

TOWN OF MALABAR

APPLICATION FOR CULVERT/RIGHT-OF-WAY PERMIT

Culverts, if required, must be installed prior to any other permits being issued. Temporary culverts must be approved by the Town Engineer.

DATE \_\_\_\_\_

APPLICANT NAME \_\_\_\_\_ TELEPHONE \_\_\_\_\_

APPLICANT ADDRESS \_\_\_\_\_

CONTRACTOR NAME \_\_\_\_\_ TELEPHONE \_\_\_\_\_

CONTRACTOR ADDRESS \_\_\_\_\_

LOCATION OF WORK (Street Address if known) \_\_\_\_\_

Sec: \_\_\_\_\_ Twp: \_\_\_\_\_ Rng: \_\_\_\_\_ Lot: \_\_\_\_\_ Block: \_\_\_\_\_ Sub/Parcel: \_\_\_\_\_

DESCRIPTION OF WORK: \_\_\_\_\_

Note:

1. Signed/sealed survey to be submitted showing elevations of existing culverts adjacent to property.
2. Please carefully review Code Section 1-8.13 -19 and Ordinance 2009-21 and Memo 07-TA-061, which have been provided with this application. It clearly states the application requirements as well as the terms and conditions of the issuance of a permit.
3. Waste Management has exclusive rights to provide roll-off trash service during construction.
4. All work is subject to final inspection by the Town Engineer:
5. Permit to be displayed on the job site.
6. FDOT Traffic Control is required.
7. Applicant is responsible for obtaining permits from other jurisdictional agencies.

A signature of the contractor shall be construed as making the contractor personally liable unless the contractor attaches a written proof of authorization to act on behalf of the applicant.

\_\_\_\_\_  
Applicant / Contractor

OFFICE USE ONLY:

Complies with Thoroughfare Plan - Yes [ ] No [ ]  
Drainage approved - Yes [ ] No [ ]

Permit Fee, if applicable \$ \_\_\_\_\_

Remarks \_\_\_\_\_

\_\_\_\_\_  
Issuing Officer

\_\_\_\_\_  
ROW Permit #

\_\_\_\_\_  
Date Issued

3. *Filing of Building Plans.* The Building Official shall maintain a record of the actual, "as built" elevation or flood-proofing of all buildings constructed after flood management review.
4. *Coordinating Review Functions.* Coordinate the review with other permitting agencies, if necessary.

**Section 1-8.13. Permit application required.**

A permit application and fee shall be required for the installation of culverts and/or driveways within the right-of-way. The application is attached hereto and is made an integral part of this ordinance.

No work shall be performed within the right-of-way (including temporary installations) before a permit has been granted. A permit will be granted only for those culverts and/or driveways to be constructed under this application.

A separate permit application and fee will be required for any future culverts and/or driveways. A temporary culvert may be installed after the applicant has been issued a culvert permit. A separate permit is not required for a temporary culvert but shall comply with the same hydraulic requirements as the final culvert in both flow capacity and elevation.

Any project proposed within Malabar that requires traversing Town right-of-way for access will require review by the Town Engineer to determine if a culvert is required.

If the culvert installation is a stand alone application, there is a ninety-day time limit to complete each project after a permit is issued. Time extensions may be considered when reasons are given in writing to the town prior to the expiration of the initial ninety-day period.

If the culvert is being placed in conjunction with a building project, the culvert permit will remain valid as long as a valid building permit is held for the building, but said culvert must be completed prior to issuance of a Certificate of Occupancy for the building.

But in no case shall a property be accessed without having been issued a permit and at least a temporary culvert of the correct size placed in the swale or ditch.

(Ord. No. 03-03, § 2, 6-2-03)

**Section 1-8.14. Application requirements.**

In addition to the information required on the attached application, the applicant is required to submit a detailed survey with a sketch depicting the following:

- A. Existing elevations referenced to 1929 NGVD (citing benchmark used) along the existing ditch; at inverts of nearest upstream and downstream culverts;
- B. Center line and edge of roadway along the subject property;
- C. Distance from proposed pipe to property lines and edge of roadways;
- D. Width of proposed driveway at property line, at the proposed culvert and edge of roadway;

- E. Proposed driveway flares (either three-foot x eight-foot or five-foot x ten-foot);
  - F. Length of proposed pipe. Not having an endwall is not an option.
  - G. Proposed type of endwall treatment.
- (Ord. No. 03-03, § 2, 6-2-03)

#### **Section 1-8.15. Design requirements.**

The permittee shall be required to either seed and mulch or sod the swale after completion of the proposed work. Any disturbance of areas within the right-of-way shall be restored to existing or better conditions. This includes permanent vegetative cover and compaction. There shall be no other improvements, except as permitted within the road right-of-way. Walls, fences or any other embellishments shall not be permitted within the road or drainage right-of-way. embellishments belong on private property.

The permittee shall be required to contact all applicable utility providers to locate their underground and above ground utility lines, facilities or pipes within the project area, and take necessary precautions to protect such property before construction begins.

