inches by eleven (11) inches in one (1) window on the property at any time.
- (2) One (1) temporary sign for up to each one-quarter (0.25) acre of land may be located on the owner's property for a period of sixty (60) days prior to an any election involving candidates for a federal, state or local office that represents the district in which the property is located and any secondary primary or runoff election as to any such candidate who is subject to such election. Such signs shall be removed within five (5) days following the election. Any person erecting any sign during this time period shall be required to post with the clerk of the city a twenty-five dollar (\$25.00) deposit before posting any such signs, which said sum shall be used to cover the cost of removal of said signs by city employees in the event they are not removed within the time frame set out above.
 - (3) One (1) temporary sign may be located on the owner's property when:
 - (a) That property is being offered for sale through a licensed real estate agent;
 - (b) If not offered for sale through a real estate agent, when that property is offered for sale through advertising in a local newspaper of general circulation or the internet; and
 - (c) For a period of fifteen (15) days following the date on which a contract of sale has been executed by a person purchasing the property.
 - (4) During the period commencing November 1 to January 10, a property owner may place two (2) temporary signs on the property.
 - (5) A property owner may place and maintain one (1) temporary sign on the property during the period of July 1 through July 4.
 - (6) A person exercising the right to place temporary signs on a property as described in this section must limit the number of signs on the property for up to each one-quarter (0.25) acre at any one (1) time to no more than two (2) signs, plus a sign allowed in 105-11(a)(2).
 - (7) The sign face of any temporary sign, unless otherwise limited in this section must not be larger than four (4) square feet.
 - (8) For purposes of this section the lessee of a property is considered the property owner as to the property the lessee holds a right to use exclusive of others (or the sole right to occupy). If there are multiple lessors of a property, then each lessor shall have the same rights and duties as the property owner as to the property the lessor leases and has the sole right to occupy and the size of the property shall be deemed to be the property that the lessor has the sole right to occupy under the lease.

(Ord. No. 2016-3, § 2, 3-22-16)

Sec. 105-12. - Regulations applicable to all districts.

(1) Residential districts.

(a) Size:

1. When a sign is authorized on a property, the sign must not exceed four (4) square feet in area. Where attached dwellings exist on a property the total square footage of signs must not exceed two (2) square feet per dwelling unit and must not exceed a total of twelve (12) square feet in area per structure.
2. For platted Residential Developments the maximum size and number of signs that the owner or owners of the residential development may erect and maintain at the entrances to the development shall be controlled according to the following:
 - a. Platted residential developments four (4) acres or less in area may have a sign or signs with a total area of no more than thirty-two (32) square feet located at the entrances to such developments. Such signs must have either been installed by the developer of the subdivision or later installed by the community association which governs the association.
 - b. Platted residential developments over four (4) acres but less than forty (40) acres in area may have a sign or signs which have a total area of no more than forty-eight (48) square feet located at the entrances to such developments. Such signs must have either been installed by the developer of the subdivision or later installed by the community association which governs the association.
 - c. Platted residential developments of forty (40) acres or more in area may have a sign or signs with a total area of no more than one hundred two (102) square feet located at the entrances to such developments. Such signs must have either been installed by the developer of the subdivision or later installed by the community association which governs the association.

(b) Location:

1. Permitted signs in (a) above may be anywhere on the premises, except in a required side yard or within ten (10) feet of a street right-of-way.

(c) Height: The following maximum heights shall apply to signs permitted in (a) above:

1. If ground-mounted, the top shall not be over four (4) feet above the ground; and
2. If building mounted, shall be flush mounted and shall not project above the roof line.

(d) Illumination:

1. Illumination if used shall not be blinking, fluctuating or moving. Light rays shall shine only upon the sign and upon the property within the premises.

(2) Commercial, professional and institutional districts.

- (a) Each business establishment shall be permitted to use any of the following described signs with the limitations stated herein:
1. A ground or projecting sign on each street frontage. The size of said sign shall be as follows: Thirty-two (32) square feet for the first twenty-five (25) linear feet of street frontage, increased one (1) square foot per one (1) foot of linear street frontage to a maximum of one hundred (100) square feet; maximum height of twenty-five (25) feet; maximum width of twenty-five (25) feet. Where two (2) ground or projecting signs are used on a corner lot the area of both signs shall not exceed the total area allowed for the total frontage.
 2. A wall sign on each end of the building perpendicular to the road or street, thirty-two (32) square feet per fifty (50) linear feet of building perpendicular to the road or street increased one (1) square foot per one (1) foot of linear street frontage to ninety-six (96) square feet.
 3. A wall sign parallel to the road or street, thirty-two (32) square feet per fifty (50) feet of frontage increased one (1) square foot per one (1) foot of linear street frontage to of ninety-six (96) square feet.
 4. A marquee sign parallel to the road or street, not exceeding thirty-two (32) square feet per fifty (50) feet of frontage increased one square foot per one foot of linear street frontage to a maximum of ninety-six (96) square feet.
 5. A free standing sign perpendicular to the road or street not exceeding thirty-two (32) square feet per fifty (50) feet of frontage, a maximum of ninety-six (96) square feet.
 6. Businesses located on dead end streets may erect one (1) directional sign no larger than sixteen (16) square feet at the closest street intersection with specific approval of the city council.
 7. In addition to the other types of signs permitted in this section a business establishment may erect one (1) 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 four (4) feet above the ground upon which it is

placed. An application form, provided by the city along with a permit fee established by resolution of the city 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 ten (10) days of written notification of the city and such notice shall inform the owner of such sign of the provisions of this subsection.

(Ord. No. 2016-3, § 2, 3-22-16)

Sec. 105-14. - Signs exempted from permitting procedures.

