

**TOWN OF MALABAR  
REGULAR TOWN COUNCIL MEETING  
MONDAY, MARCH 05, 2018, 7:30 PM  
2725 MALABAR ROAD, MALABAR, FLORIDA  
AGENDA**

- A. CALL TO ORDER, PRAYER AND PLEDGE**
- B. ROLL CALL**
- C. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES:**
- D. CONSENT AGENDA:**
- 1. Approve Council Meeting Minutes of 2/05/2018**  
        **Exhibit:**                    Agenda Report 1  
        **Recommendation:**        Request Approval
- E. PRESENTATION:** Institute of Elected Municipal Officials Certificate to CM White
- F. ATTORNEY REPORT:**
- G. BCSO REPORT:**
- H. BOARD / COMMITTEE REPORTS:**
- Follow-up on Fitness Course by Annelie Harvey
- I. STAFF REPORTS:**
- ADMINISTRATOR:** ILA for SW for one year at 2016 rates  
    **CLERK:**
- J. PUBLIC COMMENTS:** Comments at this point may address items NOT on the Agenda. Comments related to subsequent Agenda Items may be made as those items come up. Public comments do not require a Council response. (Speaker Card is Required) **Three (3) Minute Limit per Speaker.**
- K. PUBLIC HEARINGS/SPECIAL ORDERS: 0**
- L. UNFINISHED BUSINESS/GENERAL ORDERS:**
- ORDINANCES FOR FIRST READING: 1**
- 2. Building Codes Adopted (Ord 2018-01)**  
        AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, RELATING TO BUILDING CODES; AMENDING CHAPTER 6, SECTION 6-1 OF THE CODE OF ORDINANCES OF THE TOWN; PROVIDING FOR ADOPTION OF CERTAIN MODEL BUILDING AND CONSTRUCTION CODES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR AN EFFECTIVE DATE.  
        **Exhibit:**                    Agenda Report 2  
        **Recommendation:**        Request Approval of 1<sup>st</sup> reading of Ord 2018-01
- RESOLUTIONS: 0**
- MISCELLANEOUS: 1**
- 3. Approve Temporary Placement of RV while Home is Constructed – 2325 Quarterman Ln**  
        **Exhibit:**                    Agenda Report 3  
        **Recommendation:**        Approval for Six-Month Placement of Temporary Trailer
- M. DISCUSSION/POSSIBLE ACTION:**
- 4. Discuss Medical Marijuana Regulations or Prohibition**  
        **Exhibit:**                    Agenda Report 4  
        **Recommendation:**        Discussion and Direction
- N. PUBLIC COMMENTS: General Items (Speaker Card Required)**
- O. REPORTS – MAYOR AND COUNCIL MEMBERS**
- P. ANNOUNCEMENTS:** Vacancies: 2 on Bd of Adj; 2 on Pk & Rec Bd; 3 on T&G Com.
- Q. ADJOURNMENT:**

**TOWN OF MALABAR  
AGENDA ITEM REPORT**

**AGENDA ITEM NO: 1**  
**Meeting Date: March 05, 2018**

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

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**SUBJECT: Approval of Minutes**

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**BACKGROUND/HISTORY:**

Attached are the summary minutes for the following meeting(s):

- Regular Town Council Meeting – 01/03/2018
- Regular Town Council Meeting – 02/05/2018

The minutes are the official record of the actions taken by the Council.

**ATTACHMENTS:**

Draft Minutes of 01/03/18 and 02/05/18

**ACTION OPTIONS:**

The Town Clerk requests approval of the minutes.

**MALABAR TOWN COUNCIL REGULAR MEETING MINUTES  
JANUARY 03, 2018                      7:30 PM**

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

**A. CALL TO ORDER:**

Council Chair, Patrick T. Reilly called the meeting to order at 7:30 pm. CM White led the prayer and pledge.

**B. ROLL CALL:**

CHAIR:	MAYOR PATRICK T. REILLY
VICE CHAIR:	STEVE RIVET
COUNCIL MEMBERS:	GRANT BALL
	LAURA MAHONEY
	DICK KORN
	DANNY WHITE
TOWN ADMINISTRATOR:	DOUGLAS HOYT
TOWN ATTORNEY:	KARL BOHNE, Excused
DEPUTY TOWN CLERK/TREASURER:	MATTHEW STINNETT

For the record, Malabar Fire Chief Mike Foley is also present.

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

Mayor asked if there were any: Correction it is Wednesday not Monday.

**D. CONSENT AGENDA:**

**1. Regular Town Council Meeting Minutes 12/04/17**

**Exhibit:** Agenda Report No. 1

**Recommendation:** Request Approval

**MOTION:** CM Rivet / CM Ball to approve the 12/04/17 minutes as presented.

Discussion: CM Mahoney stated the minutes are the public record for the people we really need to work together to have a true representation. Another issue with the minutes is that corrections need to correlate with the minutes that are being corrected. In other words, you cannot have the correction be in the following months minutes which is what is being typically done and has even been done in the past few months so the correction is in the minutes of the next meeting. CM Mahoney then presented a copy of what she read on December 4<sup>th</sup> 2017 District 2 report. (See attached)

CM Korn: In reference to paragraph 3 of CM Mahoney's hand out. Stated that Mr. Krieger was removed for a lack of performance, not just because Mr. Krieger was no longer a Council Member. Your statement is wrong.

CM Mahoney: The statement is accurate as what is written in the minutes from the spring.

Further disagreement between CM Korn and CM Mahoney.

Mayor Reilly: Are there any changes to the minutes for December 4, 2017?

CM Mahoney: I cant approve the minutes because they get corrected at the following. Do you understand?

Mayor Reilly: I have said this before but it is corrected following the meeting.

**Vote:** Ayes, 4; Nay, 1 (CM Mahoney). Motion carried 4 to 1.

**E. ATTORNEY REPORT: not present**

**F. BCSO REPORT: not present**

**G. BOARD / COMMITTEE REPORTS:**

P&Z: Chair Liz Ritter: Not present.

T&G: Chair Drew Thompson Not present.

Mayor Reilly: Stated that they have not met recently but passed along a question about when the bathroom ribbon cutting would be.

TA Hoyt: I will address this in my report.  
Parks & Rec: Chair Hans Kemmler: Not present.

**H. STAFF REPORTS:  
ADMINISTRATOR:**

TA Hoyt: Pending decent weather Ribbon cutting on January 23<sup>rd</sup> at 1:00 PM various public officials and media members have been invited. Encouraged council to be present, an invite will be sent out via email.

TA Hoyt: Read the Boy Scouts of America thank you letter to Council. (see attached) Provided a personal check for \$500 made out to the BSA troop.  
CM Korn: Also a thank you to the fire department for taking care of the BSA equipment in the mean time.

TA Hoyt: Noted the survey stakes along Malabar Road and stated that he will be meeting with people from the State tomorrow but he did not have any further information.

CM Korn: I believe they are in regards to the turn lane projects and voiced his opposition to turn lanes being added.

CM Mahoney: Asked for an estimated start date the Rocky Point stormwater project at John Geil's property.

TA Hoyt: Responded that further investigation into the issue has deemed it to be outside of the Town's responsibility as it is private property.

CM Mahoney: Harris and Digital graphics agreement for the railroad, what is the status?

TA Hoyt: We are waiting to hear back from them.

Mayor Reilly: Stated that he had spoke with people at Harris and it is in the works.

Mahoney: Directed question to the clerk regarding her email sent about the equipment used on the 14<sup>th</sup> and 15<sup>th</sup> of December.

TA Hoyt: Responded, explaining that the equipment was rented for two days for the contractor installing the shade covers on the playground. The Town then used the lift after the contractor was finished to decorate the tree.

TA Hoyt: If we get a list of questions ahead of time we can better answer them rather than going off memory.

CM Mahoney: Stated that she did not have time and was working on them up until just before the meeting.

CM Korn: Requested to pass a resolution to recognize/memorialize Mr. Cameron.

**MOTION:** CM Korn / CM Rivet To formally memorialize by resolution, the recent passing of Mr. Cameron and recognize his contributions to the Town.

**Discussion:**

CM Rivet: Concurred with CM Korn that we need to recognize people who contribute significantly to the Town.

Mayor Reilly: I will work with the Clerk to get this together.

**Vote:** Ayes, 5; Nay, 0.

CM Mahoney: Questions to the clerk on the status of her requests for information about the accounting for fall fest, records regarding the culvert repair at 2885 , and why her requested article was not in the Mailboat about an illegal flyer.

CM Korn: Made comment stating that the flyer although shocking was not illegal and questioned CM Mahoney as to her source that claimed it was illegal.

CM Mahoney: Stated that her source was Scott Ellis and the Ethics Commision.

**CLERK:** Nothing to report.

**Fire Chief:** The department ran 544 calls this year compared to 437 in the prior year. Noted the E-drolics tool handout and invited everyone to attend a demonstration of the tool at the fire department on the 27th. The department had a total of 18,405 hours this year from 34 volunteers compared to 21,214 with 58 volunteers last year. Stated that the difference was the result of higher training and certification requirements they are placing on volunteers.

TA Hoyt: Stated that the Town saved roughly \$450k from the use of volunteers, we lose allot of good people to other cities. If we went to Brevard County we would be paying the County the amount of those savings.

CM Korn: Why don't we have more Malabar(resident) volunteers in our department?

**I. PUBLIC COMMENTS:** Comments at this point may address items NOT on the Agenda. Comments related to subsequent Agenda Items may be made as those items come up. Public comments do not require a Council response. (Speaker Card is Required) **Three (3) Minute Limit per Speaker.**

None.

**J. PUBLIC HEARINGS/SPECIAL ORDERS: 0**

**K. UNFINISHED BUSINESS/GENERAL ORDERS**

**ORDINANCES FOR FIRST READING: 0; RESOLUTIONS: 0; MISCELLANEOUS: 1**

**2. Cancel 2<sup>nd</sup> meeting in February**

**Exhibit:** Agenda Report 2

**Recommendation:** Action

**MOTION:** CM Korn / CM White to cancel the 2<sup>nd</sup> meeting in February.

Discussion: **Vote:** Ayes, 5; Nay, 0.

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

**3. Digital Information / Granicus Information**

**Exhibit:** Agenda Report 3

**Recommendation:** Discussion and Direction

Mayor Reilly noted that CM Mahoney requested this item. Per Resolution 04-2016 there is a process to be used when residents desire to advance an agenda item. For the record, a copy of this Resolution has been provided to each Council Member.

**Speaker Card:** Dawn Danielson: Read from her notes(notes provided) spoke on the features of the Granicus video encoding and agenda management software.

CM Ball: What other cities use it? Does it come with all of the necessary equipment?

Mrs. Danielson: No. The Town would also need to purchase the support equipment such as a camera.

CM White: There is a \$4,600 set up and \$3,900 annual fee, we didn't come up with the money for BSA fence why would we entertain this idea right now.

CM Rivet, CM White: Both commented that money was not put in the budget for this, we can continue to discuss this later when budgeting for next year.

Mayor Reilly: We previously discussed this at budgeting workshops, and last month and agreed that we did not want to do this.

CM Korn: I don't think we need this expense but, we also have to talk about the digitizing.

Recommended having a professional make a presentation to the council.

CM Rivet, CM Ball and CM White: Discussed the general value of having digitized records

**Speaker Card:** Holly Yolles 2365 Corey Road: I have trouble getting here on time due to work so it would be helpful to have the video and records online.

**No direction provided to staff.****4. Improve Eva Lane (Quarterman Lane portion) south to Atz Road**

**Exhibit:** Agenda Report 4  
**Recommendation:** Discussion and Direction

Mayor Reilly: Stated that CM Mahoney requested this item.

**Speaker Card:** Dawn Danielson read off of notes(See attached), urged council to consider improving Quarterman Lane's stormwater utility as a matter of health and safety.

**Speaker Card:** Jeff Darby 1285 Hall Road: Stated his opposition to the opening and paving of Quarterman Lane to Atz Road.

CM Korn: Stated that these houses are in flood zone A, and gave his opinion that perhaps the Town shouldn't have allowed homes to be built in these areas. Also provided commentary on the need to study this topic further.

TA Hoyt: We have looked at Quarterman Lane, 2600 ft long only 960ft is accepted. The cost to improve the accepted portion is ~\$100,000 the rest would cost roughly \$300,000 to \$400,000. Mitigating wetlands is extremely expensive but, it can be done. We are working to get a permit to make some drainage improvements.

Mayor Reilly: Noted the packet and house layout in reference to accepted and unaccepted portions of the road. The last five residents are on the unapproved section of road.

CM Korn: Discussed other drainage problems in the town, such as on Hall road on the east end.

CM White, CM Mahoney: Discussed some of the stormwater issues surrounding Quarterman Lane.

Mayor Reilly: Noted that this was a discussion about paving we can discuss drainage issues later.

**No direction provided to staff.****M. PUBLIC COMMENTS: General Items (Speaker Card Required)**

**Speaker Card:** Kenny Dreer 1390 Hall road: Hurricane Irma caused allot of flooding in my area. Afterwards, I spent some time with the Town Administrator Mr. Hoyt and the Town Engineer Mr. Smith and the issue is that we need to get the water out of the Town. Mr. Dreer noted that fixing culverts on the interior waterways moves the water around the Town but doesn't help get rid of the water. Projects like Eva lane are a great point to move water out. Corey is specifically a bottleneck. Spoke to an idea he discussed with the Town Engineer regarding Stillwater preserve area. We can't maintain this area because it is private property. Benjamin Road area also has a blockage to the natural canal there. Installing a control valve at Corey and Malabar would help manage all the water pressure coming from these areas. As an example of this concept Mr. Dreer noted that Country Cove has interconnected ponds with a control mechanisim. Stillwater houses are not built up, all of their storm water system is underground. Mr. Dreer went on to note that the system is expensive but we can look into other funding sources to assist with this important improvement.

CM White: Asked for an explanation of the valve.

TA Hoyt: Explained that the valve is a water control device that can have several different features based on design and need.

CM Korn: South of Hall Road, east of Weber Road we need it to flow to the north side of Malabar and on to Turkey Creek. Commented on the need to maintain ditches that are located on private property.

Mr. Dreer: If we put in a 48 inch pipe with clean outs along Corey Road you are going to get increased water flow and benefit more people per square inch than all the cleaning in the world.

**Speaker Card:** Lance Sprague 2545 Billy Lane: Read from notes(Not provided to Clerk) regarding the paving of Eva Lane. He stated that it did not make sense to him, and that opening Quarterman as a collector would reduce traffic on Cory road and Weber road. Mr. Sprague also noted that drainage improvements could be made at the same time. Mr. Sprague then proceeded to question CM White if he had created a drainage council and if he had why was the public not noticed.

CM White: Responded that he did not create a drainage council, or committee or any similar organization.

Mr. Sprague: Read from his notes to comment on the discussion about digitizing records and updating the Town Website.

CM Korn: Noted that the office has been closed.

Mayor Reilly: Described the normal process of setting the agenda before calling the meeting to order and dismissing the speaker.

## **N. REPORTS – MAYOR AND COUNCIL MEMBERS**

CM Mahoney: Let's make 2018 a great year for Malabar. Let's put together a stormwater group of citizens together to be involved in and get their input. I'd also like to thank all involvement on Nextdoor and all of those that came out to this council meeting. Sincerely, thank you.

CM Rivet: Made comment to encourage everyone to be at Mr. Cameron's service.

CM Ball: I want to stay up with being fiscally responsible and continue to contribute to our reserves. We need to plan ahead for items not just make decisions. Noted the importance of planning ahead and budgeting for items, not just coming up with things we need in the middle of the year.

CM White: Going along with what CM Ball said the discussion about paving Quarterman appears to be a roundabout way of improving the storm water on Quarterman. Noted that he doesn't want to pave Eva Lane either but the Town has a responsibility to pave it since it has been made a through road. We are already going into the hole to pave Eva why would we want to create the exact same situation with Quarterman? I am all for making Malabar a better community. Noted that there are allot personal attacks being thrown around and provided as an example CM Mahoney's December 4, 2017 report which was handed out earlier in the meeting and the commentary "It is like reading a piece of fiction." CM White alluded to this a unnecessary commentary.

CM Korn: Drainage problems are not just a Malabar issue. It's a Brevard county issue. Eva was promised to be paved a long time ago and we approved it.

CM Mahoney: Addressed CM White after his report stating that she felt that he personally attacked her with his comments and explained that she was trying state her opinion and was restating what was stated in the minutes in the spring and that it didn't mesh with what was stated in the minutes recently. CM Mahoney also stated that she was not able to find evidence that Eva is a collector road.

CM Rivet: Eva Lane meets the definition of a collector road. The records may not be updated to reflect that, but it is still a minor collector by definition.

CM Mahoney and CM Korn continued to discuss stormwater issues within the Town.