The permittee shall use proper erosion and sedimentation control per the latest Florida Department of Transportation Index No. 102 and 103 as applicable.

The permittee shall remove all construction related debris, including but not limited to, trees, roots and brush from the right-of-way and dispose of them accordingly.

(Ord. No. 03-03, § 2, 6-2-03)

#### **Section 1-8.16. Construction.**

Where a driveway meets an existing paved roadway, the driveway shall be paved from the edge of the roadway to the property line a minimum distance of five (5) feet with a minimum width of twelve (12) feet.

Driveways for commercial use shall be designed appropriately to meet the use and conditions of the site and shall comply with the approved site plan per section 1-7.

Where a concrete driveway meets an existing paved roadway, a twelve-inch wide by twelve-inch deep footer shall be used at the roadway.

In cases where a concrete driveway is to extend to an existing paved roadway, that portion of the driveway from the property line to the edge of the road pavement shall be a minimum of six (6) inches deep.

(Ord. No. 03-03, § 2, 6-2-03)

#### **Section 1-8.17. Conditions.**

The permittee shall provide a survey of the constructed inverts and location of the new structures and other required improvements prior to town approval of the continuation of work. If endwalls are constructed prior to verification of inverts of the culvert, the permittee continues the work at their own risk.

The permittee shall notify the Town at least forty-eight (48) hours prior to the placement of any concrete improvement within the right-of-way so the town may inspect such work.

The permit shall be for the limited purpose of installation, placement and maintenance of the improvements specified in the application, and does not convey any other right, title or interest to the permittee in the subject right-of-way property.

The permittee is responsible for any other permits that may be required from other agencies having jurisdiction over the improvements. Issuance of the permit does not relieve the applicant of liability for trespass or damage on private property.

The permittee shall be responsible to use all reasonable care to assure that pedestrians and the traveling public are not unreasonably inconvenienced or endangered by the proposed construction activities, including the properties of reflector barriers, warning signals, or flag as per the latest edition of the Manual of Uniform Traffic Control Devices and the Florida Department of Transportation Roadway and Traffic Design Standards.

(Ord. No. 03-03, § 2, 6-2-03)

#### **Section 1-8.18. Maintenance and indemnity bond requirements.**

The permittee shall be responsible for all maintenance, replacement or removal of any right-of-way improvements authorized by this permit.

The permittee shall hold harmless, the Town, its officers, employees, agents, council members, engineers for any damages, claims, causes of action, or losses whether for personal injury, loss of life, or property damage, arising from the actions or omissions of the permittee, its officers, agents, or employees associated with the placement, maintenance or removal of installations authorized by this permit.

Furthermore, the permittee may be required to obtain a bond equal to one hundred ten (110) percent of the project cost; to be determined on an application by application basis at the sole discretion of the Town Engineer.

(Ord. No. 03-03, § 2, 6-2-03)

#### **Section 1-8.19. Culvert removal/replacement.**

The following shall apply to the removal or replacement of an existing culvert:

- A. In the event that it is determined by the Town that a culvert shall be in disrepair, or is a danger to the public health, safety and welfare, the land owner utilizing the culvert for access to his/her property, shall remove and replace the said culvert at their expense and such replacement culvert shall be in accordance with the standards in existence at the time the said culvert is replaced. Upon notification by the Town to the land owner, the owner shall apply for a permit from the Town within thirty (30) days and complete said work within thirty (30) days of the issuance of a new permit. The land owner may request a thirty-day extension, in writing, for good cause. If the land owner has not completed the work within ninety (90) days of notification by the Town, the Town may do the work and bill the owner.

- B. If a culvert shall need to be removed and replaced as a result of a Town initiated public project then the Town shall be required to replace the said culvert at the cost of the Town. Under no circumstances, however, shall the Town be responsible to repair, replace or compensate a land owner for any improvements or embellishments made in the public right-of-way which are removed as a result of a culvert replacement project.
  - C. If the Town decides that an otherwise functioning culvert must be upgraded to current standards then the Town shall pay all costs associated with the upgrade, however, the Town shall not be responsible to repair, replace or compensate a land owner for any improvements or embellishments made in the public right-of-way which are removed as a result of culvert replacement project.
- (Ord. No. 03-03, § 2, 6-2-03)

ORDINANCE NO. 2009-21

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING ARTICLE VIII OF THE MALABAR LAND DEVELOPMENT CODE; AMENDING SECTION 1-8.14.G. REQUIRING MITERED ENDWALLS IN RESIDENTIAL INSTALLATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, In order to improve the drainage structures maintenance process and increase conformity with the requirements of the NPDES permit the Town Council desires to provide minimum requirements for endwalls when culvert pipes are newly installed or replaced.

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

**Section 1.** Section 1-8.14.G of Article VIII of the Land Development Code of the Town is hereby amended in full to read as follows:

"G. Proposed type of endwall treatment. All endwalls for pipe culverts where the pipe diameter is less than 30 inches located in residential areas and located on lanes and/or minor and major collector roadways shall be mitered and comply with the 2008 FDOT Design Standards Index 273 and turnouts per 2008 FDOT Index 515.