The following signs of a permanent nature and listed operations pertaining to signs shall not require the issuance of permits, provided the signs and operation conform with all other city building, structural and electrical standards and regulations.

- (1) *Changing copy.* Changing the advertising copy or message on an existing, approved, painted or printed sign, changeable copy sign or a similar approved sign when electrical, illuminated or non-illuminated painted message which is specifically designed for the use of replaceable copy.
- (2) *Signs erected by governmental entities, for the purpose of promoting the city or other government purpose.* Governmental signs for control of traffic and other regulatory purposes, street signs, danger signs, railroad crossing signs, public utilities which indicate danger or an aid to safety. All signs shall be erected by or on the order of a city official in the performance of his or her public duty.
- (3) Any sign provided for under [sections] 105-10 and 105-11.

(Ord. No. 2016-3, § 2, 3-22-16)

Sec. 105-16. - Prohibited signs and exceptions.

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

- (1) Signs are prohibited in all districts unless:
 - (a) Constructed pursuant to a valid building permit when required under this Code; and
 - (b) Authorized under this Code.

(2) The following signs are strictly prohibited:

- (a) *Spectacular or animated and intensely lighted signs.*
- (b) *Streamers, balloons and twirling signs.* Streamers, balloons or twirling signs shall not be permitted, except as may be otherwise authorized by in this chapter.
- (c) *Rotating signs.* No rotating signs and message devices having rotating or spinning parts and no signs with moving copy shall be permitted.
- (d) *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 chapter. Signs shall be considered litter and removed by the city without notice.
- (e) *Swinging signs.* No sign shall be suspended by chains or other devices that will allow the sign to swing.
- (f) *Marquee signs.* Marquee signs shall be prohibited in the city.
- (g) *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;
 - 2. Signs painted or attached to any fence or wall which is not a part of a building, except as may otherwise be authorized by this chapter;
 - 3. Signs which operate or employ any motion picture projection or media in conjunction with any advertisements or have visible moving parts or any portion which moves or which give the illusion of motion, except as may be otherwise authorized by this chapter;
 - 4. Signs which emit audible sound, odor or visible matter; and/or
 - 5. 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.
- (h) *Roof signs.* No roof signs shall be permitted.
- (i) *Off-site signs.* Except as may be otherwise authorized by this chapter, off-site signs

are prohibited.

- (j) *Billboards*. Except as may be otherwise authorized by this chapter, billboards are prohibited.
- (k) *Pennants, banners and the like*. Pennants, banners and the like shall be limited to no more than two (2) permanent displays per property frontage and must be separated by a minimum of fifty (50) feet. Additional commercial pennants, banners and the like can be permitted on a temporary basis as long as all displays are separated by a minimum of fifty (50) feet. The total area of permanent signs shall not exceed eighteen (18) square feet. The total square feet of each temporary display shall not exceed eighteen (18) square feet. The cumulative total of the display areas shall not exceed one hundred (100) square feet per property. Pennants, banners and the like shall not be attached to any building. Fourteen (14) days per permit, maximum six (6) permits per year. Flags are not considered pennants or banners.
- (l) *Flags*. Flags, as provided for in subsection 105-10(5) on private property are allowed, subject to the following:
 - 1. A maximum of three (3) flagpoles shall be permitted per each parcel of land on a public street displaying no more than one (1) government approved flag each.
 - 2. Flag size shall be in relation to the height of the flagpole. The maximum height of any flag or combination of flags shall be twenty-five (25) percent of the total height of the flagpole.
 - 3. The maximum height of a flagpole shall be thirty-five (35) feet.
 - 4. Flagpoles shall maintain a 15-foot setback from all property lines and a 25-foot setback from any intersection.

(Ord. No. 2016-3, § 2, 3-22-16)

Sec. 105-17. - Inspections.

- (1) Signs for which permits have been issued shall be inspected during and at completion of construction by the building official after installation and at times as deemed necessary by the building official. It shall be the responsibility of the permittee or his or her representative to notify the building official at all stages of construction that require inspection and approval. The requirements for the inspections shall be as follows:
 - (a) A footing inspection for all detached signs shall be required;
 - (b) A final structural inspection shall be required at completion of the work on all types of

signs; and

- (c) A final electrical inspection shall be required for all signs containing electrical components and wiring to be connected to an electrical energy source.
- (2) The building official is empowered to enter or inspect any building, structure or premises in the city upon which or in connection with which a sign is located for the purpose of inspection of the sign, its structural details and electrical connections and to ensure compliance with this chapter.
- (3) Each sign that requires a permit for installation may be inspected annually by the building official to ascertain whether the sign is being maintained in a safe condition and whether it is in need of maintenance or removal.

(Ord. No. 2016-3, § 2, 3-22-16)

Sec. 105-18. - Permits.

- (1) Generally. Any person proposing to paint, erect, construct, enlarge, move or make structural alterations to any sign within the city shall first obtain a sign permit for each sign from the building official as required by this chapter. These directives shall not be construed to require any permit for a change of copy on a sign nor for the repainting, cleaning and other normal maintenance or repair of a sign or structure for which a permit has previously been issued, so long as the sign or sign structure is not modified in any way. No new permit shall be required for signs which have permits and which conform with the requirements of this chapter on the effective date of the ordinance from which this chapter derives. A new permit shall be required for any sign when the structural configuration or electrical components are altered or when the sign is relocated. The building official shall issue sign permits in accordance with the following procedures:
 - (a) A separate application and a separate permit shall be required for each separate sign;
 - (b) Each application for a sign permit shall be accompanied by two (2) copies of a scaled drawing showing the proposed sign, including all dimensions of the proposed sign and total sign surface area. In addition, the following shall be provided:
 - 1. For detached signs, the elevation of the principal building or structure and the location of the sign in relation to the property lines shall be indicated; and
 - 2.