Mayor: No report

**O. ANNOUNCEMENTS:**

**P. ADJOURNMENT:**

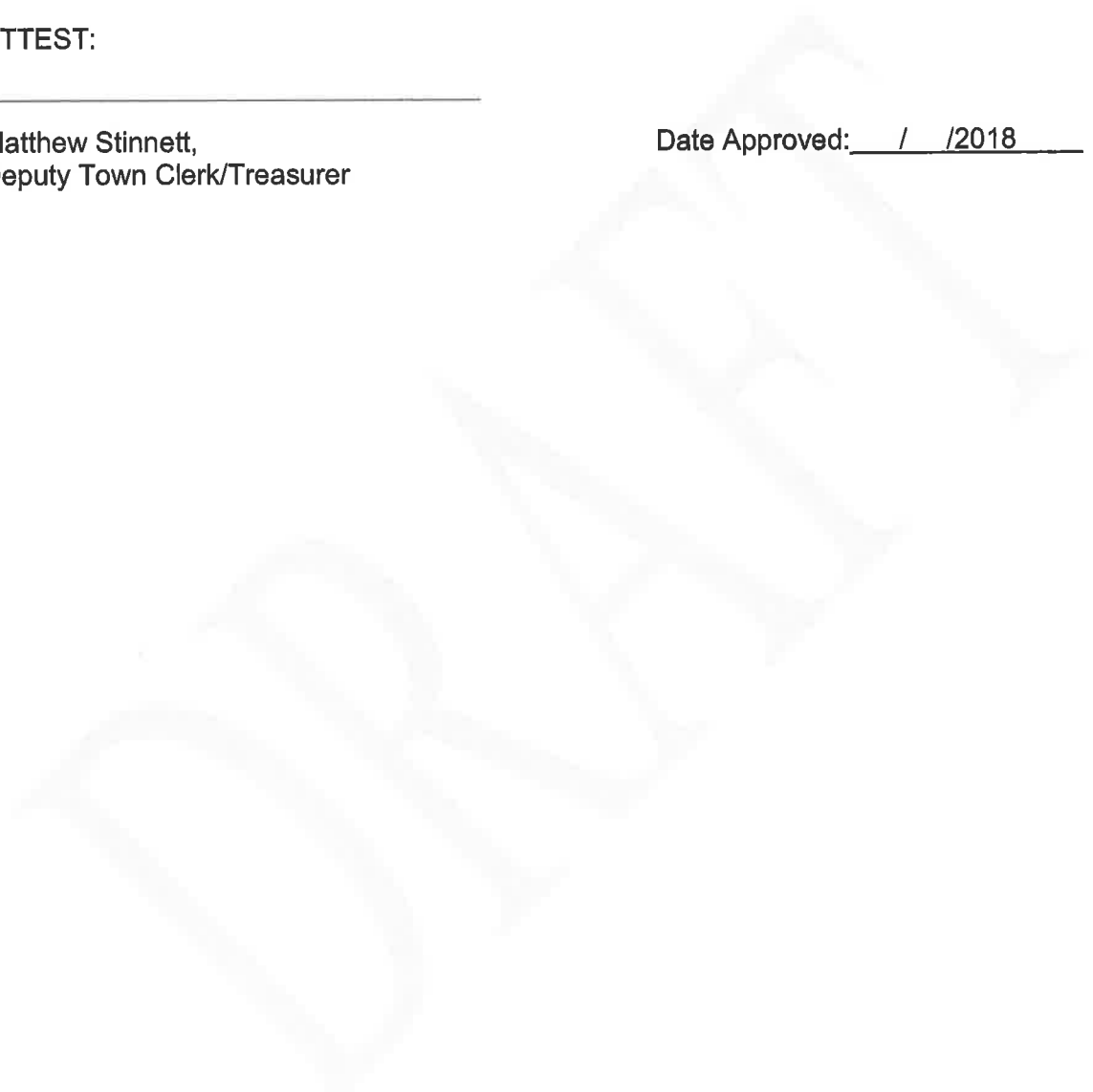
There being no further business to discuss and without objection, the meeting was adjourned by the Chair at 9:15 PM.

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

ATTEST:

\_\_\_\_\_  
Matthew Stinnett,  
Deputy Town Clerk/Treasurer

Date Approved: \_\_\_\_ / \_\_\_\_ /2018





December 4, 2017

District 2 Report

Laura Mahoney

**Agenda:**

**#4** Is incorrectly stated according to the last meeting. Should be discussion possible action about the TA's decision against Council's unanimous vote to continue Malabar BSA troop 37 storage. Not another vote on what has already been decided. *Mayor disagreed*

**Minutes: remove from consent agenda**

It is like reading a piece of fiction. Of course even if every other council member does proceed in approving these minutes, for the record, there was no audio source to check on and this is the Public Record regardless of the audio.

If you approve the minutes as such, then you have minutes that contradict minutes from the spring where Council removed Krieger from the TPO because he was not on Council and now these 11/20 minutes have the Mayor stating we do not need a Council rep because Krieger served when he was not on Council. Makes Council look stupid in the minutes according to the Public Records.

The conversation about closing Malabar Community Park for all camping and the Trailhead had nothing to do about water and construction. In fact it was clearly stated by me, that the Malabar Troop asked for the trailhead at a future date after finding the weekend they planned for was already reserved so they asked for the weekend after the current weekend was being used. Now you are going to write minutes indicating that the TA knew there was going to be some rain water saturation at that future date? Not to mention it was also clearly stated the reason was, because the new trailhead bathrooms could only be used once a month, at night, to the Scoutmaster.

Also the TA clearly stated he had the authority to close the parks anytime he wanted which the public clearly expressed concern for at the meeting.

The line at the bottom of page 2 should state that I asked about records of what Public Works is doing. (See attached) Also, since I read from Mrs. Szalanski's letter she received from the St. Johns River Water Management District, that needs to be attached. Do you need me to resend it too you?

Thank you.

**Staff comments & concerns:**

**TA:**

In light of the minutes and the Mayor's success in speaking with **Harris** regarding assistance in paying for the railroad crossing to their place of business, I might suggest conferring with them before the end of the year as maybe they would like to donate some funds as a tax right off that we could then be put toward our reserves due the **expenditure** to the **railroad**.

*(Doug responded in the affirmative and already plans to meet with Data Management as well!)*

We definitely need some accountability in Public Works. So, it seems according to the result of the latest Public Records request that took months to uncover, **even Town Hall is not aware of major work being done by Public Works**. This particular example is that of an entire culvert blocked (crosses Hall from South to North, East of the Ports' home). If this was not done by Public Works, but they (Public Works/Town Hall) were aware of this major drainage issue, which Town Hall was made aware of by the citizen requesting the public record, that needed some prompting to get a response, wouldn't it seem more

than reasonable to clean it out sooner than later? This is just one of many citizen's grievances over the lack of oversight and what seems to be mismanagement of public resources', ie. Time, money, labor, equipment and management. On some other culverts, the concern has been that if maintained right when starting to reveal wear, we could have saved money as well as labor.

I would like to note that it has been my observance since before and without question since maintaining the elected position, that staff runs this town. There seems no rhyme or reason why some things are brought before council when many other things are not. Dirt being given away processed in Malabar offered to citizens of Malabar for over \$100 a load and given away for free to residents outside of Malabar. So, how much did it cost us in Public Works time and money to help give away our dirt? It is my understanding there are no records? How was it done without a **written contract**? There was not a response? Was it verbal? Around that same time, nearly a year ago, we were **purchasing** dirt and having our Public Works department lay sod at the trailhead.

Where did the Atz road Ditch spoil leave to? Citizens will be able to purchase dirt? Now, I would put on the town site the information that dirt **may** be available in the future for \$165 a truck load as you stated in an email to me. Is that a dump truck full? Please post, thank you.

Reminder, please post the quarterly actuals. The citizens really do appreciate being informed. I believe 2 quarters have been missed. I would suggest a space on the front similar to the yearly budgets.

*Treasure will get to it.*

I believe a super great idea would be to have a posting tab of all new construction going on To have all permits and new construction information. This would not only accord in transparency. It would be for

public safety concerns as well. – could relate the incident from this weekend on Beekeeper Lane....

Request for **Kramer Lane** to have a **no outlet sign**. The Ireland's driveway is being used as a turn around.

**Clerk/Treasure:**

Just a question, why go through the labor of physically copying my reports when you receive them electronically? Just a question.(for Agenda) *They need to be made into a PDF- the whole packet*

For the past year you have sent me an Agenda packet electronically, was there a reason not to, this meeting? Maybe an oversight?

*Oversite*

In March minutes, you stated Council must trust staff to do the research for the Agenda items. Why are you not providing in the best interest of the citizens for that kind of information? One example is on this Agenda like in the past and evidenced by your email to the TA concerning the Malabar BSA troop's involvement with the town, stating "Sounds like she is expecting you to keep her files." That more than sounds as though you have no intention of keeping the records concerning the troop's legal activities in and concerning the town such as permits, COI's, countless projects for the betterment of the town and for the citizens young and old. Why?

**M.**

**3. Some thoughts to the numbers:** The conclusion we immediately thought during the workshop was we would certainly have a loss. But driving around new construction, I have noted the homes are on the high end in comparison to the average. I believe the values are going up which should surpass the loss. Having a clear observation. I.e. have a

posting tab of all new construction going on To have all permits and new construction information, as well as an accounting of this information for comparison will help us identify true loss vs.income.

4. It would be a shame to lose our town troop.

Note: The troop carries the Town Logo and wears it with pride. I believe many citizens would be disappointed in a decision to rid ourselves from this awesome group.

5. *Workshop January*

6. *Cost outweighs benefits. Public free to Video as they wish.*

### **My final District 2 Report:**

**Patty's culvert:**

**Public Records Request:** All public works work, Contractor (CDM trucking) and insurance records on the damaged Culvert at 2885 Weber Road. Explanation of Monetary expenditures verses quotas given by town and or contractor. Please include dates and copies of receipts.

**The main and I believe very simple, simple solution that would maintain a very carefree environment is to have a professional heavy equipment operator that knew how to properly grade the roads.**

**And a professional that could clear and maintain the ditches/slopes regardless of if that means adding dirt, clearing debris, or connecting drainage areas. Very simple but men who truly have the skills for the jobs.**

Thank You,

Laura Mahoney

[Cmdist2@townofmalabar.org](mailto:Cmdist2@townofmalabar.org)

(321)693-4314

January 3, 2018

District 2 Report

Laura Mahoney

**Minutes:**

The minutes are the public record. They are for the people. We really need to work together to have true representation.

Another issue with the minutes, is the corrections need to correlate with the minutes that are being corrected. In other words, you cannot have the correction be in the following month's minutes which is what is typically being done and has even been done in the past several months.

I have a copy for all of you of what I read from on December 4, 2017. You may look over them and decide if what was read from is what the minutes say.

Not sure why they were not included as an attachment.

**TA:**

Rocky Point Road Stormwater project, specifically related to John Geil, Do we have an estimated start date?

Harris and Digital Graphics agreement for the railroad. What is the Status?

*Debby Franklin*

*Today, 1:36 PM*

*Laura,*

*Per your request for the rental costs, PW hours and any other costs associated with decorating the Town for the Christmas season, I offer the following.*

*The Town asked the vendor putting up the shade sails if they could use the lift. The shade sail vendor paid for the lift. There was one person for 4 hours that went through the Christmas stuff to check it and sort it. Then three people for less than three days to set it up in front of the Town Hall and in front of the Fire Department and bring the Christmas decorations to town hall. And an additional 252.00 was spent on new lights and decorations.*

*I am copying this to the rest of Council in case they also had concerns about this expenditure.*

*Good morning Doug,*

*Please send me the rental fees, and public work man hours and all other fees associated with the tree trimming at the Malabar Community park this week. December 14th and 15th specifically.*

*Thank you,*

*Laura*

First off, this is all about customer service. When you have an interested public, take advantage of it and show interest in what interests them.

So, about the lift that was being used on December 14<sup>th</sup> and 15<sup>th</sup> to trim the trees. I got a reply about it was used to put the sails up and decorate, so again, my

question was specifically about trimming trees on the 14<sup>th</sup> and 15<sup>th</sup>, so do we still have free access to the lift and how long do we have access to it? Certainly we need to thank them

### **Clerk/Treasure/Elections Supervisor/Editor**

Reminder, I still have not received the accounting for Fallfest.

Reminder from Dec 4, 2017 RTCM:

#### ***Patty's culvert:***

***Public Records Request:*** All public works work, Contractor (CDM trucking) and insurance records on the damaged Culvert at 2885 Weber Road. Explanation of Monetary expenditures verses quotas given by town and or contractor. Please include dates and copies of receipts.

Mailboat: I suggest we as council look over this before it gets printed as the information in this past newsletter was misleading and had a set political agenda that the majority of residents voted against in the 2016 election period.

I sent a piece that I stated in the subject line "mailboat insert" and it was not included. Here it is below:

To help preserve the betterment of our community, please help us locate any and all information you may have concerning the illegal yellow flyer mailed out to the residents of District 4 and 5 during our past election period. The "informing the Residences of Districts 4 and 5 Citizens Committee" appears to have no validity according to the Town of Malabar, Brevard County and the State of Florida. The Florida Elections Commission stated that it appears to have been done under the cover of darkness and is illegal. Your help is greatly appreciated.

Laura Mahoney  
cmdist2@townofmalabar.org  
(321)693-4314

#### **L.3: Digital Information:**

Report by Dawn

#### **L.4 Improve Eva Lane South to Atz Road**

Report by Lance

#### **My District Report:**

Let's make 2018 a great year for Malabar!

Let's put together a stormwater group of citizens to be involved in and get their input.

I'd also like to thank all the involvement on Nextdoor and all of those that came out to this council meeting. Sincerely, thank you!



Agenda Item L3: Granicus

(This is not part of the Digital Information Archiving topic)

“Government is at a crossroads: Budgets are limited and there’s more noise to cut through than ever, but citizens expect the public sector to engagement efficiently and effectively.”

- 1.) Who is Granicus? Merged with GovDelivery in Oct 2016, under the auspices of Vista Equity Partners, Granicus is the largest cloud-based company specifically in the government technology market. They encourage agencies to connect directly with citizens and increase citizen engagement and participation.

View their website at [Granicus.com](http://Granicus.com)

Valued at over \$300M, as the largest provider of communications solutions to government the products focus on

- citizen-facing messaging services
- growing your digital audience and building communities around data
- live-streaming government meetings and
- managing documents such as agendas and legislation

They currently serve over to 3,000 public sector government entities at the federal, state and local levels in U.S.

- 2.) Granicus pricing is based on our Town population... which is why this quote is far below the quotes you were previously received from the Town Clerk. The cost of technology has plummeted and the growth of the use of technology by government agencies has skyrocketed: also contributing to reduced costs.
- 3.) The quote you received in your packet is for their standard videostreaming offering. Granicus is willing to negotiate less expensive options, for example,
  - a. The (one time fee) AMAX Encoder with SDI (serial digital interface = HD for the Internet) could be replaced with a \$1000 less expensive Dell SDI; think BMW vs VW.
    - This may have less high resolution during videostreaming and could result in occasional pixilation, etc.
    - It would be expensive to replace with the AMAX later (\$3700 + any needed software upgrades)
  - b. The (annual subscription fee) Government Transparency Suite could exclude Video Indexing for \$1200 less per year.
    - This means one could not jump right to "Agenda Item L3" in the video but would require the user to do a manual search.
    - This item does require someone to add the indexing for specific meeting agenda items manually (either during the meeting or after the end of the meeting.)
    - This feature would not be difficult to add at a later date.

The annual quote is for an unlimited number of meetings and unlimited audio/video storage in the cloud. The ToM website would have a link to the videos stored in the cloud which would essentially be transparent to the end user... it would be basically similar to how the links to the agenda and minutes currently work.

- 4.) Town of Malabar can get a new quote within a few business days once desired details are specified

RTCM January 03, 2018  
Dawn Danielson

Agenda Item L4 Quarterman as an extension of Eva

Having this item on the agenda is a good beginning... and I sincerely hope it makes you thoughtfully reconsider the issues on Quarterman as a decision-bearing part of the final endpoint. Many members of this current Town Council went to Quarterman shortly after Hurricane Irma on September 10, 2017 and witnessed for themselves the health and safety issues that a half dozen (or more) homes on Quarterman experience for three to five weeks during every single substantial rainfall. Having one's septic drainfield flooded means not only having to go elsewhere to use the toilet, shower, and to wash both your dishes and your clothes, it also means wading through water contaminated by urine and feces... an overwhelmingly serious Health and Safety issue! I am asking, demanding, the Council move the priority of Quarterman (currently C on the Storm Water Drainage plan of 2014) to the very top and to **immediately** direct the Town Administrator to make it his top priority to clean/align/elevate the ditches on both sides of Quarterman, from Atz to Eva, so Quarterman storm water will flow north from Atz to Eva *as designed* and continue north under Malabar Road. Resolving this particular flooding issue **MUST** be our top priority as a Town because of the Health and Safety issues that threaten not only our residents on Quarterman but also their guests and service providers (USPS, Fed Ex, UPS, FPL, cable, etc.)

Failure to move Quarterman to the top of the SWD priority list and to direct the Town Administrator to fix Quarterman storm water drainage as *his* top priority ~~was~~ <sup>MAY BE</sup> <sup>considered</sup> be an act of malfeasance on the part of this Council, so I am asking herein that Council take this up for a Vote right now, right here, in this January 3rd, 2018 RTCM.

**MALABAR TOWN COUNCIL REGULAR MEETING MINUTES**  
**FEBRUARY 05, 2018                      7:30 PM**

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

**A.     CALL TO ORDER:**

Council Vice Chair, Steve Rivet called the meeting to order at 7:30 pm. CM Rivet led the prayer and pledge.

**B.     ROLL CALL:**

CHAIR:	MAYOR PATRICK T. REILLY, excused
VICE CHAIR: ACTING CHAIR	STEVE RIVET
COUNCIL MEMBERS:	GRANT BALL
	LAURA MAHONEY
	DICK KORN
	DANNY WHITE
TOWN ADMINISTRATOR:	DOUGLAS HOYT
TOWN ATTORNEY:	KARL BOHNE
TOWN CLERK/TREASURER:	DEBBY FRANKLIN

For the record, Malabar Fire Chief Mike Foley is also present.