**Section 2.** Severability. In the event a court of competent jurisdiction shall hold or determine that any part of the this ordinance is invalid or unconstitutional, the remainder of the is Ordinance shall not be effected and it shall be presumed that the Town Council, Town of Malabar did not intend to enact such invalid or unconstitutional revision. It shall further be assumed that the Town Council would have enacted the remainder of this Ordinance without said invalid and unconstitutional revision, thereby causing said remainder to remain in full force and effect.

**Section 3.** Conflict. All ordinances or resolutions or part of ordinances or resolutions in conflict herewith are hereby repealed.

**Section 4.** This Ordinance shall become effective immediately upon its adoption.

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

Council Member Nancy Borton	Aye _____
Council Member Brian Vail	Aye _____
Council Member Steve Rivet	Aye _____
Council Member Jeffrey (Jeff) McKnight	Aye _____
Council Member Patricia (Pat) Dezman	Aye _____

Passed and adopted by the Town Council, Town of Malabar, Brevard County, Florida this 4th day of May, 2009.

BY:

TOWN OF MALABAR

Thomas Eschenberg  
Mayor Thomas M. Eschenberg, Chair

First Reading: 04/06/09

Second Reading: 05/04/09

ATTEST:

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

APPROVED as to form and content:

Karl Bohne  
Karl W. Bohne, Jr.  
Town Attorney

# TOWN OF MALABAR

## MEMORANDUM

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**Date:** November 14, 2007 07-TA-061

**To:** Roger Coultier, Building Official  
Bill Stephenson, Town Engineer  
Building Department Staff  
Bill Stephenson, Town Engineer

**From:** Bonilyn Wilbanks-Free, Town Manager *BW*

**Ref:** Drainage Provisions on New Construction

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There appears to be confusion regarding the Town's requirement for the inclusion of a swale that is to run along the front of the property that will connect to the driveway culverts. Article V. Section 1-5.23 of the Town Code of Ordinances sets the policy for the design of all drainage provisions to new or existing driveways or other elements of the Town circulation system will be reviewed and approved by the Town Engineer. During that review the Town Engineer is to ensure that the new or changes to the driveways improve and/or protect the existing circulation system. In order to accomplish this requirement, drainage must be provided along the entire width and length of the property. Both Federal and state laws require those property owners are responsible to retain the first inch of water on their own property. The required depth of these drainage ways, erosion prevention products and the retention requirement for the first inch of water will be at the determination of the Town Engineer and should be included on submitted plans for approval. If there are any further clarifications needed to our Town Code, please submit these request to me in writing so we can set these issue for action by Council.

**Cc:** Debby Franklin, Town Clerk /




**Section 1-5.21. Mobile home on property used for churches or schools.**

A mobile home may be an accessory use on any parcel on which the principal use is a church or a school. Any such mobile home shall be used exclusively as a single-family residence for a caretaker or security guard serving the principal institutional use on the premises.

**Section 1-5.22. Land excavation or fill.**

No site work which redirects and/or increases or reduces off-site natural drainage or runoff to or from a site shall be undertaken without prior approval by the Town Engineer in order to assure no adverse impacts will occur on adjacent lands and to assure appropriate restoration of the land. The Code provides regulations governing such activities. See Article VII, Site Plan Design and Article VIII, Surface Water Management.

(Ord. No. 91-1, 3-19-91)

**Section 1-5.23. Construction of driveways, swales, and other improvements affecting drainage.**

The design of all drainage provisions to new or existing driveways or other elements of the circulation system potentially impacting drainage shall be approved by the Town Engineer prior to commencement of construction or excavation activity. Review by the Town Engineer is necessary in order to assure that: (1) new driveways and other elements of the circulation system provide adequate drainage, swales, ditches or similar storm water channels and; (2) improvements to existing driveways or other elements of the circulation system are designed to protect and/or enhance existing drainageways, or needed drainageways, as deemed appropriate by the Town Engineer. Driveways are encouraged to be paved and culverts shall be designed to meet accepted engineering standards. The Town Engineer shall administer the provisions of this section based on generally accepted engineering principles and practices.

**Cross references**—Buildings and building regulations, ch. 6; flood damage prevention, ch. 9.

**Section 1-5.24. Model homes.**

Within the RR-65, RS-21, RS-15, RS-10, RM-4, RM-6, and R-MH districts, model homes shall be regulated through the issuance of a model home permit. The permit shall be issued for a period not to exceed one (1) year. The Town Council may renew said permit upon application, provided that the model home has been constructed and operated in accordance with this ordinance.

1. *Notification of Adjacent Property Owners.* Upon application for a model home permit, the applicant shall inform the Town Clerk of the names and addresses of all property owners who own property within a one hundred and fifty (150) foot radius of the site of the proposed model as shown on the most recent Brevard County Tax Roll. The Town Clerk shall notify each property owner on said list of the pending application and the date, time and location when the Town Council shall consider said application. The Clerk shall make every effort to mail said notices at least seven (7) days