For wall signs, the applicant shall submit the elevation of the principal building or structure upon which the sign is to be placed with the proposed sign and lettering of the sign superimposed thereon in correct ratio to the scale of the drawing and with a notation thereon showing the type and size of lettering to be used and the colors of the proposed sign.

- (c) All plans for detached signs and projecting signs shall be prepared and signed by a professional engineer registered and licensed in the state. All signs shall be constructed in accordance with the requirements set for in the building code;
 - (d) A drawing shall be submitted showing the location of the proposed sign and all trees having a diameter of four (4) inches or more at a height of four and one-half (4½) feet above ground level in the general area of the proposed sign location. For proposals associated with an approved site plan, the sign shall not interfere with trees required to be planted as shown on the approved site plan. For existing sites for which a sign application has been submitted, the sign shall be located so that it does not interfere with existing trees on the site. If, upon review by the building official, it is determined that no alternative location can be achieved, the applicant may apply for a tree removal permit provided, however, that trees cannot be removed in violation of an approved site plan;
 - (e) The name and address of the owner or other person in control or possession of the real property upon which the sign is to be located shall be submitted. Written consent of the owner, his or her lessee or his or her agent granting permission for the construction, operation, maintenance or display of the sign shall be submitted;
 - (f) The name of the sign contractor shall be submitted;
 - (g) A separate electrical permit shall be required for any sign containing electrical components to be connected to an electrical energy source; and
 - (h) A survey prepared by a land surveyor registered and licensed in the state shall be submitted when any determinations relative to an applicant cannot be made without the use of the survey.
- (2) Issuance. When an application for a sign permit complies with this chapter and all other applicable city ordinances and regulations and when all required fees have been remitted, the building official shall issue the requested permit.
- (3) Revocation. The building official is authorized and empowered to revoke any permit issued by him or her for failure of the permittee to comply with any of the sections of this chapter or for failure of the applicant to construct, erect or maintain the permitted sign in strict

conformance with the plans and drawings submitted with the application. The building official may also revoke a permit or approval, issued under this chapter, if there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based. Any revocation shall be in writing and shall show cause for the revocation notice.

- (4) Electrical permit fee. For any sign containing electrical components to be connected to an electrical energy source, the electrical permit fee shall be provided for in this code.
- (5) Unless otherwise exempted herein, any person proposing to paint, erect, construct, or install any sign within the city shall first obtain a sign permit for each sign from the building official as required by this chapter. The permit fee for such signs shall be based on the number of signs, the duration and the style of sign and shall be established by resolution of the city council.

(Ord. No. 2016-3, § 2, 3-22-16)

Sec. 105-19. - Reserved.

Sec. 105-20. - Off-site signs.

- (1) Prohibited unless directional. No off-site signs shall be allowed within the confines of the city except directional signs.
- (2) Regulation of directional and public signs. Off-site directional signs and public signs shall be erected only by the city and will conform to the following:
 - (a) Off-site directional signs and public information signs shall only be erected on city rights-of-way or city easements.
 - (b) Public necessity and convenience will be the standard used to determine what directional signs and public information signs will be erected. Such determination will be made by the city manager.
- (3) Real estate signs not considered off-site. A real estate sign, placed or erected on property which the sign owner has a valid contract to sell, rent or lease, shall not be considered an off-site sign.

(Ord. No. 2016-3, § 2, 3-22-16)

Sec. 105-21. - Substitution of non-commercial speech for commercial speech.

Notwithstanding anything contained in this chapter or Code to the contrary, any sign erected pursuant to the provisions of this chapter or Code or otherwise lawfully existing with a commercial message may, at the option of the owner, contain a non-commercial message in lieu of a commercial message. The non-commercial message may occupy the entire sign face or any portion thereof. The sign face may be changed from commercial to non-commercial messages, or from one (1) non-commercial message to another, as frequently as desired by the owner of the sign, provided that the sign is not a prohibited sign or seeking to strike down sign ordinances in their entirety so as to argue that the developers' applications to erect billboards or other signs must be granted.

(Ord. No. 2016-3, § 2, 3-22-16)

Sec. 105-22. - Severability.

- (a) Generally. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause term, or word of this chapter is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this article.
- (b) Severability where less speech results. Without diminishing or limiting in any way the declaration of severability set forth above in subsection (a) above or elsewhere in this chapter, this code, or any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or work of this chapter is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Chapter, even if such severability would result in a situation where there would be less speech, whether by subjecting previously exempt signs to permitting or otherwise sign-type and provided that the size, height, setback and other dimensional criteria contained in this Chapter and Code have been satisfied.

(Ord. No. 2016-3, § 2, 3-22-16)

PORTION OF WEST MELBOURNE SIGNAGE REQUIREMENTS

Sec. 72-14. - Permanent on-site signs.

(a) *Detached signs.* Detached signs (pole or ground-mounted) may be permitted for sites within the C-1A, C-1, C-2, C-P, M-1, M-2 and P-1, subject to the following:

- (1) *Number of signs.* One detached sign for each site fronting on a public street. For shopping centers, as defined in chapter 63, located on more than one street frontage, two detached signs shall be permitted, with a minimum of 300 feet along street frontages between the signs and with the choice of street frontages used to be at the discretion of the applicant. In no case shall two detached signs be permitted on any one street frontage. For all other businesses on more than one street, two detached signs shall be permitted, one on each frontage but not blocking the line of sight of driveways.
- (2) *Sign size and height.* The size the surface area of detached signs shall be based on the square footage of the front wall area. Except for scenic corridor signs, the maximum sign surface area permitted shall be ten percent of the front wall area, provided that no sign surface area shall exceed 100 square feet. For shopping centers, the name of the shopping center must be listed on the sign but is not part of the maximum surface area size limit. See the scenic corridor sign subsection for information on additional shopping center size.