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

Chair asked if there were any: none

**D.     CONSENT AGENDA:**

- 1. Regular Town Council Meeting Minutes 1/03/18 – not ready  
Workshop Minutes 1/22/18**

**Exhibit:**                      Agenda Report No. 1

**Recommendation:**        Request Approval

**MOTION:** CM Korn / CM White to approve the 1/22/18 workshop minutes as presented.

Discussion: CM Mahoney stated the minutes state that the Town of Malabar will never mandate water hook-up and it should say Palm Bay. CM White stated the emphasis was that water hook-up would not be mandatory if a waterline was extended. Correct. Chair asked Clerk to check and correct if necessary.

**Vote:** Ayes, 5; Nay, 0.

**E.     ATTORNEY REPORT:** 2 items: medical marijuana dispensary (MMD) moratorium ordinance expires next month. The regulations adopted by Malabar don't conform to the FS as amended (SB 8A). Malabar can change the ordinance to comply however – the regulations have to be consistent with what we do with pharmacies. Council choice is to: Do nothing, change Ord 2017-02 or SB8A allows us to ban them from the municipality. Satellite Beach allows them, Rockledge allows them, Melbourne bans them, Palm Bay bans. Atty thinks it would be difficult to regulate. He and staff needs guidance. CM Korn said if the will of Council is to not allow them we should authorize Atty to draft Ord to ban it. CM White would be against a ban. Representing the Town of Malabar, the majority of voters - the will of the people on that ballot issue. The banning would only be the dispensing. CM Ball agrees and said the will of the people. Easy road is to say no if that is an option. Do they have to make decision now? No. Atty said the Ord 2017-02 would be more restrictive than allowed by passage of SB 8A. CM Ball would like it on the agenda. Get info from Indian Harbour Beach Manager Mark Ryan on Med Marijuana Dispensaries (MMD). Put on the agenda for 3/5/2018. CM Mahoney has been to P&Z meetings.

Attorney then advised Council that the Town had been notified by law firm representing person at 2885 Weber Road that Town may be financially liable for injuries. At this point they are just seeking information on our insurance carrier. Attorney stated when a culvert is damaged, it is the

responsibility of the homeowners. For some reason the town got involved in the fast forward in 2017 a visitor got an injury and a claim will be made.

CM Korn said we didn't have obligation to get involved but we did. Attorney stated the demand is for our insurance information and then it will go from there.

CM Mahoney then asked Attorney about water/sewer utility sale agreement sent out by Clerk after last meeting, on page 9: A person can request water line to be extended and asked if all others would be required to hook up – attorney stated no mandatory requirement to hook up to water.

CM Mahoney asked about FLUM update: if they just had to update the conservation lands – asked Attorney if that would be enough. Franklin restated what the State Dept. of Economic Opportunity would be reviewing and it consisted of much more than just reclassifying the conservation lands.

CM Mahoney then asked what Council could do about the yellow flyer that went out before the election – she said it is very important to get to the bottom of this. She believes it was illegal. Atty said there was a certain requirement that deal with PACs. If you don't know who did it then it would be hard to pursue. She doesn't think Council should support it. CM White asked her what FS is being violated. She said it wasn't registered. Atty said there are a bunch of laws that apply to this. TA said what are the penalties? Atty said if you don't know who did it, how can you pursue.

**F. BCSO REPORT:** none present

**G. FDOT Presentation** – SR514 Widening – FDOT and Consultant Victor Poteat (attached)

CM Ball asked about difference between 3 and 5 class – distance between openings

CM Korn asked about width of lane 11' to Weber and 12' to Corey and the bottleneck between Corey and Marie Streets.

Victor Poteat said they developed this plan because of Malabar Reso sent in 2016 (Reso 06-2016) the preference was to go with shared lane and a lot had to do with the undeveloped conservation land.

TA asked for traffic decrease. Victor said it drops off from Babcock to Weber to Corey and has extended it out 5 years further. The results showed they couldn't make a case to impact EELs based on traffic.

CM Rivet said that this addresses CM Korn concerns about right turns

CM White asked about the timeline. Poteat said this timeline with approval June and design in 2022. FDOT said it is ranked #6 in the Space Coast TPO list. Poteat said the acquisition and construction have not been funded.

Roundabouts reduce the number of contact points. CM White asked if this is the same presentation they will show on 2/28? Yes, but the Public Hearing will be longer.

CM White then asked why the Public Hearing is being held in Palm Bay. Poteat said they did not think there was a place Malabar could have held it. CM White said there are several locations that would have worked but understands the advertising and mail outs have gone out.

Jim Ralston, has 30 years of driving tractor trailers. He stated without a break in the traffic, you will not be getting vehicles in to the roundabout. Roundabouts do not work. They are being taken out. If you do not get a break in the traffic, without traffic control devices like stop lights to allow the break you will not merge. He has driven over four million miles without an accident and he said they do not work.

**H. BOARD / COMMITTEE REPORTS:**

T&G – Drew Thompson – he will be brief – had some major TAC for Bike – he heard the similar plan at that meeting from Victor and impressed with the change. Encouraged with the possibility of the potential with the EEL coordination. Then the royal flush major event and great participation and attendance. DEP Cristine Small let them know – the concept of ecotourism – some of the potential is a Florida trail town. They are then connecting do other communities. He looked at the application. No obligation to see if there is potential for recognition. Thursday – tremendous event in Titusville – combo of high tech and the eco trails systems. Borrowed bike program- huge presentation. DC to Antarctica. Used mass transit and he got there. With a little tweaking – importance of planning for connectivity. Atz and Marie potential for another trailhead. Got a great place here and most of it is planning – next week's meeting they will be moving forward with it. Fla trail town concept. Participating with that. Local businesses may be interested in participating instead of using taxpayers.

Chair Rivet asked if there was any financial commitment required if they pursue the Florida Trail Town project? Drew said no, it is not a grant per se. The application would be filled out and then presented to the Town. FDEP referenced Dunedin as the example. Future paved paths between neighborhoods and HOAs. The State is looking to towns to spearhead this project.

CM Rivet asked Council if they would support this future approach. Council supports that.

CM Korn asked about growth to the north. Drew talked about the FPL power line. They have added the equestrian crossing at Marie Street on the FDOT widening plan.

CM Korn said when he moved here they were talking about the linear trail system. Drew stated that we are part of the South Brevard linear trail. Cape Canaveral is working on bike overpasses. PB is very close to getting to the Grapefruit Trail via the improvement at Babcock.

P&Z: Chair Liz Ritter: no one present.  
Parks & Rec: Chair Hans Kemmler:

**I. STAFF REPORTS:****ADMINISTRATOR: Ribbon Cutting at Trailhead**

TA thanked Barry Proctor and Kenny Dreer for helping to get elevations around the Town. CM Rivet thanked them for getting started on that. Locations with latitude and longitude will be posted to google earth. Equipment rental costs \$250 so it is still very valuable.

CM Mahoney read from paper re: ribbon cutting and asked about the total costs expended on the restroom project. She suggests connecting the ditches. TA said they are working on that right now. She had received questions from citizen on Quarterman ditches. She will connect the person with the TA. CM Mahoney asked where the dirt from Eva Lane project went.

CM White said Barry and Kenny took about 8 hours of their lives. They will be doing more in the future. Applause.

**FIRE CHIEF:** Chief went through pictures from the Fire House Subs Grant Award of 30K for Hurst extraction tools held last week. Thanks Council and residents for attending. Chief said the 50/50 grant from VFA provided gear for the fire fighters and they will also be getting Scott Pacs via grant that will cost the Town nothing.

Chief said that Hollywood's Gary Sinise also has a foundation that provides grant funds for fire departments as well as veterans issues. He mentioned possible HUD grant funds that may also be available for hardening the fire station / new city hall. Their goal is 2mil in grant for this year.

Any objections. None.

Chief got confirmation that the department also qualified for grant to provide decontamination kits to remove the cancer-causing carcinogens from fire fighters after being exposed in a fire scene. Got notice of approval just today for seven kits.

CM Mahoney thanked the Chief for doing a written report and for the department staff volunteer efforts in looking for and applying for grants.

Chief then went over the Fire Dept. activity report by the week and then the year to date statistics.

CM White – asked about Firehouse Subs donation. They raised 4.5 in the State of Florida. Support their restaurant.

**CLERK:** Fallfest Reconciliation showed expenses exceeded revenues but not by much and some of the expenses were for items that can be used at future events.

CM Mahoney stated the accounting did not include the employee cost to prepare for, work the event and clean up and citizens wanted that information.

**J. PUBLIC COMMENTS:** Comments at this point may address items NOT on the Agenda. Comments related to subsequent Agenda Items may be made as those items come up. Public comments do not require a Council response. (Speaker Card is Required) **Three (3) Minute Limit per Speaker.**

Speaker Card: Brain Vail, Smith Lane: Asked if Council could ask the voters if they want dispensaries in their backyards. Can they extend the moratorium out and ask the voters in November? Atty said at some point the moratorium comes to a point of being unrealistic. Vail would like it to go to the voters.

**K. PUBLIC HEARINGS/SPECIAL ORDERS: 0**

**L. UNFINISHED BUSINESS/GENERAL ORDERS**

**ORDINANCES FOR FIRST READING: 0; RESOLUTIONS: 0; MISCELLANEOUS: 1**

**2. Approve State Acquisition of 1.1 Acre Fern Creek Crossing for SR514 Widening**

**Exhibit:** Agenda Report 2

**Recommendation:** Action

TA introduced and explained the flooding problem. He explained the spillway for flood waters to continue under SR514 to ultimately reach Turkey Creek.

**MOTION:** CM White / CM Korn to approve Option 2.

Discussion: **Vote:** Ayes, 5; Nay, 0.

**3. Request to Designate Parcel 29370200253 as R/LC as Recommended by P&Z 12/7/15**

**Exhibit:** Agenda Report 3

**Recommendation:** Action

Jack Kirschenbaum – requesting the land use designation be changed to R/LC for the full depth to have a unified land use designation.

CM Ball spoke – if other citizens spoke against it – then he would not support this.

Chair passed the gavel to CM Ball stating the Robert's Rules of Order prohibit him from debating item as Chair. He will reclaim gavel after this item. CM Rivet said he had two residents that came in and spoke against and they do not want commercial property. CM Mahoney said continuous use then use it as RR. CM Korn said Malabar being a major corridor there should be commercial land use but protecting the rural residential area behind that is critical. He reiterated they are not changing any zoning; they are proposing to change

the picture of the future development. It was not exactly what everyone wanted but it protects the residents and increases the value significantly. Reasonable compromise.

Council consensus to leave it as it currently is and not revert it to R/LC or change the depth. CM Ball returns gavel to Chair.

#### **4. Request Council Support on Appeal to NPDES Permit Requirement**

**Exhibit:** Agenda Report 4

**Recommendation:** Action

TA gave overview and history going back to 1927 of the Federal Clean Water regulations created the National Pollutant Discharge Elimination System and how in Florida those regulations are enforced by the State and the State charges for the 5-year permit. Malabar has paid over 15K in permit fees since 2007. He has not determined how Malabar has benefited by having the permit. Malabar has no source point pollution industries that discharge into the waters of the State. He showed the stickers Malabar staff attached to all outfalls draining into the Indian River Lagoon that were provided as part of the permittee requirements. He detailed the extensive reports that are required to be completed with back up material that take huge amounts of time to complete. The TA read from a statement listing the reasons he felt his research supported the appeal to the State for the Town's cessation from the NPDES permit requirement.

TA stated he is traveling to Tallahassee to meet with the Department Head and present his findings at a meeting on Wednesday. He will formally make the request to terminate the requirement for Malabar to renew the NPDES permit. The TA's findings show that Malabar does not meet the criteria for urbanized development. Report attached.

TA gave overview and history going back to 1927.

Paid over 15K since 2007. Plus, we have had to complete reports. He didn't believe we met criteria for urbanized development. Report attached.

CM Ball does not support unfunded mandates.

**MOTION:** CM Ball / CM White to support appeal to DEP for NPDES Permit Requirement withdrawal. Discussion:

**Vote:** Ayes, 5; Nay, 0.

Attorney leaves

**M. DISCUSSION/POSSIBLE ACTION:**

**N. PUBLIC COMMENTS: General Items (Speaker Card Required)**

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

CM Ball: Thanked the Fire Chief for all he had done. Looks like he had pulled it for them. Chief is happy to do it for the residents.

CM Mahoney: CM Mahoney appreciates the increase in citizen participation.

CM Rivet: Appleby Lane situation – several years ago added fill to this road and it was full of metal. At one point they scraped up a lot of the metal but more of the metal is working its way back to the surface. If this was his road it would be very upset. Do we support studying this problem? CM Korn talked about a yard dog – magnetic rod. CM Ball said this is the wire mesh that was left after concrete is crushed.

TA said one resident is the only one complaining. They can bring in more road material and if it is not graded down to that point again. In this case he would recommend adding fill. CM

Rivet said he walks his dog down there and has seen the problem. Can put a layer of fill. CM Rivet asked for Council consensus. CM White asked if we have a yard dog. TA said yes.

TA said 3 possibilities: do nothing, add road material or pave it.

CM White said it is not responsible of them to do nothing. Consensus to spend to \$1,200 to get the road filled.

CM Korn: He has been away for 2 weeks from royal flush to the firehouse subs. That is great. Great for people of Malabar.

CM White: Drew brought up the bike beach and bus event in Cape Canaveral. Kiosk that has set up for bike rentals and uses an app on their phone. Did it there with grant funds from the State. It is still all about drainage. Today they started working on Gradall on the Hall Road project. More emphasis on the cleaning of the ditches instead of the mowing.

He doesn't want to micro manage the PW but would like to get a report so Council knows what they have done and what they plan to do in the future. He thinks most of their time is spent on putting out fires. Just thinking about this now. Focus on drainage.

Mayor: excused

**P. ANNOUNCEMENTS:**

**Q. ADJOURNMENT:**

There being no further business to discuss and without objection, the meeting was adjourned by the Chair at 9:30 PM.

BY: \_\_\_\_\_  
Steve Rivet, Council Vice-Chair

ATTEST:

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

Date Approved: 3/05/2018



RTCM 2/5/18  
Fire Chief

## Council meeting report

Good evening,

I would like to thank the Council for their participation on the new E Draulic tool and the residents that came out to support our Fire Department. I would also like to let you know that we will be receiving our new Scott air packs we applied for on the State Fire Marshal's grant. They will be shipped out to us on the 6<sup>th</sup>. This is a \$38,000.00 grant that we have received.

We received our confirmation on the first part of the forestry grant which is a 50/50 grant. We apply for this grant every year and this grant will help us get our bunker gear. This is the first part in which we were rewarded 8 new sets of bunker gear. We will pay \$8,000.00 for \$16,000.00 in gear. The second will be for more bunker gear and fire hose to add up to \$20,000.00 that we pay and in total of \$ 40,000.00

We are looking at new grants this year and looking for the 100% grants. Where we pay nothing if they are out there we are looking for them. Our goal this year is to find \$1,000,000.00 in grants if not more. One of the grants we just applied for is the Gary Sinise foundation (Lt Dan) which is for A Quantitative fit test machine. The grant is a \$9,354.00 so we don't need to outsource. This is a minimum savings of \$1,500.00 a year or more.

Every time we get a firefighter, the law states we must fit test them. I would like to Petition for us to apply for AFG or HUD grant. This grant is to consider getting a new Town Hall / Fire Station combination. The grant is a \$1,000,000.00 grant. I would like Council's permission to do this. Also, we put in for State of Florida Fire Marshal grant for cancer deacon kits. We were told today that we will receive this grant.

## RESOLUTION 06-2016

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A REQUEST FROM THE FLORIDA TRANSPORTATION PLANNING ORGANIZATION TO RECOMMEND A CONCEPT FOR THE WIDENING ON SR 514, MALABAR ROAD FROM THE WESTERN BOUNDARIES OF THE TOWN TO U. S. 1 (STATE ROAD 5) IN THE TOWN OF MALABAR; PROVIDING FOR DISTRIBUTION OF REQUEST; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, Malabar Road is a State Road that intersects the Town of Malabar from east to west at Township lines 28 and 29 in South Brevard County; and,

**WHEREAS**, SR 514 Malabar Road from US Highway 1 to Babcock Street (in Palm Bay) is approximately three and a half miles of which three miles is within the jurisdiction of the Town of Malabar; and,

**WHEREAS**, The Transportation Planning Organization has asked their input for multiple concepts as well as review of the currently accepted no-build two to three lane concept at the RTCM of April 18, 2016 and,

**WHEREAS**, the two four lane alternatives had negative effects on, future commercial growth, an active disk golf course, private lands, and the closure of a current through road serving the community and multimodal transportation and,

**WHEREAS**, the three lane alternative did not utilize land from the north side of the curve that is EELs and county lands, and did not implement a multimodal path on the north side of SR514, and not effect the active disk golf course on the south side of SR514; and,

**WHEREAS**, the townspeople have expressed a desire to expedite the already accepted and funded improvements to the Corey Road and Weber Road (project 413761) in order to improve traffic flow and alleviate current dangerous conditions..