The maximum height of detached signs shall be 12 feet above ground level. For shopping centers as defined in chapter 63, the maximum height of a shopping center sign advertising multiple tenants shall be 20 feet above ground level.

- (3) *Sign construction.* All detached signs shall be constructed of rigid construction materials in accordance with the building code and shall be able to withstand the maximum wind velocity as set forth in the building code. Wherever anchors or supports consist of wood embedded in soil, the wood shall be pressure treated with an approved preservative.
- (4) *Sign location and placement.* Ground signs shall be prohibited in areas normally used by vehicles and may be erected in an area so as to not inhibit visual clearance of vehicles. All detached signs shall be a minimum of ten feet from any public or private right-of-way and 7½ feet from any other property line. All detached signs for shopping centers with ten acres or more shall be at least ten feet from a property line.
- (5) *Sign lighting and landscaping.* Lighting reflectors may project beyond the face of the sign.
 - a. All detached signs shall be landscaped at the base with a minimum of one square foot of landscape material for every foot of facial area.
 - b. Detached signs shall be prohibited in areas that will interfere with the mature growth of trees, both existing and planted, at or near the time of installment of the sign.
- (6) *Scenic corridor signs.* For purposes of this subsection, the city establishes U.S. 192, Wickham Road, Minton Road, Dairy Road and Palm Bay Road as scenic corridors in order to improve the aesthetics of the city along major commercial corridors. Except as may be otherwise authorized by this chapter, any detached sign proposed along any scenic corridor right-of-way frontage shall be subject to the following additional criteria:
 - a. The maximum sign surface area for scenic corridor signs shall be 72 square feet. For shopping centers, the maximum sign surface area shall be 150 square feet. The shopping center name shall be listed on the sign but is not part of the maximum surface area size limit.
 - b. All other requirements set forth in this chapter shall apply, including design, structural requirements and maintenance.

- (b) *Directory signs.* In addition to the allowable detached sign, sites that contain two or more buildings with multiple business or institutional organizations as tenants may be permitted a directory sign subject to the following:
- (1) The maximum height for directory signs shall not exceed ten feet above ground level.
 - (2) The maximum sign surface area for directory signs shall be 24 square feet.
 - (3) The maximum height of letters used on directory signs shall be two inches.
 - (4) Directory signs shall only contain business names and addresses for on-site businesses, including building numbers, suite numbers and the like.
 - (5) There shall only be one directory sign at the entrance of the multiple tenant buildings and a second one is allowed if the property is at an intersection, on the other road.
 - (5) Directory signs shall be located no closer than 20 feet from the right-of-way and 7½ feet from any other property line.
 - (6) Directory signs shall be located only in areas that will not cause visual hazards to the motorist or cause on-site traffic hazards due to the use of the signs.
- (c) *Driveway entrance and exit signs.* In addition to the allowable detached sign, driveway signs with the indications by words, or symbols for entrance and exits, may be permitted in any zoning district where there is a common area or business needing driveway identification, subject to the following:
- (1) Driveway entrance and exit signs displaying a single business name and/or logo may be permitted on each side of entrance and exit driveways. The business name and/or logo shall be for a business located entirely on the subject site.
 - (2) The maximum sign surface area for driveway entrance and exit signs shall be two square feet.
 - (3) The maximum height shall be four feet.
- (d) *Gas and fuel station signs.*
- (1) Any businesses where gasoline or any fuel is sold at retail shall, in addition to the signs permitted under previous sections of this chapter, be permitted signs subject to the following:
 - a. *Number of signs.* A sign shall be permitted which is visible from the abutting right-of-way reflecting the current retail price of the various grades of gasoline, provided such sign is attached to a permitted detached sign.
 - b. *Sign size.* Such sign shall be not less than four square feet or more than eight square feet in area for each grade of fuel. All lettering of the signs displaying the current retail price of the various grades of fuel shall be a minimum of 16 inches in height. Additionally, each grade of fuel must be noted by letters a minimum of three inches in height.
 - (2) Additional canopy sign. Signs reflecting a single name and single logo of the fuel company shall be permitted to be attached or affixed to two elevations of the fuel island canopy. Canopy signs shall be limited to one per street frontage for a total of two such signs, and with the choice of street frontages at the discretion of the applicant. Such signs shall not be installed above or below the fascia of the canopy, and shall not be backlit with neon lights or scintillating lighting, or painted in neon colors.
 - (3) The additional canopy signage for businesses selling fuel shall be subject to all permitting and fee requirements.
- (e) *Interchange signage.* Interchange signs may be permitted in the zoning districts in the interchange commercial overlay district, underlying zoning districts - CP, C-2, C-1, subject to the following:
- (1) For purposes of this section, the term "interchange commercial overlay" area is defined by section 98-950, as an area within one mile of the I-95 interchanges. Interchange signage allows the display of business information to motorists along the highway.