**NOW, THEREFORE BE IT RESOLVED BY THE TOWN OF MALABAR OF BREVARD COUNTY, FLORIDA that;**

### **SECTION 1. Findings:**

1. The two lane (currently accepted) concept or a three lane modified concept be designed without south-side road closures and with north-side bike paths.
2. The state lands on the north side of the Malabar SR514 curve be utilized to enhance multimodal use.
3. Glatter Road (old Township Road) not be closed as it is currently accommodating horse, bike and multimodal traffic. Explore improvement of this road as an alternate downtown route.
4. Investigate fast tracking the improvements of Weber Road and Corey Road intersections.
5. Protect the current Disc Golf course.

### **SECTION 2. Severability.**

The provisions of this Resolution are declared to be severable and if any section, sentence, clause or phrase of this Resolution shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Resolution but shall remain in effect, it being the legislative intent that this Resolution shall stand notwithstanding the invalidity of any part.

**SECTION 4. Conflict.**

All resolutions or parts of resolutions in conflict herewith are hereby repealed.

**SECTION 5. Effective Date.**

This Resolution shall take effect immediately upon passage.

This Resolution was moved for adoption by Council Member Krieger.  
The motion was seconded by Council Member Ball (and, upon being put to a vote, the vote was as follows:

- Council Member Grant Ball Aye
- Council Member Brian Vail Aye
- Council Member Don Krieger Aye
- Council Member Dick Korn Aye
- Council Member Richard Kohler Aye

This Resolution was then declared to be duly passed and adopted this 6th day of June, 2016.

By: TOWN OF MALABAR  
Phil Crews  
Mayor Phil Crews, Council Chair

ATTEST:

Debby K. Franklin  
Debby K. Franklin  
Town Clerk/Treasurer



Approved for Legal Sufficiency:  
Karl Bohne, Jr.  
Karl Bohne, Jr., Town Attorney

Follow-up on Fitness Course

By

Annelie Harvey

# Fitness shed

Annelie <twc3219566914@earthlink.net>

Wed 2/28/2018 10:07 PM

To: Debby Franklin <townclerk@townofmalabar.org>;

 1 attachments (2 MB)

FITNESS SHED.pdf;

Hi Debby

Here is the rough sketch off the new storage shed.

The plan is to create a 3 sided structure with a metal roof. While it will provide some storage space and some "out of the weather" coverage it will be open and without a door. Furthermore, it will have two big window that will allow anybody to look into the shed.

As location for the shed we would like to place it on the east side of the Fitness Park near the road facing the Fire Department.

The expenses for the material and the labor to construct the shed would be covered by donations and volunteers.

Annelie Harvey  
phone 321.543.8093

Map Subject Property ( ) ( ) Open Map In New Window ( )

BCPAO ( )      Picto ( )      Google ( )      Bing ( )

Search by Account Number (Ex. 1234567 - More search options available soon.) Go!

- + Zoom In
- Zoom to Brevard County
- Zoom Out
- Find My Location
- Open Measure Tools
- Make a Map
- Open Settings Panel

Account: 2846300 Parcel ID: 28-27-35-00-510  
 Sale: N/A  
 BCPAO Market Value: \$1,324,870  
 Owners: Malabar, Town Of  
 Address: 1830 Malabar Rd Unit Century Malabar FL 32950

Details | Zoom | Clear | Hide Notice

[INSTRUCTIONS \(/Docs/misc/Instructions\\_MapSearch.pdf#20170405\)](#)

*Suggested AREA  
for shed*

Shed for Fitness Park

Wood frame structure - 4x4 corner posts (4' in ground)

- Metal roof

- Cement board sides

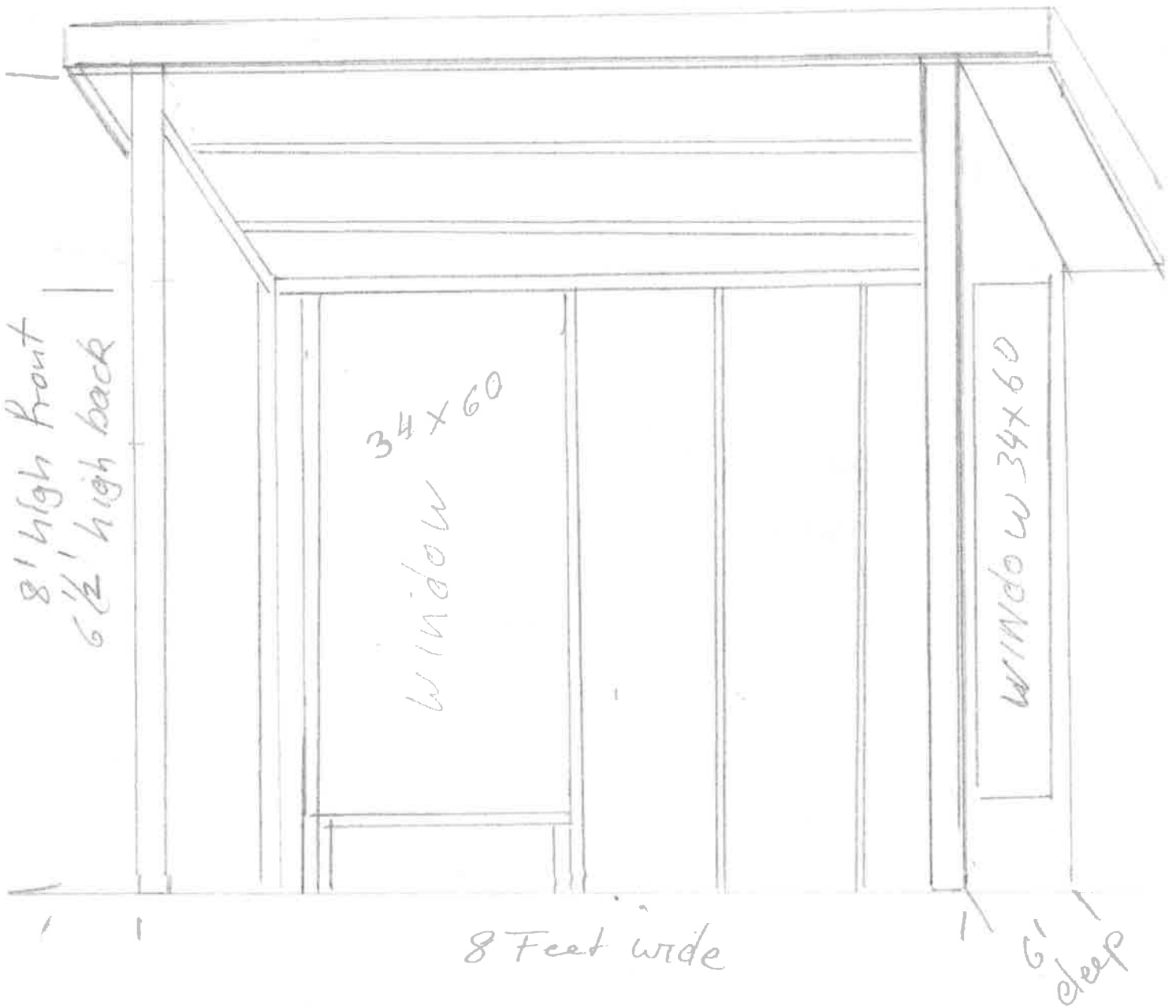
Size 8' wide 6 1/2' deep high front 8' back wall 6'

Roof size 10' x 8'

Side VIEW



# FRONT VIEW





**TOWN OF MALABAR  
AGENDA ITEM REPORT**

**AGENDA ITEM NO: 2**  
**Meeting Date: March 05, 2018**

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

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**SUBJECT: Adopt Building Codes per 2017 Florida Building Commission (Ord 2018-01)**

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**BACKGROUND/HISTORY:**

The Florida Building Commission meets and updates the various codes per F.S. 553 and they become the latest revision for municipal building departments to comply with in reviewing permit applications.

Ours are found in Chapter 6 of the Malabar Code of Ordinances (attached).

**FINANCIAL IMPACT:**

Typical legal cost to advertise the public hearing on 3/19/18 – approximately \$138.00.

**ATTACHMENTS:**

Chapter 6 of Malabar Code  
Ord 2018-01

**ACTION OPTIONS:**

Approval of First Reading of Ord 2018-01

## Chapter 6

### BUILDINGS AND BUILDING REGULATIONS\*

#### Sec. 6-1. Codes and amendments adopted.

As of March 1, 2012, the Florida Building Code supersedes all local building codes which are developed and maintained by the Florida Building Commission. It is updated every three (3) years and may be amended annually to incorporate interpretative and clarifications. The Code is composed of seven (7) main volumes:

- (1) The 2010 Florida Building Code, Building, which includes
  - (a) Chapter 13 Energy Conservation
  - (b) Chapter 11 Accessibility
- (2) The 2010 Florida Building Code, Residential
- (3) 2010 Florida Existing Building Code
- (4) 2010 Florida Building Code, Plumbing
- (5) 2010 Florida Building Code, Mechanical
- (6) 2010 Florida Building Code, Fuel Gas
- (7) 2010 Test Protocols for High Velocity Hurricane Zones

All codes that are specifically referenced by any of the above are hereby adopted by reference. These would include, but are not limited to:

- (1) The Florida Fire Prevention Code, 2010 Edition, Chapter 9
- (2) The National Electric Code (2008 Edition) N.F.P.A 70
- (3) National Electric Code for 1 and 2 Family Residences, N.F.P.A. 70A

The following Codes are also adopted:

- (1) The Standard Amusement Device Code, 1985 Edition

**\*Editor's note**—Ord. No. 06-02, § 1, adopted January 12, 2006, amended chapter 6 in its entirety to read as herein set out. Former chapter 6, §§ 6-1—6-9, pertained to similar provisions, and derived from Ord. No. 99-2, § 1, 6-21-99.

**Cross references**—Regulations regarding walls and fences, § 1-5.8, Land Development Code, Vol. II; building setbacks, § 1-5.10, Land Development Code, Vol. II; moving of structures, § 1-5.13 et seq., Land Development Code, Vol. II; construction of driveways, swales and other improvements affecting drainage, § 1-5.23, Land Development Code, Vol. II; model homes, § 1-5.24, Land Development Code, Vol. II; swimming pools, § 1-5.26, Land Development Code, Vol. II; drainage system, § 1-13.7, Land Development Code, Vol. II; landscape regulations, § 1-14.1 et seq., Land Development Code, Vol. II; sign regulations, § 1-19.1 et seq., Land Development Code, Vol. II.

**State law references**—Building construction standards, F.S. ch. 553; inspection warrants, F.S. § 933.20 et seq.; adoption of building construction regulations, F.S. § 163.3194.

- (2) The Standard Housing Code, 1994 Edition
- (3) The Standard For Unsafe Building Abatement Code, 1985 Edition
- (4) Life Safety Code (N.F.P.A. 101) 2003 Edition

The following amendments to the Florida Building Code are adopted.

- (1) Sec. 104.10.1, Florida Building Code, Building added

*104.10.1 Modifications of the strict application of the requirements of the Florida Building Code.* The Building Official shall coordinate with the Floodplain Administrator to review requests submitted to the Building Official that seek approval to modify the strict application of the flood resistant construction requirements of the Florida Building Code to determine whether such requests require the granting of a variance pursuant to Section 117.

- (2) Sec. 107.6.1, Florida Building Code, Building added

*107.6.1 Building permits issued on the basis of an affidavit.* Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), the authority granted to the Building Official to issue permits, to rely on inspections, and to accept plans and construction documents on the basis of affidavits and plans submitted pursuant to 105.14 and Section 107.6, shall not extend to the flood load and flood resistance construction requirements of the Florida Building Code.

- (3) Sec. 117, Florida Building Code, Building added

*117.1 Flood hazard areas.* Pursuant to section 553.73(5), F.S., the variance procedures adopted in the local floodplain management ordinance shall apply to requests submitted to the Building Official for variances to the provisions of Section 1612.4 of the Florida Building Code, Building or, as applicable, the provisions of R322 of the Florida Building Code, Residential. This section shall not apply to Section 3109 of the Florida Building Code, Building.

(Ord. No. 06-02, § 1, 1-12-06; Ord. No. 09-22, § 1, 5-4-09; Ord. No. 12-53, § 1, 4-16-12; Ord. No. 12-56, § 2, 8-20-12; Ord. No. 14-02, § 2, 2-3-14)

#### **Sec. 6-2. Penalty for violating codes.**

Whenever in any provision of any code adopted herein any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such codes the doing of any act is required or the failure to do any act is declared to be unlawful, the person, upon conviction by a court of competent jurisdiction, shall be subject to punishment as provided in section 1-13 of this Code of Ordinances, or as otherwise provided for by law. Each day any violation of any provision of such code shall constitute a separate offense. In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation of such codes

**ORDINANCE NO. 2018-01**

**AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, RELATING TO BUILDING CODES; AMENDING CHAPTER 6, SECTION 6-1 OF THE CODE OF ORDINANCES OF THE TOWN; PROVIDING FOR ADOPTION OF CERTAIN MODEL BUILDING AND CONSTRUCTION CODES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, it is the desire of the Town Council to adopt in all respects the various building and construction codes identified herein to provide for the health, safety and general welfare of the public; and

**WHEREAS**, the adoption of these codes is to facilitate proper inspection activities relating to construction and maintenance of buildings within the Town; and

**WHEREAS**, the existing codes and ordinances governing such activities are outdated; and

**WHEREAS**, such regulation and administration are in the best interest of the public.

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

**SECTION 1.** Sections 6-1 of Chapter 6 of the Malabar Code of Ordinances is hereby amended in full to read as follows:

**“Section 6-1. Codes and amendments adopted**

As of December 31, 2017, the Florida Building Code supersedes all local building codes which are developed and maintained by the Florida Building Commission. It is updated every three years and may be amended annually to incorporate interpretative and clarifications. The Code is composed of seven main volumes:

- (1) The 2017 6<sup>th</sup> Edition, Florida Building Code, Building, which includes
  - a) Chapter 13 Energy Conservation
  - b) Chapter 11 Accessibility
- (2) The 2017 6<sup>th</sup> Edition, FBC, Residential
- (3) The 2017 6<sup>th</sup> Edition, Florida Existing Building Code
- (4) The 2017 6<sup>th</sup> Edition Florida Building Code, Plumbing
- (5) The 2017 6<sup>th</sup> Edition Florida Building Code, Mechanical
- (6) The 2017 6<sup>th</sup> Edition Florida Building Code, Fuel Gas
- (7) The 2017 6<sup>th</sup> Edition Test Protocols for High Velocity Hurricane Zones

All codes that are specifically referenced by any of the above are hereby adopted by reference. These would include, but are not limited to:

- (1) The Florida Fire Prevention Code, 2015 Edition, Chapter 9
- (2) The National Electric Code (2011 Edition) N.F.P.A. 70
- (3) National Electric Code for 1 and 2 Family Residences, N.F.P.A. 70A

The following Codes are also adopted:

- (1) The Standard Amusement Device Code, 1985 Edition
- (2) International Property Maintenance Code, 2006 edition as published by the International Code Council
- (3) The Uniform Code for Abatement of Dangerous Buildings, 1997 Edition
- (4) Life Safety Code NFPA 101, 2015 Edition”

**SECTION 2. Codification.**

It is the intention of the Town Council of the Town of Malabar, Brevard County, that the provisions of Section 1 of this Ordinance become part of the Code of Ordinances of the Town of Malabar. The Town Clerk is hereby authorized and directed to cause the provisions of Section 1 of this ordinance to be incorporated into the Code of Ordinances.

**SECTION 3. Severability.**

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

**SECTION 4. Conflicts.**

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

**SECTION 5. Effective Date.**

This Ordinance shall become effective immediately upon its adoption.

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

- Council Member Grant Ball \_\_\_\_\_
- Council Member Laura Mahoney \_\_\_\_\_
- Council Member Steve Rivet \_\_\_\_\_
- Council Member Dick Korn \_\_\_\_\_
- Council Member Danny White \_\_\_\_\_

**PASSED AND ADOPTED** by the Town Council, Town of Malabar, Brevard County, Florida this  
\_\_\_ day of \_\_\_\_\_, 2018

BY:  
**TOWN OF MALABAR**

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

First Reading: 3/05/2018 Vote:  
Second Reading: 3/19/2018

ATTEST:

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

(Seal)

Approved as to form and content:

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

# TOWN OF MALABAR AGENDA ITEM REPORT

AGENDA ITEM NO: 3  
Meeting Date: March 05, 2018

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

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**SUBJECT: Approve Temporary Placement of Travel Trailer While Constructing SFR at  
2325 Quarterman Lane - Applicants: Mr. and Mrs. DeChaine**

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## **BACKGROUND/HISTORY:**

Malabar Land Development Code Article V, Section 1-5.15 (attached) allows Council to approve the **temporary residential occupancy** in a travel trailer on residential property "**while a new single family home is under construction.**" The application requires a \$500.00 bond that is refundable once the home is completed and the trailer ceases to be used for residential use. If the home is not complete within six-months, the applicant may request one extension.

The Building Department handles the issuance of such a temporary permit once sanitation and temporary utility connections have been approved and established.

In RR-65 Zoning, residential occupancy in an RV is prohibited without issuance of a building permit for new home construction and active progress on the home.

The applicants, Mr. and Mrs. DeChaine, have submitted all necessary applications for land development and construction of their new home and said permits are ready to be issued.

## **FINANCIAL IMPACT:**

None – bond is returned once the Certificate of Occupancy is issued and the RV ceases to be used for residential occupancy.

## **ATTACHMENTS:**

Application and site plan for RV placement  
Map of area showing location  
Section of Code

## **ACTION OPTIONS:**

Approval the Temporary Placement of RV while SFR is constructed.

Aquatic composites @  
gmail.com



2725 Malabar Road  
Malabar, Florida 32950-4427  
321-727-7764 – Telephone  
321-722-2234 – FAX

**LOCATION AGREEMENT  
TEMPORARY LOCATION OF MOBILE HOME, CAMPER, ETC.**

A travel trailer may be placed on my property located at 2325 Quaternon Lane in Malabar, Florida, on a temporary basis, while my home is being built on that property. I agree that the mobile home shall be removed immediately after completion of construction, approximately six months from this date. I also agree to start action on construction of my residence on the property as soon as possible, and be able to show completion or major progress at the end of the six-month period.

In the event the construction is not completed by that date, I will apply to the Town of Malabar for an extension of time. If no progress whatsoever is shown, the travel trailer will be removed immediately, and I will forfeit the \$500.00 security bond.

- Proof of Ownership
- Survey or Plot Plan showing location
- Description; means of septic hook-up, water & power
- Reason for mobile home on property new home const.
- Building Permit No. # 17848
- Road Permit Application # N/A
- Road Bond: N/A

**Signature:**

\_\_\_\_\_  
BRAD DECHaine

Date: \_\_\_\_\_

Date Accepted: \_\_\_\_\_

Town Clerk: \_\_\_\_\_

**Signature:**

\_\_\_\_\_

Date: \_\_\_\_\_





Click Action: Parcel Info Distance 0

Decrease Zoom Bar Aerial View Range Increase

View:  Map  Aerial

Change

Locate: Parcel ID

Zoom to: Brevard County

Printable Version: Map Prev

Check below then:

- Parcels
- Schools
- RoadNames
- Water

Update

Help Legend


Attention: The br level must be 100' click to select the parcel.

V = VACANT  
 I = IMPROVED  
 Y = END OF APPROVED ROAD

Section 1-5.15. - Parking, storage or use of major recreational equipment.

Major recreational equipment is defined as including boats and boat trailers, pickup campers or coaches (designed to be mounted on an automotive vehicle), motorized dwellings, collapsible camping trailers or motorized dwellings, tent trailers and the like, and cases or boxes used for transporting recreational equipment whether occupied by such equipment or not.

1. No major recreational equipment shall be parked or stored in any residential front yard in any residential district for more than forty-eight (48) hours during loading or unloading.
2. No such major recreational equipment shall be used for living, sleeping, housekeeping, office, or commercial purposes when parked or stored on a residential lot, or in any location not approved for such use.
3. No such major recreational equipment shall be located within a public right-of-way.
4. If such equipment is a collapsible camping trailer, the trailer shall be stored in a collapsed state.



Mobile homes or other mobile equipment or structures used temporarily in connection with construction, used as a dwelling, office or sales room may be located temporarily in all districts only after the release of a building permit and during the period of construction activity, under a temporary zoning permit, provided however, said trailer must be removed within ten (10) days after completion of construction.

**Cross reference**— Boats, marinas and waterways, ch. 5.

# TOWN OF MALABAR AGENDA ITEM REPORT

AGENDA ITEM NO: 4  
Meeting Date: March 05, 2018

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

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**SUBJECT: Direction to Staff: Medical Marijuana Regulations or Prohibition**

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## BACKGROUND/HISTORY:

Malabar Council discussed this at the last meeting a directed it be on the agenda for this meeting.

Medical Marijuana was approved by the voters in November 2016. Malabar adopted a moratorium in January 2017 to provide time to create regulations. In May 2017 Malabar adopted regulations to deal with medical marijuana dispensaries (MMD).

Then the Florida Legislature adopted SB 8A that further restricted a city's ability to regulate the MMD facilities stating they had to be treated the same as pharmacies. Based on this the Town Attorney recommended Council adopt another moratorium on allowing these MMD and Ordinance 2017-08 was adopted in August 2017 for a period of six months. The moratorium expired February 17, 2018 and the Attorney recommended Council advise staff how to proceed with either:

- 1) preparing an amendment to Ord 2017-02 to add pharmacies to comply with SB 8A
- 2) drafting an ordinance to ban the MMD
- 3) extend the moratorium and ask voters in November

### Allowed:

Cocoa Beach's moratorium ended in January and provides regulations for MMD

Titusville's moratorium ended in January and provides regulations for MMD

Palm Bay adopted regulations for MMD

### Banned:

Cape Canaveral, Melbourne, Palm Shores and West Melbourne have banned them

### Moratorium:

Brevard County has moratorium until the close of 2018 Legislative Session.

Grant Valkaria has moratorium until April 30.

Indian Harbor Beach has a moratorium until January 2018

**FINANCIAL IMPACT:** Unknown at this time

## ATTACHMENTS:

- Memo dated 2/6/2018 from Attorney Bohne related to SB 8A that further restricted municipalities authority to regulate medical marijuana dispensaries (MMD).
- 11/8/16 Amendment 2 Election Results for Malabar & State Medical Marijuana Laws
- IHB Staff Briefing Paper with recommendation to Ban
- Malabar Ordinances 2017-01, 02 and 08
- Titusville, Palm Bay, Orlando and Orange County Regulations allowing MMD.

## ACTION OPTIONS:

Provide Direction to Staff

# TOWN OF MALABAR

## MEMORANDUM

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**Date:** February 6, 2008

**To:** Town Council, Town Administrator and Town Clerk

**From:** Karl Bohne, Jr., Town Attorney

**Ref:** Medical Marijuana Treatment Center Dispensing Facilities; Ban or Allow

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Here is the preemption language in SB \*A relating to *Medical Marijuana Treatment Center Dispensing Facilities* (this term is not defined by statute). Please remember that if we are to impose a ban it is only a ban on the *Medical Marijuana Treatment Center Dispensing Facilities*. It is not, nor can it be a ban on prescribing MM in the Town, use and/or of MM in the Town (except as provided by SB 8A), delivery of MM within the Town, testing labs, or Medical Marijuana Treatment Centers.

(11) PREEMPTION.—Regulation of cultivation, processing, and delivery of marijuana by medical marijuana treatment centers is 1434 preempted to the state except as provided in this subsection.

(a) A medical marijuana treatment center cultivating or processing facility may not be located within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school.

**(b)1. A county or municipality may, by ordinance, ban medical marijuana treatment center dispensing facilities from being located within the boundaries of that county or municipality. A county or municipality that does not ban dispensing facilities under this subparagraph may not place specific limits, by ordinance, on the number of dispensing facilities that may locate within that county or municipality.**

**2. A municipality may determine by ordinance the criteria for the location of, and other permitting requirements that do not conflict with state law or department rule for, medical marijuana treatment center dispensing facilities located within the boundaries of that municipality. A county may determine by ordinance the criteria for the location of, and other permitting requirements that do not conflict with state law or department rule for, all such dispensing facilities located within the**

**unincorporated areas of that county. Except as provided in paragraph (c), a county or municipality may not enact ordinances for permitting or for determining the location of dispensing facilities which are more restrictive than its ordinances permitting or determining the locations for pharmacies licensed under chapter 465. A municipality or county may not charge a medical marijuana treatment center a license or permit fee in any amount greater than the fee charged by such municipality or county to pharmacies. A dispensing facility location approved by a municipality or county pursuant to former s. 381.986(8)(b), Florida Statutes 2016, is not subject to the location requirements of this subsection.**

(c) A medical marijuana treatment center dispensing facility may not be located within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school unless the county or municipality approves the location through a formal proceeding open to the public at which the county or municipality determines that the location promotes the public health, safety, and general welfare of the community.

(d) This subsection does not prohibit any local jurisdiction from ensuring medical marijuana treatment center facilities comply with the Florida Building Code, the Florida Fire Prevention Code, or any local amendments to the Florida 1478 Building Code or the Florida Fire Prevention Code.

Under the bill, medical marijuana is exempt from the state sales tax. The bill prohibits the smoking of medical marijuana, but authorizes it to be vaped or consumed in pill or edible form. The use of medical marijuana, unless it is low-THC cannabis, is prohibited in any public place, on any form of public transportation, in a qualifying patient's place of employment (unless allowed by the employer), on school grounds, or in a school bus, vehicle, aircraft or motorboat.

Of importance to the Town, the bill adds "delivery" to the current preemption on cultivation and processing. Cities can, by ordinance, ban medical marijuana dispensaries. However, a municipality that choose to allow them cannot limit the number of dispensaries within their boundaries. The Town can determine the criteria for the location of dispensaries and other permitting requirements that do not conflict with state law or department rule, but such permitting requirements cannot be more restrictive than the zoning or permitting requirements for currently existing pharmacies. The Town is authorized to charge a license or permit fee to MMTC facilities, but the fee cannot be more than what is currently charged for pharmacies. Again the Town may ban *Medical Marijuana Treatment Center Dispensing Facilities*

Dispensaries cannot be located within 500 feet of a public or private elementary, middle or high school, unless the city approves the location through a formal proceeding open to the public and determines that the location promotes the health, safety, and general welfare of the community. Finally, the bill allows cities to ensure that MMTC facilities comply with the Florida Building Code, the Florida Fire Prevention Code or any local amendments to these codes.

Existing state law preempts cities from regulating cultivation and processing facilities. However, cities can regulate locations which dispense the final medical marijuana products, which can include not only marijuana which can be smoked, but also edibles and oils.

As I informed the Town, we have Medical Marijuana Regulations in place which predated SB 8A. There may be an argument that these pre-existing regulations are preserved and not affected by SB 8A. The Bill states: "... a county or municipality may not *enact* ordinances for permitting or for determining the location of dispensing facilities which are more restrictive than its ordinances permitting or determining the locations for pharmacies licensed under chapter 465." Arguably, this legislation has prospective application and would only apply to any municipal regulation enacted after the effective date of the Bill. This all has to do with statutory interpretation and what the word "enact" means. I have come across a couple of cases addressing similar language in statutes and the retroapplication to existing local regulations.

In, *J-II INVESTMENTS, INC. v. Leon County*, 908 So.2d 1140 (Fla. App., 2005), the court held that "the Florida Agricultural Lands and Practices Act says that a "county may not exercise any of its powers to *adopt* any ordinance, resolution, regulation, rule or policy to prohibit, restrict, regulate, or otherwise limit an activity of a bona fide farm operation on land...." § 163.3162, Fla. Stat. (2004) (emphasis added). See also § 832.14(6), Fla. Stat. (containing identical language relating to nuisance suits, stating that "a local government may not adopt any ordinance, regulation, rule, or policy to prohibit, restrict, regulate, or otherwise limit an activity of a bona fide farm operation on land classified as agricultural land...."). A statute must be given its plain and obvious meaning. *McLaughlin v. State*, 721 So.2d 1170, 1172 (Fla.1998)...The plain, unambiguous terms of section 163.3162(4), Florida Statutes, prevent counties from *adopting* ordinances relating to agriculture. ***The statute does not address the enforcement of provisions already in place.*** If the legislature intended to include the term "enforce" in the statute, it clearly could have done so. See, e.g., § 403.7603, Fla. Stat. (2004) ("... no county or municipality shall *adopt or enforce* regulations that discriminate against privately owned solid waste management facilities ...") (emphasis added); § 163.3174(6), Fla. Stat. (2004) ("If a joint planning entity is in existence on the effective date of this act which authorizes the governing bodies to *adopt and enforce* a land use plan effective throughout the joint planning area....") (emphasis added). Thus, since the legislature did not include the word "enforce" in section 163.3162(4), Florida Statutes, we cannot assume that they intended to preempt all existing county regulations. *Tallahassee Mem'l Reg'l Med. Ctr. v. Tallahassee Med. Ctr.*, 681 So.2d 826, 831 (Fla. 1st DCA 1996) ("The courts should be careful in imputing an intent on behalf of the Legislature to preclude a local elected governing body from exercising its home rule powers.").

In, *Wilson v. Palm Beach County*, 62 So.3d 1247 (Fla. App., 2011), the court interpreted the following language in the Florida Right to Farm Act, FS 823.14 (6) "Except as otherwise provided for in this section and s. 487.051(2), and notwithstanding any other provision of law, a local government may

not **adopt** any ordinance, regulation, rule, or policy to prohibit, restrict, regulate, or otherwise limit an activity of a bona fide farm operation on land classified as agricultural land pursuant to s. 193.461..” The Court went on to hold that the Right to Farm Act does not prohibit the **enforcement** of county ordinances enacted prior to the Act's effective date.

In reviewing SB 8A I find nothing to suggest we cannot enforce existing regulations and based on the foregoing cases we may not need to amend the code at this time unless it is the decision of the council to ban them. So maybe we need to seek council direction as follows: do we ban, do we amend, or leave what we have in place and see what happens. But does the Town want to be the test case in court on this? Probably not.

However, there are clearly provisions of our existing regulations that would not be enforceable if they were adopted today. Quite frankly we treat these facilities far different than pharmacies, which under SB 8A we cannot do. Also, in my opinion if we were to keep what we have in place and decide to later amend it for whatever reason, we will need to comply with the current provisions of SB 8A. So that means leave what we have in for perpetuity or if we amend we must change all of its provisions to comply with SB 8A.

For instance some of the regulations we have in place that may be unenforceable if adopted today, **because they do not apply to pharmacies and may also be specifically pre-empted**, are:

- Minimum 1,500 square foot facility;
- Conditional Use in the Commercial Limited (CL) zoning district;
- 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;
- 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;
- 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;

-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;

- Security Measures. Each medical marijuana treatment center shall provide the following, at the owner's expense:

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

Full time private armed security personnel from a licensed security firm during all hours the facility personnel are on the premises.

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;

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;

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

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

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.

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

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

-Additional Parking and signage;

-Regulations involving the prescribing of medical marijuana, including, the medical office must be located within a zoning classification permits medical offices. Such physician shall not cultivate or process medical marijuana from the medical office;

- No Mobile Medical Marijuana Treatment Centers are permitted;

-we regulate cultivation (pre-empted by SB 8A):



a. Outside cultivation of medical marijuana is prohibited. Cultivation shall only be within a closed structure upon which such medical marijuana facility is located. Indoor cultivation is limited to 50 square feet of the medical marijuana facility. Cultivation may not occur in a structure which is not attached to the building upon which the medical marijuana facility is located.

b. Indoor grow lights in any structure shall not exceed an aggregate of one thousand two hundred watts and shall comply with all applicable building code regulations. Gas products (including, without limitation, CO<sub>2</sub>, butane, propane, and natural gas), or generators shall not be used within any detached structure used for the cultivation of medical marijuana.

c. Cultivation shall not take place in any area of the medical marijuana facility which is accessible by the general public. Such areas of cultivation must be restricted to authorized personnel, eighteen years of age or older, of the medical marijuana facility. Such area of cultivation shall be secured and locked at all times when not occupied by authorized personnel of the medical marijuana facility.

d. Such area of cultivation must have a ventilation system installed that shall prevent marijuana plant odors from exiting the interior of the structure and that shall comply with all applicable building code regulations, including obtaining all required permits and approvals. The ventilation system must be approved by a Florida Licensed Engineer and a Florida Licensed Heating and Ventilation Contractor at the applicant's expense, and installed prior to commencing cultivation within the fully-enclosed and secure structure.

November 8, 2016 Election Results  
Amendment 2  
Allows Medical Use of Marijuana  
&  
State Medical Marijuana Laws

No		23.37%	394
			1,686
<b>Precinct 301</b>			
	Choice	Percent	Votes
Yes		67.95%	1,236
No		32.05%	583
			1,819
<b>Precinct 302</b>			
	Choice	Percent	Votes
Yes		68.96%	1,895
No		31.04%	853
			2,748
<b>Precinct 303</b>			
	Choice	Percent	Votes
Yes		73.08%	3,607
No		26.92%	1,329
			4,936
<b>Precinct 304</b>			
	Choice	Percent	Votes
Yes		69.44%	2,447
No		30.56%	1,077
			3,524
<b>Precinct 305</b>			
	Choice	Percent	Votes
Yes		71.49%	1,560
No		28.51%	622
			2,182
<b>Precinct 306</b>			
	Choice	Percent	Votes
Yes		72.69%	684
No		27.31%	257
			941
<b>Precinct 307</b>			
	Choice	Percent	Votes
Yes		64.95%	719
No		35.05%	388
			1,107
<b>Precinct 308</b>			
	Choice	Percent	Votes
Yes		73.31%	1,931
No		26.69%	703
			2,634



(/index.html)

### It's a New Day in Public Health.

The Florida Department of Health works to protect, promote & improve the health of all people in Florida through integrated state, county, & community efforts.

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## Office of Medical Marijuana Use

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Frequently Asked Questions  
(/programs-and-services/office-of-medical-marijuana-use/frequently-asked-questions/index.html)

Welcome to the Department of Health Office of Medical Marijuana Use. The Office of Medical Marijuana Use is charged with writing and implementing the department's rules for medical marijuana ([http://www.floridahealth.gov/programs-and-services/office-of-medical-marijuana-use/\\_documents/ocu-timeline.pdf](http://www.floridahealth.gov/programs-and-services/office-of-medical-marijuana-use/_documents/ocu-timeline.pdf)), overseeing the statewide Medical Marijuana Use Registry (<https://mmuregistry.flhealth.gov/>), and licensing Florida businesses to cultivate, process, and dispense medical marijuana to qualified patients.

Amendment 2, and the expanded qualifying medical conditions, became effective on January 3, 2017. The Florida Department of Health, physicians, dispensing organizations, and patients are bound by Article X Section 29 of the Florida Constitution (<http://www.leg.state.fl.us/statutes/index.cfm?submenu=3#A10S29>) and 381.986 Florida Statutes ([http://www.leg.state.fl.us/statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0300-0399/0381/Sections/0381.986.html](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0381/Sections/0381.986.html)). The department is committed to moving as quickly as possible to ensure the health of Floridians and implement the new legislation.