- (2) Sites adjacent to an interchange. The interchange commercial overlay districts allows one interstate sign, 60 feet in height. Signs shall be placed in close proximity to the interstate and shall be kept away from adjacent properties and other rights-of-way. This sign shall be permitted for each parcel that meets the following criteria:
- a. *Site requirements:*
 1. Lot size: At least one acre.
 2. Road frontage: Contains 200 feet of Interstate 95 road frontage.
 - b. *Setbacks:* The setbacks shall be measured from the base of the sign structure or from the nearest edge of the sign, whichever is closest to the property line. Dimensional requirements are as follows:
 1. Maximum of 50 feet and minimum of 7½ feet from Interstate 95 right-of-way line.
 2. Minimum of 50 feet from any other public or private right-of-way line.
 3. Minimum of ten feet from any other property line.
 4. Billboard and sign separation: At least 500 feet of separation distance from the proposed sign to an existing billboard to prevent billboard viewshed issues described by the Florida Department of Transportation (shown on a plat or boundary survey, or other reasonable satisfactory evidence).
 - c. *Sign height and size:*
 1. Height: 60-foot tall interstate sign.
 2. Size: 400 square feet of sign face on each side shall be permitted.
- (3) Sites within one-half mile of an interchange. The interchange commercial overlay district allows one sign, 45 feet in height, that meets the following criteria:
- a. *Site requirements:*
 1. Lot size: At least one acre.
 2. Property location: Within one-half mile (2,640 feet) of an interstate interchange.
 3. Road frontage: Frontage of 100 feet along a local road or higher classification of road.
 - b. *Setbacks:* The setbacks shall be measured from the base of the sign structure or from the nearest edge of the sign, whichever is closest to the property line. Dimensional requirements are as follows:
 1. A minimum of 20 feet from any public or private right-of-way lines.
 2. A minimum of ten feet from any other property line.
 3. A minimum of 110 feet from a sign on an adjacent property.
 4. Billboard and sign separation: At least 500 feet of separation distance from the proposed sign to an existing billboard to prevent billboard viewshed issues described by the Florida Department of Transportation (shown on a plat or boundary survey, or other reasonable satisfactory evidence).
 - c. *Sign height and size:*
 1. Height: 45-foot tall sign.
 2. Size: 250 square feet of sign face on each side for properties that are not eligible for the sign height and area described in subsection (2) above.
- (4) An applicant that has a corner property on a highway and the roadway shall choose one type of sign as allowed under this section for interchange signs.

For all properties, if one interchange commercial overlay district sign is selected, the applicant shall also be allowed one additional detached sign in accordance with the sign code, subsection (e) of this section "detached signs" or subsection (i) of this section "scenic corridor" sign criteria.

- (5) Landscaping requirements for interchange commercial overlay district signs within one-half mile of the interchange, excluding interchange signs adjacent to the highway, shall be as set forth in this section for detached signs.
 - (6) All other requirements set forth in this chapter shall apply, including design, structural requirements and maintenance.
 - (7) If an applicant in the half-mile radius of the interchange desires a 60-foot tall sign, all the other requirements listed in subsection (3) apply, however, the sign size can be 400 square feet. The applicant shall submit a sign site plan and line of sight drawing depicting the evidence of obstacles by existing trees, buildings and the built environment to request a sign beyond 45 feet in height. Review of the request shall be approved by the planning director. No 60-foot tall sign shall have more than two faces for its message to be visible to motorists on the highway.
- (f) *Neighborhood identification signs.* In any zoning district, a sign, masonry wall, landscaping, and other materials or features may be combined to form a display for neighborhood or community identification, provided that, the legend of such sign or display shall consist only of the neighborhood or community name. The term "neighborhood identification sign" is defined in chapter 62.
- (1) *Number of signs allowed:* The number of such signs shall be limited to two, one at each entrance.
 - (2) *Sign size:* Any symbol and lettering or combination shall cover no more than 15 percent of the area of the sign, and such sign shall contain no more than 150 square feet in area.
 - (3) *Sign location:* If such neighborhood identification sign is to be placed within an area of a public right-of-way not normally or customarily used by vehicles, the person desiring to construct such sign shall comply with the leasing and insurance provisions of subsection 72-14(h)(5).
- (g) *Projecting signs.* Projecting signs may be permitted upon buildings or structures in the C-1A, C-1, C-2, M-1, M-2 and P-1 zoning districts subject to the following:
- (1) Sign location, attachment and quantity. The location, size and number of projecting signs shall be in accordance with that set forth in subsection 72-14(i), Wall signs, and the following:
 - a. *Total area of wall and projecting signs:* The total combined size of wall signs, marquee signs, or projecting signs shall not exceed the requirements of subsection 72-14(i), Wall signs.
 - b. *Sign location and placement:* A projecting sign shall not be erected on the wall of any building so as to project above the roof or cornice wall or above the roof level where there is no cornice wall. However, a sign erected at a right angle to the building, the horizontal width of which sign perpendicular to such wall does not exceed four feet, may be erected to a height not exceeding six inches above the cornice wall or lower roof level. A sign attached to a corner of a building and parallel to the vertical line of such corner shall be deemed to be erected at a right angle to the building wall. Clearance above ground level shall be no less than eight feet.
 - c. *Attachment of projecting signs:* All projecting signs shall be securely attached to a building or structure by metal supports such as bolts, anchors, chains, guys or steel rods per the Florida Building Code.
 - (2) Projecting signs shall not be used in combination with wall signs in meeting the requirements of this section.
- (h) *Subdivision signs.* Subdivision signs shall be subject to the following:
- (1) *Number of signs allowed:* The number of such signs shall be limited to two per entrance, one on each side of the entrance.