It is the responsibility of the qualified ordering physician ([http://www.floridahealth.gov/programs-and-services/office-of-medical-marijuana-use/\\_documents/completed-cme.pdf](http://www.floridahealth.gov/programs-and-services/office-of-medical-marijuana-use/_documents/completed-cme.pdf)) to follow Florida constitution and statute, diagnose patients and determine if medical marijuana is an appropriate treatment.

The department recommends speaking to your health care professional to determine if medical marijuana products are right for you or your loved one. List of Physicians Who Have Completed the Required Training ([http://www.floridahealth.gov/programs-and-services/office-of-medical-marijuana-use/\\_documents/completed-cme.pdf](http://www.floridahealth.gov/programs-and-services/office-of-medical-marijuana-use/_documents/completed-cme.pdf)).

**Medical marijuana is available in Florida, however, remains illegal under federal law.**

## State Medical Marijuana Laws

**Medical Marijuana Legalization Initiative** (Amendment 2) – Approved Nov. 8, 2016 by 71.3% of voters. Amends the Florida Constitution.

**Effective:** Jan. 3, 2017

"Allows medical use of marijuana for individuals with debilitating medical conditions as determined by a licensed Florida physician. Allows caregivers to assist patients' medical use of marijuana. The Department of Health shall register and regulate centers that produce and distribute marijuana for medical purposes and shall issue identification cards to patients and caregivers. Applies only to Florida law. Does not immunize violations of federal law or any non-medical use, possession or production of marijuana." Allows for Medical Marijuana Treatment Centers to be registered by the Department of Health.

**Approved Conditions:** Cancer, epilepsy, glaucoma, HIV/AIDS, PTSD, ALS, Crohn's disease, Parkinson's disease, multiple sclerosis, or other debilitating medical conditions of the same kind or class as or comparable to those enumerated, and for which a physician believes that the medical use of marijuana would likely outweigh the potential health risks for a patient.

**Possession/Cultivation:** To be determined during the rulemaking process

**Update:** Florida's House and Senate passed SB 8A, which outlines regulations for the implementation of Amendment 2, during a special session on June 9, 2017. Gov. Rick Scott signed the bill into law on June 23, 2017.

### Contact and Program Details

#### Florida Department of Health

Office of Medical Marijuana Use

4052 Bald Cypress Way

Tallahassee, FL 32399

Phone: 850-245-4657

medicalmarijuanause@flhealth.gov

### Website:

Office of Medical Marijuana Use

The law gives the Florida Department of Health six months to establish regulations and set a possession limit, and nine months to begin issuing identification cards. After nine months, a valid physician certification will serve as a qualifying patient identification card until the Department begins issuing cards.

### Information provided by the state on sources for medical marijuana:

"A patient must first seek treatment from a qualified physician. Once the ordering physician inputs the patient's information and the order information into the Medical Marijuana Use Registry, the patient or the patient's legal representative need to apply for a Compassionate Use Registry Identification Card. Once approved, a patient or legal representative will then be able to contact one of the licensed medical marijuana treatment centers and fill the order."

"Frequently Asked Questions," floridahealth.gov (accessed Jan. 19, 2018)

### Patient Registry Fee:

\$75

### Accepts other states' registry ID cards?

Unclear



**Indian Harbour Beach  
Staff Briefing Paper  
re: Medical Marijuana Dispensaries  
Staff Recommendation to Ban**



## City of Indian Harbour Beach Staff Report

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### City Council Agenda Item

**Public Hearing on Ordinance No. 2017-09 Amending the Zoning Code Related to Medical Marijuana Dispensaries, Removing References and Banning Dispensaries**

**Meeting Date: January 9, 2018**

**Staff Recommendation: Conduct a Public hearing on Ordinance No. 2017-09 Amending the Zoning Code related to Medical Marijuana Dispensaries, removing references and banning dispensaries and approve on second reading**

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### Background Information:

In July of this year I initiated a discussion with the City Council, concerning direction on regulating Medical Marijuana Treatment Centers (MMTCs). In January 2017 the City Council adopted a one-year moratorium on the issuance of Business Tax Receipts for MMTCs following passage of Amendment #2 in November 2016. This moratorium was necessitated to allow the Florida Legislature to enact legislation implementing rules governing the Medical Marijuana industry prior to July 1, 2017 and determine if these new rules would conflict with regulations the City of Indian Harbour Beach enacted in October 2014, prior to the failed 2014 ballot initiative on Medical Marijuana. The legislature ultimately adopted SB 8-A (June 2017) that authorizes the number of new MMTC licenses and other requirements for these facilities.

SB-8A, adopted by the Florida Legislature, requires cities to either allow these dispensaries in the same zoning classifications, without limitation to the number of facilities, as a pharmacy, or ban the dispensaries. Cities can, by ordinance, ban medical marijuana dispensaries. However, cities that choose to allow them cannot limit the number of dispensaries within their boundaries. Cities can determine the criteria for the location of dispensaries and other permitting requirements that do not conflict with state law or department rule, but such permitting requirements cannot be more restrictive than the zoning or permitting requirements for currently existing pharmacies. Cities are authorized to charge a license or permit fee to MMTC facilities, but the fee cannot be more than what is currently charged for pharmacies.

Dispensaries cannot be located within 500 feet of a public or private elementary, middle or high school, unless the city approves the location through a formal proceeding open to the public and determines that the location promotes the health, safety, and general



welfare of the community. Finally, this legislation allows cities to ensure that MMTC facilities comply with the Florida Building Code, the Florida Fire Prevention Code or any local amendments to these codes.

In reviewing SB 8-A Staff believes many of our municipal regulations adopted in 2014 **may be** invalidated by this statute. Earlier in this report I indicated that municipalities must treat MMTC's similar to a pharmacy. In Indian Harbour Beach pharmacies are a permitted use in the C-P and B-1 Zoning Classifications. Included in this agenda packet is a map reflecting the location of the commercially zoned properties that would permit a pharmacy. It is important to note that the distance separation of 500 feet from a proposed MMTC and a public or private elementary school, middle school, or high school, would eliminate the commercial properties along South Patrick Drive from the Harbour Villas Townhouses north to the city's newly acquired property (south of the Dollar General Store).

Other conflicts with this statute include, but are not limited to, the city's hours of operation, separation from day care facilities/parks/residential properties/churches, our prohibition of drive-thru facilities, various municipal security requirements, and parking/queuing requirements. Therefore, the city must determine whether to amend our Medical Marijuana regulations to conform to this new statute and allow the facilities in commercial zoning classifications that permit pharmacies, and remove conflicting regulations with this new law.

Again, as stated earlier, SB 8-A allows municipalities to adopt ordinances banning medical marijuana treatment centers within the boundaries of the city.

In October the City Council directed staff to begin development of an ordinance to ban MMTCs. This decision is based upon the Florida Legislature adopting SB 8-A that requires cities to either allow these dispensaries in the same zoning classifications, without limitation to the number of facilities, as a pharmacy or ban the dispensaries. For Indian Harbour Beach pharmacies are allowed on a large portion of SR A1A, Eau Gallie Blvd., and portions of South Patrick Drive. Given the options provided by the Florida Legislature, and the fact a medical marijuana dispensary will be 15 miles north of the city, and the Legislature authorized delivery of the medical marijuana to individual homes by the dispensaries, the City Council is proposing to ban the dispensaries in our community.

On the following page you will find a table outlining the status of the regulation of MM Dispensaries in Brevard County.

## Regulation of Medical Marijuana Dispensaries

### Brevard County Jurisdictions

Jurisdiction	Current Status
Brevard County	Temporary moratorium to prohibit any and all medical marijuana dispensing activities until the end of the 2018 Legislative Session
Cape Canaveral	Ordinance Banning Dispensaries
Cocoa	Public Hearing January 9, 2018 Banning Dispensaries
Cocoa Beach	Ordinance in place since 2014; One (1) dispensary approved but not open. Follow-up moratorium in place until January 2018
Indialantic	Ordinance Banning Dispensaries
Indian Harbour Beach	Moratorium Expires January 2018
Melbourne	Ordinance Banning Dispensaries
Palm Bay	Ordinance adopted on May 4, 2017 would permit maximum of two (2) dispensaries based on current population. One dispensary slated to open in 2018.
Palm Shores	Ordinance Banning Dispensaries
Rockledge	December 20 <sup>th</sup> Public Hearing on Ordinance Allowing Dispensaries
Satellite Beach	Ordinance Approved Allowing Dispensaries
Titusville	Moratorium being extended 180 days (Public Hearing December 12 <sup>th</sup> )
West Melbourne	Ordinance Banning Dispensaries

Ordinance No. 2017 -09 amending the Zoning Code related to Medical Marijuana Dispensaries, removing references and banning dispensaries is presented for a public hearing. On December 6, 2017 the Planning and Zoning Board held a public hearing on this proposed ordinance. Following this public hearing the Planning and Zoning Board voted 4 to 0 recommend approval of Ordinance No. 2017-09.

### Staff Recommendation:

Hold a public hearing on Ordinance No. 2017-09 Amending the Zoning Code related to Medical Marijuana Dispensaries, removing references and banning dispensaries and adopt on second reading.

Malabar Ordinance 2017-01 Established Moratorium

Malabar Ordinance 2017-02 Provided  
Regulations for Medical Marijuana Dispensaries

Malabar Ordinance 2017-08 Created another  
Moratorium that expired 2/17/2018

Expires 10/8/17

**ORDINANCE 2017-01**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MALABAR, FLORIDA, ESTABLISHING A TEMPORARY MORATORIUM ON THE SUBMITTAL, PROCESSING, AND ISSUANCE OF LOCAL BUSINESS TAX RECEIPTS OR LAND USE PERMITS, DEVELOPMENT ORDERS, MODIFICATIONS OR APPROVALS FOR MARIJUANA DISPENSING ORGANIZATIONS OR MEDICAL MARIJUANA TREATMENT CENTERS AND RELATED FACILITIES AND ESTABLISHMENTS FOR A PERIOD SPECIFIED; PROVIDING FOR LEGISLATIVE FINDINGS; THE GEOGRAPHIC AREA COVERED; REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY 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**, Amendment 2 directs the Florida Department of Health to promulgate regulations for the registration of medical marijuana treatment centers, and to establish procedures for the issuance of patient and personal caregiver identification cards; 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 is considering an ordinance to regulate medical marijuana dispensing under its Code; and,

**WHEREAS**, the Town desires to wait to issue any permits, development orders, modifications or approval for a medical marijuana dispensary or treatment center and until passage of an ordinance regulating these establishments and facilities and until the Florida Department of Health promulgates all appropriate regulations, so that the Town has time to review applicable regulations for the avoidance of regulatory conflict; and

**WHEREAS**, the Town desires to protect the public health, safety and welfare of the Town by adopting the referenced ordinance and by reviewing the impact of Amendment 2 and all applicable Florida Department of Health regulations prior to issuing any permits, development orders, modifications or approvals.

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED**, by the Town Council of the Town of Malabar, Florida, as follows:

**Section 1. Legislative Findings.**

That the above recitals are true and correct and are incorporated herein by reference.

## **Section 2. Intent and Purpose.**

The intent and purpose of this Ordinance is to provide the Town of Malabar with the opportunity to adopt an ordinance regulating, through zoning and land use, medical marijuana dispensing facilities and related establishments and to review the impact of a constitutional amendment legalizing medical marijuana and the impact of Department of Health regulations that have yet to be enacted prior to issuing any permits, development orders, modifications or approvals.

## **Section 3. Moratorium Imposed.**

The Town council hereby prohibits the issuance of any permit, development order, modification or approval for the operation of any medical marijuana dispensary or medical marijuana facility in any area subject to the jurisdiction of the Town and a moratorium is declared effective as follows:

1. The Town of Malabar shall not accept, process or approve any application or other request for business tax receipts, licenses, building permits, land use permits, or any development permits concerning or related to a medical marijuana treatment center, medical marijuana dispensary, personal caregiver or any other marijuana related activity or use within the corporate limits of the Town.
2. The Town of Malabar shall not accept, process or approve any licenses, permits, modifications or approvals for any property, entity, or individual for the sale or dispensation of marijuana, or for the operation of any medical marijuana treatment center or medical marijuana dispensary, or to operate as a personal caregiver so long as this ordinance is in effect. No person, entity or partnership shall establish, operate or engage in the operation of a medical marijuana treatment center or medical marijuana dispensary within the corporate limits of the Town.

Nothing in this temporary moratorium shall be construed to prohibit the medical use of marijuana or low-THC cannabis by a qualifying patient, as determined by a licensed Florida physician, pursuant to Amendment 2, Fla. Stat. § 381.986 or other Florida law.

## **Section 4. Duration of Moratorium.**

The moratorium imposed by this ordinance shall be effective upon adoption of this Ordinance and shall remain in effect until the Town adopts a zoning and land use ordinance concerning medical marijuana treatment centers and/or medical marijuana dispensaries and related facilities and establishments and the final rules have been adopted by the Florida Department of Health for the registration of medical marijuana treatment centers, and to establish procedures for the issuance of patient and personal caregiver identification cards as well as other rules which may be adopted by the Department of Health and for a period of for two hundred eighty (280) days from the final adoption of the rules by the Florida Department of Health, unless rescinded sooner. Prior to the expiration of the moratorium, the town may extend the moratorium for an additional eighty (80) days.

## **Section 5. Ordinance to Be Liberally Construed.**

This ordinance shall be liberally construed to carry out its purposes, which are deemed to be in the best interest of the public health, safety, and welfare of the citizens and residents of the Town of Malabar.

**Section 6. Severability.**

Should any section, phrase, sentence, provision, or portion of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

**Section 7. Effective Date**

This Ordinance shall take effect immediately upon its final adoption by the Town council.

**Section 8.** The foregoing Ordinance was moved for adoption by Council Member Rivet. The motion was seconded by Council Member Kohler and, upon being put to a vote, the vote was as follows:

Council Member Grant Ball

Aye

Council Member Laura Mahoney

Aye

Council Member Steve Rivet

Aye

Council Member Dick Korn

Aye

Council Member Richard Kohler

Aye

Passed and adopted by the Town Council, Town of Malabar, Brevard County, Florida this 23 day of Jan, 2017.

TOWN OF MALABAR

By: Patrick T. Reilly

Mayor Patrick T. Reilly, Council Chair

APPROVED AS TO FORM AND CONTENT:

Karl W. Bohne, Jr.

Karl W. Bohne, Jr., Town Attorney

ATTEST:

Debby K. Franklin

Debby K. Franklin, CMC  
Town Clerk/Treasurer

(seal)

1st Reading: 1-9-2017 5to0  
2nd Reading: 1-23-2017

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 <sup>5</sup>					

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" × 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.

It is unlawful for the owner or operator of any marijuana dispensary to fail to comply with this section or for any person to sell or dispense marijuana in any establishment which is not in compliance with this section. The requirements of this section apply to all medical marijuana treatment centers.

n. *Dispensing by a Qualified Physician.* Any physician qualified under Section 381.986 Florida Statutes, the Compassionate Medical Cannabis Act of 2014 and/or the Florida Administrative Code and Article X, Section 29 of the Florida Constitution to place an order for marijuana may dispense such marijuana to a qualified patient, as defined in Section 381.986 (1)(d), from the physician's medical office. The medical office must be located within a zoning classification permits medical offices. Such physician shall not cultivate or process medical marijuana from the medical office. Nothing herein is intended to authorize the establishment of a Medical Marijuana Treatment Center as a conditional use in a zoning district other than IND. Furthermore, nothing herein is intended to permit any person to dispense marijuana in violation of either state or federal law.

o. *Mobile Medical Marijuana Treatment Center.* No Mobile Medical Marijuana Treatment Centers are permitted. In the Town. For purposes herein a Mobile Medical Marijuana Treatment Center is any legal entity, clinic, cooperative, club, business or group which transports or delivers, or arranges the transportation or delivery, of marijuana to any person

2. Cultivation. The term Cultivation shall mean the planting, growing, harvesting, drying, or processing of marijuana plants or any part thereof. FS 381.986 (2014) provides for a definition of a dispensing organization and such definition permits a dispensing organization to cultivate and process medical marijuana. Such dispensing organizations must meet state law criteria in order to be an approved dispensing organization. Although on site cultivation and processing of medical marijuana is prohibited under this code, in the event that it is legislatively or judicially determined that an approved dispensing organization under chapter 381 of the Florida Statutes or any administrative rule or pursuant to Article X, Section 29 of the Florida Constitution cannot be completely prevented from cultivating or processing medical marijuana as provided herein, the following shall apply:

a. Outside cultivation of medical marijuana is prohibited. Cultivation shall only be within a closed structure upon which such medical marijuana facility is located. Indoor cultivation is limited to 50 square feet of the medical marijuana facility. Cultivation may not occur in a structure which is not attached to the building upon which the medical marijuana facility is located.

b. Indoor grow lights in any structure shall not exceed an aggregate of one thousand two hundred watts and shall comply with all applicable building code regulations. Gas products (including, without limitation, CO2, butane, propane, and natural gas), or generators shall not be used within any detached structure used for the cultivation of medical marijuana.

c. Cultivation shall not take place in any area of the medical marijuana facility which is accessible by the general public. Such areas of cultivation must be restricted to authorized personnel, eighteen years of age or older, of the medical marijuana facility. Such area of cultivation shall be secured and locked at all times when not occupied by authorized personnel of the medical marijuana facility.

d. Such area of cultivation must have a ventilation system installed that shall prevent marijuana plant odors from exiting the interior of the structure and that shall comply with all applicable building code regulations, including obtaining all required permits and approvals. The ventilation system must be approved by a Florida Licensed Engineer and a Florida Licensed Heating and Ventilation Contractor at the applicant's expense, and installed prior to commencing cultivation within the fully-enclosed and secure structure.

3. Savings clause. In the event that any part of this section shall be preempted by federal or state law those provisions preempted shall be deemed to be invalid and the remaining provisions not preempted shall remain in full force and effect. "

**SECTION 3.** Table 1-6.1 (B) is amended by adding Medical Marijuana Treatment Centers to read as follows:

*next page*

TABLE 1-6.1(B). CONDITIONAL LAND USE REQUIREMENTS

Conditional Land Uses	Minimum Size Site	Minimum Width/Depth (feet)	Access Required to Street	Building Setback from Residential District/Nonresidential District (feet)	Parking Lot Setbacks from Adjacent Residential District/Nonresidential District (feet)	Perimeter Screening Residential District/Nonresidential District (5)	Curb Cut Controls	Other
Child Care Facilities	1 Acre	145	Paved	50/30	15/10	Type A/B	(7)	
Places of Worship	5 Acres	250	Paved	70/45	25/20	Type A/C	(7)	
Educational Institution	(1)	500	Arterial	70/45	25/20	Type A/C	(7)	
Enclosed Arcade Amusement Center/Electronic Gaming Establishment	1 Acre	120	Highway 1 and Babcock Street only	100/30	N/A	Type A/C	(7)	
Golf Courses	(2)	500	Paved	70/45	25/20	Type C/C	(7)	
Hospitals and other Licensed Facilities	5 Acres	325	Arterial	100/75	25/20	Type A/C	(7)	
Nursing Homes and Related Health Care Facilities	2 Acres	210	Paved	60/30	25/20	Type A/C	(7)	
Protective Services	(4)	120	Paved	50/30	25/20	Type A/C	(7)	
Public Parks and Recreation Areas	5 Acres	325	Paved	70/45	25/20	Type C/C	(7)	
Public and Private Utilities	N/A	120	N/A	70/30	25/20	Type A/C	(7)	
Commercial Stables	5 Acres	325	N/A	100/75	50/40	Type B/C		
Adult Entertainment	1 Acre (8, 9, 10)	120	US 1/Babcock	100/30	N/A	Type A/C	(7)	(6)
Bars and Lounges	1 Acre (8, 9)	120	US 1/Babcock	100/30	N/A	Type A/C	(7)	(6)
Marine Commercial Activities	1 Acre	120	US 1/Babcock/West Railroad Avenue	100/30	N/A	N/A	(7)	
Service Stations, Including Gasoline Sales	1 Acre (8)	145	Arterial	100/30	N/A	N/A	(7)	
Trades and Skilled Services	1 Acre (8)	145	US 1/Babcock/West Railroad Avenue	100/30	N/A	Type A/C	(7)	
Vehicular Services and Maintenance	1 Acre (8)	145	US 1/Babcock/West Railroad Avenue	100/30	N/A	Type A/C	(7)	
Wholesale Trades and Services	1 Acre	145	US 1/Babcock/West Railroad Avenue	50/30	15/10	Type A/C	(7)	

Medical Marijuana Dispensaries

ORD 2017-02

N/A

N/A

Hwy 1 Babcock



Type A (7)

Note: Arterial streets refer to transportation linkages on the Major Thoroughfare Plan within the Comprehensive Plan (i.e., Malabar Road, US 1, and Babcock Street).

- (1) Minimum spatial requirements for public and private, primary and secondary educational institutions shall comply with standards used by the Brevard County School Board and the State of Florida.
- (2) Minimum spatial requirements for golf courses shall comply with standards recommended by the U.S. Golf Association or the American Society of Golf Architects.
- (3) Minimum spatial requirements shall comply with the requirements established by the Town of Malabar District Provisions or the Florida Statutes, whichever requirement is greater.
- (4) Minimum spatial requirements for the American Insurance Association and the National Fire Prevention and Control Administration.
- (5) The Type A, B, and C screening requirements reflect the standards cited in Section 1-4.1(G)(2)(a)—(c).
- (6) No parking lot or structure within 200' of residential or institutional district.
- (7) No more than two curb cuts shall be permitted to any one street frontage. The ingress-egress width shall be restricted to a maximum width of thirty (30) feet at the point of curvature at the property line; shall be located no closer than thirty (30) feet to a right-of-way intersection; and shall be at least ten (10) feet removed from property lines. A minimum fifty (50) feet separation shall be maintained between curb cuts. The Town may require controlled access, including dedication of cross easements and joint use of drive. The Town Council may grant a waiver to these requirements after considering the recommendations of the Planning and Zoning Board and the Town staff.
- (8) Shall not be located adjacent to a residential district, including the RR district.
- (9) Shall not be located within 1000 feet of a religious institution, educational institution, or public park.
- (10) Reference Town of Malabar Ordinance Regulating Adult Entertainment.  
(Ord. No. 94-4, § 9, 4-3-95; Ord. No. 12-48, §§ 3, 4, 1-23-12; Ord. No. 14-01, § 4, 2-3-14)  
**Cross reference**—Adult entertainment establishments, regulations, § 10-26 et seq.

**SECTION 5. Severability.** If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

**SECTION 6. Inclusion in Code.** It is the intention of the Town Council of Malabar that the provisions of this ordinance shall become and be made a part of the Town Code, and that the sections of this ordinance may be renumbered or relettered and that the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

**SECTION 7. Effective Date.** This ordinance shall take effect upon adoption.

**SECTION 8.** The foregoing Ordinance was moved for adoption by Council Member Rivet. The motion was seconded by Council Member Kohler and, upon being put to a vote, the vote was as follows:

- Council Member Grant Ball
- Council Member Laura Mahoney
- Council Member Steve Rivet
- Council Member Dick Korn
- Council Member Richard Kohler

Aye  
 Aye  
 Aye  
 Excused  
 Aye

This Ordinance will be declared to be duly adopted seven days after the regular meeting of the Town of Malabar Town Council on May 15, 2017.

Ord 1<sup>st</sup> Reading: 5/01/17  
 Ord 2<sup>nd</sup> Reading 5/15/17  
 Veto Period: 5/16/2017 thru 5/22/2017  
 Final Adoption: 5/22/2017

TOWN OF MALABAR

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

APPROVED AS TO FORM AND CONTENT

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

ATTEST:

Debby K. Franklin  
Debby K. Franklin, CMC  
Town Clerk/Treasurer



EXPIRED  
2/17/18

ORDINANCE NO. 2017-08

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MALABAR, FLORIDA, ESTABLISHING A TEMPORARY MORATORIUM ON THE SUBMITTAL, PROCESSING, AND ISSUANCE OF LOCAL BUSINESS TAX RECEIPTS OR LAND USE PERMITS, DEVELOPMENT ORDERS, MODIFICATIONS OR APPROVALS FOR ANY MEDICAL MARIJUANA TREATMENT CENTER AND/OR ANY MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITY, AS THOSE TERMS ARE USED AND DEFINED IN SB 8A; PROVIDING REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY AND AN EFFECTIVE DATE.

**WHEREAS**, in November of 2016, better than 70% of the voters in Florida approved Amendment 2 relating to the use of medical marijuana; and

**WHEREAS**, the Town currently regulates medical marijuana dispensing under its Code, Ordinance 2017-02; and,

**WHEREAS**, since the adoption of Ordinance O2-2017, the State of Florida adopted SB 8A which created the statutory laws implementing Amendment 2; and,

**WHEREAS**, the Town desires to wait to issue any permits, development orders, modifications or approval for any medical marijuana treatment center dispensary and/or any medical marijuana treatment center dispensing facility, as those terms are used and defined in SB 8A to allow it adequate time to review the impact, Amendment 2, SB 8A and all applicable Florida Department of Health regulations prior to issuing any permits, development orders, modifications or approvals and to review applicable regulations for the avoidance of regulatory conflict; and

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED**, by the Town Council of the Town of Malabar, Florida, as follows:

**Section 1. Legislative Findings.**

That the above recitals are true and correct and are incorporated herein by reference.

**Section 2. Intent and Purpose.**

The intent and purpose of this Ordinance is to provide the Town of Malabar with the opportunity to review the impact of a constitutional amendment legalizing medical marijuana, SB 8A and the impact of any Department of Health regulations that have yet to be enacted prior to issuing any permits, development orders, modifications or approvals.

**Section 3. Moratorium Imposed.**

The Town council hereby prohibits the issuance of any permit, development order, modification or approval for the operation of any medical marijuana treatment center and/or any medical marijuana treatment center dispensing facility, as those terms are used and defined in SB 8A in any area subject to the jurisdiction of the Town and a moratorium is declared effective as follows:



1. The Town of Malabar shall not accept, process or approve any application or other request for business tax receipts, licenses, building permits, land use permits, or any development permits concerning or related to a marijuana treatment center and/or any medical marijuana treatment center dispensing facility, personal caregiver or any other marijuana related activity or use within the corporate limits of the Town.

2. The Town of Malabar shall not accept, process or approve any licenses, permits, modifications or approvals for any property, entity, or individual for the sale or dispensation of marijuana, or for the operation of any marijuana treatment center and/or any medical marijuana treatment center dispensing facility, or to operate as a personal caregiver so long as this ordinance is in effect. No person, entity or partnership shall establish, operate or engage in the operation of a medical marijuana treatment center and/or any medical marijuana treatment center dispensing facility, within the corporate limits of the Town.

Nothing in this temporary moratorium shall be construed to prohibit the medical use of marijuana or low-THC cannabis by a qualifying patient, as determined by a licensed Florida physician, pursuant to Amendment 2, Fla. Stat. § 381.986 (2017)(SB 8A) or other Florida law.

#### **Section 4. Duration of Moratorium.**

The moratorium imposed by this ordinance shall be effective upon adoption of this Ordinance and shall remain in effect for a period of for one hundred eighty (180) days from the final adoption of this Ordinance, unless rescinded sooner. Prior to the expiration of the moratorium, the town may extend the moratorium for an additional eighty (80) days.

#### **Section 5. Ordinance to Be Liberally Construed.**

This ordinance shall be liberally construed to carry out its purposes, which are deemed to be in the best interest of the public health, safety, and welfare of the citizens and residents of the Town of Malabar.

#### **Section 6. Severability.**

Should any section, phrase, sentence, provision, or portion of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

#### **Section 7. Effective Date**

This Ordinance shall take effect immediately upon its final adoption by the Town council.

#### **Section 8. Adoption.**

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

Council Member Grant Ball  
Council Member Laura Mahoney  
Council Member Steve Rivet  
Council Member Dick Korn  
Council Member Richard Kohler

Aye  
Aye  
Aye  
Aye  
Aye

Passed and adopted by the Town Council, Town of Malabar, Brevard County, Florida this 21  
day of August, 2017.

By: TOWN OF MALABAR  
Patrick T. Reilly  
Mayor Patrick T. Reilly  
Council Chair

1<sup>st</sup> Reading: 8/7/17 5-0  
2<sup>nd</sup> Reading: 8/21/17 5-0



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

Approved for Legal Sufficiency:  
Karl Bohne, Jr.  
Karl Bohne, Jr.  
Town Attorney

Titusville, Palm Bay, Orlando, Orange County  
re: Medical Marijuana Dispensaries  
Adopted Regulations to Allow

## RE: Med Marijuana Dispensaries

Titusville

Wells, Wanda &lt;wanda.wells@Titusville.com&gt;

Thu 3/1/2018 4:30 PM

To: Debby Franklin &lt;townclerk@townofmalabar.org&gt;;

## Allowed:

Ordinance No. 5-2018 amending the Code of ordinances by amending Section 28-54 "Use Table" to include "Medical Marijuana Dispensing Facility" as an allowable use consistent with pharmacies; amending Chapter 28 Article V "Use Standards" by adding Section 28-144.7 "Medical Marijuana Dispensing Facility", providing for definitions and applicability of pharmacy regulations to Medical Marijuana Dispensing Facilities, except as set forth herein; amending Section 37-1 "Definitions", providing for repeal of moratorium, repeal of conflicting ordinances, an effective date and incorporation into the Code.

Wanda F. Wells, MMC  
City Clerk  
City of Titusville  
555 South Washington Avenue  
Titusville, FL 32796  
(321) 567-3686 (phone)

**From:** Debby Franklin [mailto:townclerk@townofmalabar.org]  
**Sent:** Thursday, March 01, 2018 4:26 PM  
**To:** Wells, Wanda <wanda.wells@Titusville.com>  
**Subject:** Re: Med Marijuana Dispensaries

Thanks Wanda but I can't open attachment. Do you allow or ban?

**Debby K. Franklin**  
Certified Municipal Clerk  
Town Clerk Treasurer  
[townclerk@townofmalabar.org](mailto:townclerk@townofmalabar.org)



Town of Malabar  
2725 Malabar Road  
Malabar, FL 32950  
[www.TownofMalabar.com](http://www.TownofMalabar.com)

**From:** Wells, Wanda <wanda.wells@Titusville.com>  
**Sent:** Thursday, March 1, 2018 4:23:27 PM  
**To:** Debby Franklin; Lori Kalaghchy; Sue Frank; Carie Shealy  
**Subject:** RE: Med Marijuana Dispensaries

We approved the attached ordinance on 02-13-18. Thanks.

Wanda F. Wells, MMC  
City Clerk  
City of Titusville  
555 South Washington Avenue  
Titusville, FL 32796  
(321) 567-3686 (phone)

## RE: Medical Marijuana Dispensaries

Palm Bay

Terese Jones &lt;Terese.Jones@palmbayflorida.org&gt;

Thu 3/1/2018 4:26 PM

To: Debby Franklin &lt;townclerk@townofmalabar.org&gt;;

Allowed

Yes, but we did not have modify our ordinance significantly to due to the bill – see below. ☺

Terese

**§ 120.01 PURPOSE AND INTENT.**

The purpose of this chapter is to permit medical marijuana treatment centers, licensed per Fla. Stat. § 381.986(8) to dispense marijuana for medical use within the territorial limits of the City of Palm Bay, Florida, in the interest of the public health, safety and general welfare. Nothing in this chapter is intended to promote or condone the sale, distribution, possession, or use of Cannabis in violation of any applicable state law. Compliance with the requirements of this chapter shall not provide a defense to criminal prosecution under any applicable law.

**§ 120.02 ZONING REQUIREMENTS.**

(A) No medical marijuana treatment center licensed to operate under Fla. Stat. § 381.986(8) shall be located within five hundred (500) feet of any public or private elementary, middle, or secondary school. However, a medical marijuana treatment center does not violate this subsection and may not be forced to relocate if it meets the requirements of this section and a public or private elementary, middle, or secondary school is subsequently established within five hundred (500) feet of the business, unless a variance is granted by City Council excepting the medical marijuana treatment center from this 500-foot requirement.

(B) For purposes of this chapter, measurements shall be made from the nearest property line of the public or private elementary, middle, or secondary school to the nearest property line of the licensed medical marijuana treatment center. If the licensed medical marijuana treatment center is located in a multi-tenant building, the distance shall be measured from the nearest property line of the public or private elementary, middle, or secondary school to the nearest line of the leasehold or other space actually controlled or occupied by the licensed medical marijuana treatment center.

**§ 120.03 SIGNAGE REQUIREMENTS.**

All signage associated with a licensed medical marijuana treatment center Cannabis Dispensing Business shall meet the standards established in this Code for signs Chapter 178, Palm Bay Code of Ordinances.

**§ 120.04 SEVERABILITY.**

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

---

**From:** Debby Franklin [mailto:townclerk@townofmalabar.org]

**Sent:** Thursday, March 01, 2018 4:16 PM

**To:** Terese Jones <Terese.Jones@palmbayflorida.org>

**Subject:** Medical Marijuana Dispensaries

Hi Terese,

Does Palm Bay still allow medical marijuana dispensaries since SB 8A was approved?

Thanks,

From the Orlando Business Journal:

<https://www.bizjournals.com/orlando/news/2017/11/15/medical-marijuana-dispensaries-okd-for-orange.html>

## Medical marijuana dispensaries OK'd for county: Here's where it's available now

Nov 15, 2017, 11:52am EST Updated: Nov 15, 2017, 3:30pm EST

Orange County's Board of Commissioners unanimously voted to allow medical cannabis dispensaries in unincorporated areas beginning Jan. 1.

The board approved the cultivating and processing of medical marijuana in unincorporated Orange County on Tuesday night, Nov. 14, to honor the home rule on Florida legalizing medical marijuana.

"I think we should also have a discussion about our legislative agenda and whether we want to make this clear as a board that we don't think that this honors local home rule," said Orange County Mayor Theresa Jacobs.

Commissioner Pete Clarke said the county needs to respect the law of the land. Medical marijuana, he said, "is the law of the land, the law of the state of Florida. To not implement a law passed by the voters goes against everything I've grown up being taught," *The Orlando Sentinel* reported.

According to the board, the dispensaries must meet several requirements, including:

- A valid state license
- A 500-foot distance from schools
- Only dispense between 7 a.m.-9 p.m.
- Complying with state-approved security measures

Dispensaries are banned in several Central Florida cities in Orange County, such as Winter Park, Winter Garden and Apopka.