- (2) *Sign size and height:* A subdivision sign, together with its support structure, shall not exceed 250 square feet in total area and shall not exceed a height of 12 feet to the highest point of the support structure. "Support structure" shall mean the wall, fence, or other structure for which a subdivision or development sign is attached or affixed. The height of the copy area of the sign shall not exceed the height of the support structure. Height shall be measured in accordance with the building code.
 - (3) *Sign location:* No subdivision or development sign shall be located closer than ten feet from any public or private right-of-way, except as expressly allowed by this section.
 - (4) *Copy area:* The copy area of any subdivision or development sign shall not exceed 64 square feet and shall be limited to the name of the subdivision or development.
 - (5) *Signs in the right-of-way:* At the sole discretion of the city, signs may be permitted in those areas of public or private rights-of-way not normally or customarily used by vehicles, provided signs proposed in the public right-of-way comply with the following:
 - a. The area of the public right-of-way on which such sign is located shall be leased from the city in accordance with and by means of an acceptable lease agreement between the developer, the owner, or the owners' association as lessee and the city as lessor.
 - b. The lessee shall provide to the building department prior to the issuance of any permit for any work associated with such sign an insurance certificate made out to the city as evidence that the lessee has in force a public liability insurance policy insuring the lessee's liability for damage or injury to persons or property upon the leased public property. Such insurance policy shall be approved by the city and shall be issued by an insurance company licensed to do business in the state. Each such insurance policy shall have minimum liability insurance coverage of \$300,000.00 for death or personal injury, and the premium therefor shall be prepaid by the lessee. Any lapse of the minimum insurance coverage shall be cause for immediate removal of the sign by the city.
- (i) *Wall signs.* Wall signs may be permitted upon buildings or structures in the C-1A, C-1, C-2, C-P, M-1, M-2 and P-1 zoning districts subject to the following:
- (1) *Sign location:* Walls signs may be placed on the building elevation or on a detached wall or fence located on the premises which surrounds all or a portion of the premises.
 - (2) *Sign size:* The maximum size shall be calculated based on the location of the sign as follows:
 - a. *Front elevation or detached wall/fence:* Wall signs installed or affixed onto the front elevation of a business or on the detached wall or fence shall not exceed a maximum of 15 percent of the front wall area, provided that the maximum size of any sign shall not exceed 275 square feet.
 - b. *Other elevations:* The size of a wall sign installed or affixed onto any elevation other than the front shall be a maximum of ten percent of the wall area, provided that the maximum size of any sign shall not exceed 200 square feet.

Relationship of wall signs to roofline. Wall signs shall not extend a vertical distance of more than six inches above the visual roofline at the top of the wall, including the top of a canopy, mansard, parapet or marquee.

- (3) *Placement of wall signs:* Each separate business may install or affix a wall sign onto multiple elevations of the actual business premises occupied by such establishment meeting the overall sign size restrictions. The elevations of the business chosen for the placement of the signs shall be at the discretion of the applicant.
- (4) *Sign height:* Wall signs shall not extend more than six inches above the visual roofline including the top of a canopy, mansard, parapet, or marquee.
- (5) *Multiple tenants:* A multiple-tenant shopping center of three or more separate establishments in the C-1, C-2 or C-P zoning district may, in addition to the wall signs for the business

establishments, install or affix two wall signs containing only the name of the shopping center. The location and size requirements shall be as provided for in subsections (c)(2) and (3) of this section 72-14.

- (6) Wall signs shall not be used in combination with projecting signs in meeting the requirements of this section.

(Ord. No. 2012-27, § 2(exh. A), 12-18-2012; Ord. No. 2013-30, § 1, 12-3-2013; Ord. No. 2014-22, § 1, 9-3-2014)

Sec. 72-18. - Sign regulation summary chart.

SIGN TYPE	DEFINITION	ALLOWED IN	NUMBER	LOCATION	SIZE	HEIGHT	LIGHTING	NOTES
TEMPORARY SIGNS NOT REQUIRING A PERMIT								
Banners, streamers and pennants	Sign with characters, letters, illustrations, logos, or ornamentalions applied to cloth, paper, or fabric of any kind with only such material for a backing. Banners include any pennant-type sign and any animated, rotating, and/or fluttering device designed to attract attention. Balloons are incl.	-	-	-	N/A	N/A	If illumination is proposed, then the sign requires an electrical permit	Written approval - Up to 10 consecutive days, not to exceed 60 days in a calendar year
Constructio	A sign		1 per site	Setback:	32 SF		No	Posting:

n signs	advertising the construction of a development that has a valid building permit			10' min.	max.		illumination allowed	No earlier than 5 days prior to beginning of construction Removal: Prior to the issuance of a certificate of occupancy
Flags and feather banners			2 per site		Flags: 3' x 5' max.		If illumination is proposed, then the sign requires an electrical permit	Use of more than 2 flags or feather banners requires written approval and has the same time constraints as other banners
Fundraising drives/events signs			1 per site		16 SF max.	8' max.	If illumination is proposed, then the sign requires	Posting: No earlier than 30 days prior to the event. Removal:

							an electrical permit	no later than 3 days after the event
Future construction signs	A sign advertising future construction for which there is approval that has not expired		1 per site	Setback: 15' min.	32 SF max.		No illumination allowed	90 days max.
Garage, yard and carport sale signs			2 per site 1 additional sign may be posted at the entrance to the subdivision (not within the ROW)	Not allowed on fences or utility poles	6 SF max.	4' max.	No illumination allowed	Posting: No earlier than 2 days prior to the sale. The sign at the entrance to the subdivision may be posted 1 day prior to the sale Removal: No later than the conclusion of the sale
Help wanted			1 per site	Setback: 7.5' min.	2 SF max.			