***See the photo gallery for a look at Knox Medical's dispensary in Orlando.***

The dispensary number is capped at 25 until 2020, Attorney Tara Tedrow, co-chair of the cannabis and controlled substances group at Lowndes, Drosdick, Doster, Kantor & Reed law firm, told Orlando Business Journal. The new law says cities and counties either can ban dispensaries or allow them, but they would have to treat them exactly like a pharmacy, and pharmacies can go just about anywhere, she said. "There can be visible dissatisfaction with having dispensaries in a community, but as the industry grows and we see more dispensaries in communities, they may not see it as intrusive as they were thought to be on the front end."



MATTHEW RICHARDSON

Tedrow added that the dispensaries likely will go where there are large patient populations and be very accessible. However, if a local government does ban a medical marijuana center, it only can block a brick-and-mortar center. The dispensaries still can deliver to patients at their homes. Any licensed facility can grow, process, dispense and transport the products.

Today, there are currently 13 approved medical marijuana centers in the state. The number of total centers is capped at 25 until 2020.

There are more than 36,000 registered patients in the state, and when the count goes to 100,000, the department will issue more licensees.

The dispensaries in the state, along with their current or soon-to-open locations, include:

3 Boys Farm, in Ruskin  
Aphria, online  
Curaleaf, in Miami, Kendall  
GrowHealthy, in Lake Wales  
Keith St. Germain Nursery Farms, in Homestead  
Knox Medical, in Orlando, Winter Garden, Gainesville, Jacksonville, Lake Worth, Tallahassee  
Loop's Nursery & Greenhouses Inc., in Jacksonville  
Plants of Ruskin Inc., in Ruskin  
Sunbulb Co. Inc., in Arcadia  
Surterra Therapeutics, in Tampa, Tallahassee  
The Green Solution, online  
Treadwell Nursery, in Eustis  
Trulieve, in Orlando, Edgewater, The Villages, Deland, Tampa, Clearwater, St. Petersburg, Palm Bay, Gainesville, Vero Beach, Bradenton, Fort Meyers, Jacksonville, Lady Lake, Miami, Pensacola, Tallahassee

Central Florida's medical marijuana clinics include:

Bernard Cannabis Center, in Daytona Beach  
Canna-Doctor, in Lake Mary  
Coherence Wellness, in Winter Garden  
Comprehensive Health Center of Orlando, in Orlando  
DoctorsRx Medical Marijuana Centers, in Orlando  
Dr. Godson, in Orange City  
eDocGreen, in Orlando, Lake Mary, Winter Park  
Green Health, in Longwood  
Green Relief, in Kissimmee  
Medical Cannabis Clinics of Florida, in Kissimmee  
Medical Marijuana Treatment Clinics of Florida, in Longwood and Lakeland  
NuproMed, in Maitland  
Orlando 420 Doctor, in Orlando  
Prixus Medical, in Orlando  
Sandlake Medical Walkin Clinic, in Orlando

Medical marijuana in Florida is legal for patients with one of the following medical conditions:

Cancer

Epilepsy

Glaucoma

Human immunodeficiency virus (HIV)

Acquired immune deficiency syndrome (AIDS)

Post-traumatic stress disorder (PTSD)

Amyotrophic lateral sclerosis (ALS)

Crohn's disease

Parkinson's disease

Multiple sclerosis

A terminal condition diagnosed by a doctor other than the qualified physician issuing the physician certification.

Other debilitating medical conditions of the same kind for which a physician believes the medical use of marijuana likely would outweigh the potential health risks for a patient.



ORDINANCE NO. 2017-25

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORLANDO, FLORIDA, RELATING TO MEDICAL MARIJUANA DISPENSARIES; AMENDING CHAPTER 58, ORLANDO CITY CODE, TO PROVIDE ZONING REGULATIONS FOR MEDICAL MARIJUANA DISPENSARIES; PROVIDING A CAP ON THE NUMBER OF DISPENSARIES, SPECIAL USE SEPARATION REGULATIONS, AND SPECIAL OPERATIONAL REGULATIONS; FURTHER PROVIDING DEFINITIONS, FOR THE GRANDFATHERING OF CERTAIN EXISTING NONCONFORMITIES, AND THE TERMINATION OF THE TEMPORARY MORATORIUM ON MEDICAL MARIJUANA DISPENSARIES; PROVIDING LEGISLATIVE FINDINGS, AND FOR SEVERABILITY, CODIFICATION, CORRECTION OF SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

**WHEREAS**, section 163.3202(1), Florida Statutes, requires that the city of Orlando, Florida (the "city"), adopt or amend and enforce land development regulations that are consistent with and implement the city's adopted comprehensive plan; and

**WHEREAS**, section 163.3202(3), Florida Statutes, encourages the use of innovative land development regulations and requires that all land development regulations be combined into a single land development code for the city; and

**WHEREAS**, from time to time, amendments and revisions to the city's adopted comprehensive plan (the "Growth Management Plan"), progress in the field of planning and zoning, or changes to state law make it necessary or desirable to amend the land development regulations of the city; and

**WHEREAS**, at its regularly scheduled meeting of April 18, 2017, the Municipal Planning Board recommended to the City Council of the City of Orlando, Florida (the "Orlando City Council"), that the provisions of this ordinance are consistent with the applicable provisions of the city's adopted Growth Management Plan, are in the best interest of the public health, safety, and welfare, are in harmony with the purpose and intent of the Land Development Code of the City of Orlando, Florida (the "Land Development Code"), will not result in disorderly and illogical development patterns, and will not result in incompatible land uses; and

**WHEREAS**, the Orlando City Council hereby finds and determines that this ordinance is consistent with the applicable provisions of the city's adopted Growth Management Plan, is in the best interest of the public health, safety, and welfare, is in harmony with the purpose and intent of the city's Land Development Code, will not result in disorderly and illogical development patterns, and will not result in incompatible land uses; and

**WHEREAS**, section 381.986(8), Florida Statutes, provides that "[a] municipality may determine by ordinance the criteria for the number and location of, and other

47 permitting requirements that do not conflict with state law or department rule for,  
48 dispensing facilities of dispensing organizations located within its municipal  
49 boundaries..."; and  
50

51 **WHEREAS**, the Orlando City Council hereby finds that the land development  
52 regulations of this ordinance reasonably balance the needs of patients seeking medical  
53 products with the legitimate public interests in mitigating and limiting the potential  
54 negative secondary land use effects of medical marijuana dispensaries; and  
55

56 **WHEREAS**, the Orlando City Council hereby finds and declares that this  
57 ordinance is in the best interest of the public health, safety, and welfare; and  
58

59 **NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY**  
60 **OF ORLANDO, FLORIDA, AS FOLLOWS:**  
61

62 **SECTION 1. PART 4R(2), CHAPTER 58, CREATED.** Part 4R(2), Chapter 58,  
63 Code of the City of Orlando, Florida, is hereby created to read as follows:  
64

65 **4R(2) – MEDICAL MARIJUANA DISPENSARIES**  
66

67 **Sec. 58.873. General Requirements.**  
68

69 (a) Zoning use. For purposes of the Land Development Code, including the  
70 tables of allowable, prohibited, and conditional uses (Figures 2A.LDC – 2D.LDC,  
71 Chapter 58, Orlando City Code), medical marijuana dispensaries are hereby categorized  
72 as a light retailing use as defined in section 66.200, Orlando City Code. In the Southeast  
73 Orlando Sector Plan area, medical marijuana dispensaries must comply with the land  
74 development regulations applicable to the Village Center land use category.  
75

76 (b) Cultivation and processing. Medical marijuana cultivation facilities and  
77 medical marijuana processing facilities are hereby prohibited in the City.  
78

79 (c) Dispensaries. Medical marijuana dispensaries are hereby prohibited in  
80 the City unless the dispensary is approved by the Florida Department of Health pursuant  
81 to applicable state laws and regulations.  
82

83 (d) Cap on dispensaries. Only seven medical marijuana dispensaries are  
84 allowed in the City, without regard for the number of dispensing organizations approved  
85 by the State of Florida. As of the effective date of this Part, there are seven state-  
86 approved dispensing organizations, and each of them may have one dispensary in the  
87 City.  
88

89 **Sec. 58.874. Special Location Regulations**  
90

91 (a) Use separations. In addition to complying with the land development  
92 regulations of the table of allowable, prohibited, and conditional uses, medical marijuana  
93 dispensaries are prohibited within:  
94

ORDINANCE NO. 2017-25

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1. 200' of a residential zoning district; and
2. 200' of a residential land use in the Southeast Orlando Sector Plan area; and
3. 1,000' of a religious institution; and
4. 1,000' of a school; and
5. 1,000' of a park; and
6. 1,000' of a child day care center; and
7. 1,000' of a treatment and recovery facility; and
8. 5,280' of another medical marijuana dispensary.

(b) Hospital exception. Notwithstanding subsection 58.874(a), medical marijuana dispensaries may locate, operate, and undertake substantial improvements and enlargements if the dispensary is an accessory use to a hospital with at least 100 beds. To be an "accessory use" for purposes of this subsection, the dispensary must be located within the hospital or on land owned or operated by the hospital (or a closely-related corporate entity) and within 1,000' of the parcel of land on which the hospital is located.

(c) Neighboring jurisdictions. The use separation regulations of subsection 58.874(a) apply only to such uses located in the City of Orlando, except that medical marijuana dispensaries in the City are prohibited within 200' of a residential zoning district located in unincorporated Orange County or a neighboring municipality and within 5,280' of another medical marijuana dispensary located in unincorporated Orange County or a neighboring municipality. The planning official or permitting official should, upon receipt of any application proposing a medical marijuana dispensary within 1,000' of unincorporated Orange County or a neighboring municipality, provide written notice of the application to the planning or permitting official of the applicable neighboring jurisdiction. This notice is a courtesy notice and failure to make such notice shall not invalidate any approvals issued by the City.

(d) Method of measuring distance. For the purposes of this Part, distance shall be measured by the shortest, straight line between property or district boundaries.

**Sec. 58.875. Special Operational Regulations**

(a) Security system. To ensure the safety and security of medical marijuana dispensaries, and to maintain adequate controls against the diversion, theft, and loss of low-THC cannabis, medical cannabis, and cannabis delivery devices, section 381.986, Florida Statutes, and Chapter 64-4, Florida Administrative Code, require dispensing organizations to implement and maintain specified security systems and techniques. The security plan approved by the Florida Department of Health for the dispensary must be filed with the police chief before the dispensary opens for business and any changes to the security plan must be filed with the police chief within seven days of approval by the Florida Department of Health. It is unlawful and a violation of this subsection to operate,

146 own, or control a medical marijuana dispensary except in compliance with the applicable  
147 security plan approved by the Florida Department of Health.

148  
149 (b) *Site plan and appearance approval.* Before a certificate of occupancy or  
150 certificate of completion is issued by the permitting official (whichever is applicable, and  
151 if neither are applicable then before the dispensary opens for business) for a medical  
152 marijuana dispensary, the dispensary must be reviewed and approved by planning  
153 official determination. The planning official determination must review and approve the  
154 proposed site for zoning use compliance, for compliance with applicable site  
155 development standards (including parking and pedestrian and automobile circulation),  
156 and for compliance with applicable appearance and architectural standards (including  
157 signs).

158  
159 (c) *Outdoor lighting.* Medical marijuana dispensaries are hereby made  
160 exempt from Part 2M, Chapter 63, Orlando City Code, but only to the extent minimally  
161 necessary to achieve compliance with state laws and regulations relating to sufficient  
162 outdoor lighting.

163  
164 (d) *Hours of operation.* Medical marijuana dispensaries may not dispense  
165 low-THC cannabis, medical cannabis, or cannabis delivery devices between the hours of  
166 7:00 p.m. and 8:00 a.m. This subsection applies only to the onsite dispensing of low-  
167 THC cannabis, medical cannabis, or cannabis delivery devices, and does not purport to  
168 regulate the delivery of low-THC cannabis, medical cannabis, or cannabis delivery  
169 devices, nor does this subsection prohibit the use of the dispensary between the hours  
170 of 7:00 p.m. and 8:00 a.m. for business purposes other than the dispensing of low-THC  
171 cannabis, medical cannabis, or cannabis delivery devices.

172  
173 (e) *Drive-in facilities prohibited.* Drive-in facilities are prohibited at medical  
174 marijuana dispensaries.

175  
176 **Sec. 58.876. Definitions**

177  
178 For the purposes of this Part, the following words, terms, and phrases (and their  
179 derivations) have the meanings provided hereinafter, except where the context clearly  
180 requires otherwise.

181  
182 (a) "Cannabis delivery device" has the same meaning provided at section  
183 381.986(1)(a), Florida Statutes.

184  
185 (b) "Dispensing organization" has the same meaning provided at section  
186 381.986(1)(b), Florida Statutes.

187  
188 (c) "Low-THC cannabis" has the same meaning provided at section  
189 381.986(1)(e), Florida Statutes.

190  
191 (d) "Medical cannabis" has the same meaning provided at section  
192 381.986(1)(f), Florida Statutes.

193  
194 (e) "Medical marijuana cultivation facility" has the same meaning as  
195 "cultivation facility" as provided at Rule 64-4.001(11)(a), Florida Administrative Code.

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196 and includes any area approved by the Florida Department of Health for the cultivation of  
197 medical cannabis.

198  
199 (f) "Medical marijuana processing facility" has the same meaning as  
200 "processing facility" as provided at Rule 64-4.001(11)(b), Florida Administrative Code,  
201 and includes any area approved by the Florida Department of Health for the processing  
202 of medical cannabis.

203  
204 (g) "Medical marijuana dispensary" has the same meaning as "dispensing  
205 facility" as provided at Rule 64-4.001(11)(c), Florida Administrative Code, and includes  
206 any area approved by the Florida Department of Health for the dispensation of medical  
207 cannabis.

208  
209 (h) "Park" means all public and private property specifically designated as  
210 being used for principally recreational purposes.

211  
212 Secs. 58.877 -- 58.879. Reserved.

213  
214 **SECTION 2. GRANDFATHERED DISPENSARIES.** Notwithstanding anything in  
215 this ordinance to the contrary, medical marijuana dispensaries approved by a site-  
216 specific zoning official determination issued before the effective date of this ordinance  
217 and the subject of a complete building permit application to construct the dispensary  
218 (pursuant to the Florida Building Code) submitted to the permitting official before the  
219 effective date of this ordinance are hereby made conforming and lawful under this  
220 ordinance as to the locational regulations of this ordinance. Medical marijuana  
221 dispensaries approved by a site-specific zoning official determination issued before the  
222 effective date of this ordinance but not the subject of a complete building permit  
223 application to construct the dispensary (pursuant to the Florida Building Code) submitted  
224 to the permitting official before the effective date of this ordinance are hereby made  
225 wholly subject to the provisions of this ordinance.

226  
227 **SECTION 3. MORATORIUM TERMINATED.** The temporary moratorium on  
228 cannabis dispensaries established by City Ordinance No. 2016-58 and extended by City  
229 Ordinance No. 2016-92 is hereby terminated.

230  
231 **SECTION 4. CODIFICATION.** The city clerk and the city attorney shall cause  
232 the Code of the City of Orlando, Florida, to be amended as provided by this ordinance  
233 and may renumber, re-letter, and rearrange the codified parts of this ordinance if  
234 necessary to facilitate the finding of the law.

235  
236 **SECTION 5. SCRIVENER'S ERROR.** The city attorney may correct scrivener's  
237 errors found in this ordinance by filing a corrected copy of this ordinance with the city  
238 clerk.

239  
240 **SECTION 6. SEVERABILITY.** If any provision of this ordinance or its  
241 application to any person or circumstance is held invalid, the invalidity does not affect  
242 other provisions or applications of this ordinance which can be given effect without the  
243 invalid provision or application, and to this end the provisions of this ordinance are  
244 severable.

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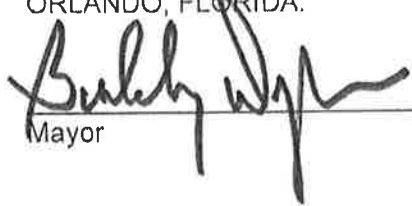
**SECTION 7. EFFECTIVE DATE.** This ordinance takes effect upon adoption.

**DONE, THE FIRST READING**, by the City Council of the City of Orlando, Florida, at a regular meeting, the 15th day of May, 2017.

**DONE, THE PUBLIC NOTICE**, in a newspaper of general circulation in the City of Orlando, Florida, by the city clerk of the City of Orlando, Florida, the 23rd day of May, 2017.

**DONE, THE SECOND READING AND PUBLIC HEARING, AND ENACTED ON FINAL PASSAGE**, by an affirmative vote of a majority of a quorum present of the City Council of the City of Orlando, Florida, at a regular meeting, the 5th day of June, 2017.

BY THE MAYOR OF THE CITY OF ORLANDO, FLORIDA:

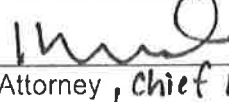
  
\_\_\_\_\_  
Mayor

ATTEST, BY THE CLERK OF THE CITY COUNCIL OF THE CITY OF ORLANDO, FLORIDA:

  
\_\_\_\_\_  
City Clerk

DENISE ALDRIDGE  
\_\_\_\_\_  
Print Name

THIS ORDINANCE DRAFTED BY AND APPROVED AS TO FORM AND LEGALITY FOR THE USE AND RELIANCE OF THE CITY OF ORLANDO, FLORIDA:

  
\_\_\_\_\_  
City Attorney, Chief Assistant

Kyle Shephard  
\_\_\_\_\_  
Print Name

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