signs								
Holiday decorations				Setback: 10' min. unless mounted on an existing structure or tree		Clearance: 6' within 55' of 2 streets or street and driveway intersection		Up to 60 consecutive days, not to exceed 60 days in a calendar year
Inflatable signs/balloon signs						40' max.		10 consecutive days, not to exceed once every six months
Model home signs			1 per model home	Setback: 10' min.			No illumination allowed	
Open house signs			1 per open house Plus 1 at entrance to subdivision	Setback: 10' min. Posting of sign at house for sale or subdivision entrance	8 SF max. each		No illumination allowed	1 day prior to the event and during event
Political signs	A sign or poster advertising		1 per candidate or	Allowed within ROW but	In Residential zoning: 8			Removal: No later than 5

	either a candidate for public office or a political cause subject to an election		referendum issue per site/tenant	no closer than 7.5' from the street pavement, or 5' from the edge of a sidewalk, bike path or pedway	SF max. Nonresidential zoning: 16 SF max.			days after the election
Real estate signs (residential)	-	Residential Properties	1 per interior lot; 1 per street frontage	Setback: 10' min.	8 SF max.	8' max.		
Real estate signs (all other)	-	Nonresidential Properties (businesses and institutional)	1 per interior lot; 1 per street frontage	Setback: 7.5' min.	16 SF max.	8' max.		
Sandwich boards	Folding two-sided "A" frame sign		1 per business		2' wide max.	4' max.		
Seasonal/holiday signs	-	Shall be approved in writing by the Building Department	-	Not allowed on utility poles, public property or ROW	75 SF max.	N/A		Up to 28 consecutive days, not to exceed a total of 60 days in a

								calendar year
Special event signs	-	Shall be approved in writing by the Building Department	1 per month		75 SF max.	8' max.		Posting: No earlier than 3 days prior to the event Removal: No later than 2 days after the event
Temporary signs not elsewhere identified					6 SF max.			

TEMPORARY SIGNS REQUIRING A PERMIT

Mobile signs	A sign that is transportable, whether on its own trailer, wheels, or otherwise, and which is self-supporting and, when placed, is not permanently attached to the ground or	C-1-A, C-1, C-2, C-P, M-1, M-2 and P-1 zoning districts	Total of 1 per business	Setback from ROW: 10 ft. min.	32 SF max.	8' max.	"25 watts max.; 12 incandescent lamps max. No red, green or blue, or flashing incandescent lamps allowed	May allow for up to 6 periods of 14 consecutive days during any 12-month period
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	building							
Residential community development signs	A sign advertising a new residential community development	Residential communities with lots/homes for sale	1 per development site	Setback from property lines: 10' min.	32 SF max.	15' max.	If illuminated, an electronic permit required	Allowed until the last Certificate of Occupancy is issued if the development has valid building permits. If the building permits are expired, the sign must be removed 6 months after the latest certificate of occupancy was issued

PERMANENT ON-SITE SIGNS

Detached	A sign supported independently of the structure on the premises	C-1A, C-1, C-2, C-P, M-1, M-2 and P-1 zoning districts	Single Use: 1 per site Shopping Centers: 1 per site frontage	Setback from ROW: 10' min. Setback from property	10% of front facade area or 100 SF whichever is less	12' max.	Lighting reflectors may project beyond the face of the	Shall be landscaped at base with min. of 1 sq. ft. of landscape
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	on which it is located		(at least 300' apart)	lines: 7.5' min.	Shopping centers allowed a max. of 150 s.f. Must display the center name		sign	material for every ft. of sign area. Prohibited if interferes with mature growth of trees
Detached - Scenic corridors	US 192, Wickham, Minton, Dairy, Palm Bay roads are established as scenic corridors	C-1A, C-1, C-2, C-P, M-1, M-2 and P-1 zoning districts	Single Use: 1 per site Shopping Centers: 1 per site frontage (at least 300' apart)	Setback from ROW: 10' min. Setback from property lines: 7.5' min.	Scenic Corridor: 72 SF; Shopping centers allowed a max. of 150 s.f. Must display the center name	12' max.	Lighting reflectors may project beyond the face of the sign	Shall be landscaped at base with min. of 1 sq. ft. of landscape material for every ft. of sign area Prohibited if interferes with mature growth of trees
Directory	A sign (can include maps, images and wording) which gives the name and/or occupation of the	Sites that contain two or more buildings with multiple tenants	1 per entrance to a multiple tenant building and a 2nd one if the property	Setback from ROW: 20' min Setback from property lines: 7.5' min.	24 SF max.	10' max. Letters: 2" max.	If illuminated, an electrical permit required	Allowed in addition to detached signs. Shall only contain business names

	occupants of a building or gives the use of the building		is on a corner at the other road entrance					and addresses for on-site businesses
Driveway Entrance and Exit Signs	A sign located at a driveway relating in its subject matter to the name, location or directions for locating any organization, building, or other identifiable landmark	Any business, multifamily residential or institutional driveway areas	2 per entrance /exit driveway	On each side of entrance and exit driveways	2 SF max.	4' max.	If illuminated, an electronic permit required	Allowed in addition to allowable detached signs
Gas and Fuel Station Signs - Detached	A sign visible from the abutting road right-of-way reflecting the current retail price of the various grades of gasoline	Any business where gasoline is sold	1 per detached sign provided on the site	Attached to detached business sign	4 SF min./8 SF max. for each grade of fuel	Lettering height: Fuel price = 16" min. Fuel grade = 3" min.	N/A	
Gas Station Signs -	A sign mounted to the	Any business where	1 per street frontage,	Fuel island canopy;		Shall not extend	No backlighting with	Not painted in neon

Canopy	covering above the fueling stations that reflects the single name and logo of the gasoline vendor	gasoline is sold	or total of 2	choice of street frontage display for corner lots or one on each		above or below the fascia of the canopy	neon, scintillating illumination	colors
Interchange Signs - Adjacent to Interchange	A sign displaying business information to motorists along I-95.	Interchange Commercial Overlay district, if the site meets the following: Size: 1 ac. Site Location: Within 1 mile from I-95 interchange Frontage: 200' along Interstate	1 per site (in addition to a permitted detached sign)	In close proximity to the interstate and away from adjacent properties and other ROWs Setback from Interstate: 50' max./7.5' min. Setback from other ROW: 50' min. Property line setbacks: 10' min.	400 SF max.	60' max.	N/A	If a business within ½ mile can demonstrate visual obstacles to a proposed business (show on-site plan, line of site drawing, photos, etc.), then 60' tall sign allowed by staff
Interchange Signs -	A sign located	Interchange	1 per site (in	Setback from	250 SF	45' max.	N/A	

Within ½ mile of Interstate	within ½ mile from the centerpoint of the interchange	Commercial Overlay district, if the site meets the following: Site Size: 1 ac. Site Location: Within 0.5 miles from I-95 interchange Frontage: 100' along Interstate or arterial road	addition to a permitted detached sign and previously only on arterial roads). Now proposed to be on any local road	ROW: 20' min. Setback from property lines: 10' min. Minimum of 110' separation distance to sign on adjacent property. Minimum of 500' separation distance to existing billboards	max.			
Neighborhood Identification Signs (monument or wall signs)	A sign, masonry wall, landscaping, and other materials or features may be combined to advertise a neighborhood	Neighborhood entrance	2 (one on each side of the entrance)	At neighborhood entrance Setback from ROW: 10 ft. min.	Sign and support structure: 150 SF max. Symbols and lettering: 15% of sign area max.	N/A	N/A	Limited to the tract or neighborhood name
Projecting - single tenant	A sign which is affixed to any	Single tenant sites in the C-1A, C-1,	1 per elevation or 2 total	Building wall or fence at right	Front elevation: 275 SF or 15% of	No more than 6" above	N/A	Projecting signs can not be used in

	building, wall, or structure and which extends more than 12 inches horizontally from the plane of the building wall	C-2, C-P, M-1, M-2, and P-1 Zoning Districts		angle to surface	front wall area, whichever is less Other elevations : 200 SF or 10% of wall area, whichever is less Horizontal width: 4' max.	the visual roofline at top of wall and cannot project above the roof or cornice wall or above the roof level where there is no cornice wall		combination with "wall" signs to meet requirements
Projecting - shopping center	A sign for a shopping center which is affixed to any building, wall, or structure and which extends more than 12 inches horizontally from the plane of the building wall	Shopping centers with 3 or more separate establishments in the C-1, C-2 or C-P districts	2 (in addition to the "wall" signs allowed for individual tenants)	Building wall or fence at right angle to surface	Front elevation: 275 SF or 15% of front wall area, whichever is less Other elevations : 200 SF or 10% of wall area, whichever is less Horizontal width: 4' max.	No more than 6" above the visual roofline at top of wall and cannot project above the roof or cornice wall or above the roof level where	N/A	Signs may display the name of the shopping center only. Projecting signs shall not be used in combination with "wall" signs to meet sign requirements

						there is no cornice wall		
Subdivision or Development Sign (monument or wall signs)	A sign having as its sole purpose the marking of the entrance to a subdivision	Subdivision or development entrance	2 (one on each side of the entrance)	At subdivision entrance Setback from ROW: 10 ft. min.	Sign and support structure: 250 SF max. Copy area: 64 SF max.	12 ft. (top of support structure)	N/A	Limited to the name of the subdivision or development
Wall Signs - single tenant	A sign which is affixed to or painted on the wall of any building and which projects not more than 12 inches from the building.	Single tenant sites in the C-1A, C-1, C-2, C-P, M-1, M-2, and P-1 zoning districts	1 per elevation or 2 total	Building wall or fence	Front elevation: 275 SF or 15% of front wall area, whichever is less Other elevations: 200 SF or 10% of wall area, whichever is less	No more than 6" above the visual roofline at top of wall	N/A	Wall signs shall not be used in combination with projecting signs to meet sign requirements
Wall Signs - shopping center	A sign which is affixed to or painted on the wall of any building and which projects	Shopping centers with 3 or more separate establishments in the C-1, C-2 or C-P	2 (in addition to the "wall" signs allowed for individual	Building wall or fence	Front elevation: 275 SF or 15% of front wall area, whichever is less Other	No more than 6" above the visual roofline at top of	N/A	Signs may display the name of the shopping center only. Wall signs shall not be

	not more than 12 inches from the building	districts	tenants)		elevations : 200 SF or 10% of wall area, whichever is less	wall		used in combination with projecting signs to meet sign requirements
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PERMANENT OFF-SITE SIGNS

Digital billboard signs	Means any combination of structure and message in the form of an outdoor advertising sign, intended to advertise or inform by means of an electronic digital display	Interchange Commercial Overlay district which includes the C-1, C-2 and C-P, M-2, R-2 & R-3; Property size min.: 1 acre Frontage: 200' along I-95	1 per site	Setback from Interstate : 15' min Setback from other ROW: 50' min. Setback from property lines: 10' min. Setback from Single-Family Zoning District: 150' min. Distance from billboards on abutting sites: 1,000' min. Distance	No more than 65' above the crown of the closest point of adjacent limited access State road, defined in Florida Statutes as "Main-traveled way"	Sign must comply with criteria in Section 72-15	Sign must comply with criteria in Section 72-15
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				from billboards across I- 95: 350'			
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(Ord. No. 2012-27, § 2(exh. A), 12-18-2012; Ord. No. 2013-30, § 1(Exh. A), 12-3-2013; Ord. No. 2014-21, § 2, 9-3-2014; Ord. No. 2014-22, § 2, 9-3-2014; Ord. No. 2015-18, § 2, 9-22-2015)