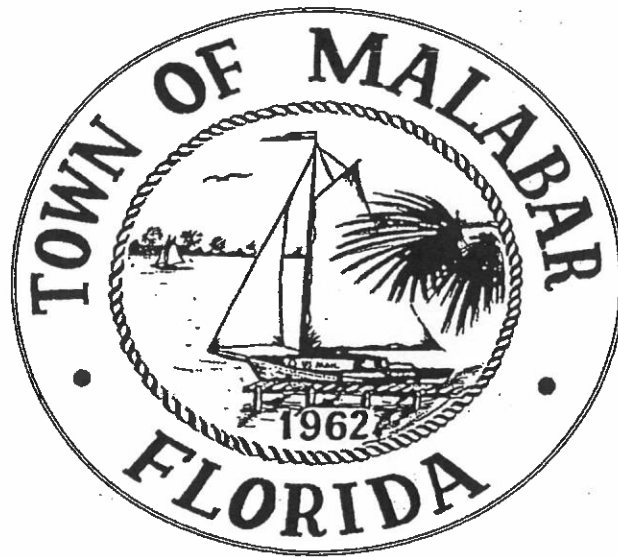


Malabar Road Improvement Regulations Packet

Chapter 13, Malabar Code



**2725 Malabar Road
Malabar Florida, 32950
Phone 321-727-7764
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DIVISION 2. IMPROVEMENTS*

Sec. 13-36. Title.

This division shall be known as the Malabar Right-of-Way Improvement Code.
(Ord. No. 01-01, § 1-1, 2-5-01)

Sec. 13-37. Definitions.

As used herein, the following terms shall have the following meanings:

Building permit shall mean any permit for construction of any structure on property located within the town, whether it is a principal or accessory structure.

Improved road shall mean the path upon which vehicular traffic is intended to travel and upon which the travel way has been improved and accepted by the town for maintenance in order to permit use as a road.

Local streets/roads shall mean any street or road other than an arterial roadway, major collector street, minor collector street located within the town.

Owner shall mean the individual, entity or, in the event that the property is owned by a partnership or an aggregation of individuals or entities, all of the partners or persons or entities who have a present, possessory interest in such property. In the event that an application for building permit is made by an individual or entity that holds a leasehold interest in the fee, that individual or entity shall be considered the "owner" for the purposes of this division.

Permitted structure shall mean any structure for which a permit is required pursuant to the town's land development code, whether it is a principal structure, accessory structure or any combination thereof.

Road/right-of-way shall mean the path upon which vehicular traffic is intended to travel in order to obtain ingress and egress to and from real property. As used in this division, the terms "road" and "street" are interchangeable and intended to have the same meaning as expressed herein.

***Editor's note**—Ord. No. 01-01, § 1-21, adopted Feb. 5, 2001, repealed §§ 13-36—13-53 in their entirety. Further, said ordinance §§ 1-1—1-19, did not specifically amend this Code but set out provisions included as §§ 13-36—13-54 at the discretion of the editor to read as herein set out. Formerly, the repealed sections pertained to similar subject matter. See the Code Comparative Table.

Cross reference—Drainage system, § 1-13.7, Land Development Code, Vol. II.

State law references—Supplementary procedure for local improvements, F.S. ch. 170; uniform minimum standards for street construction, F.S. § 336.045.

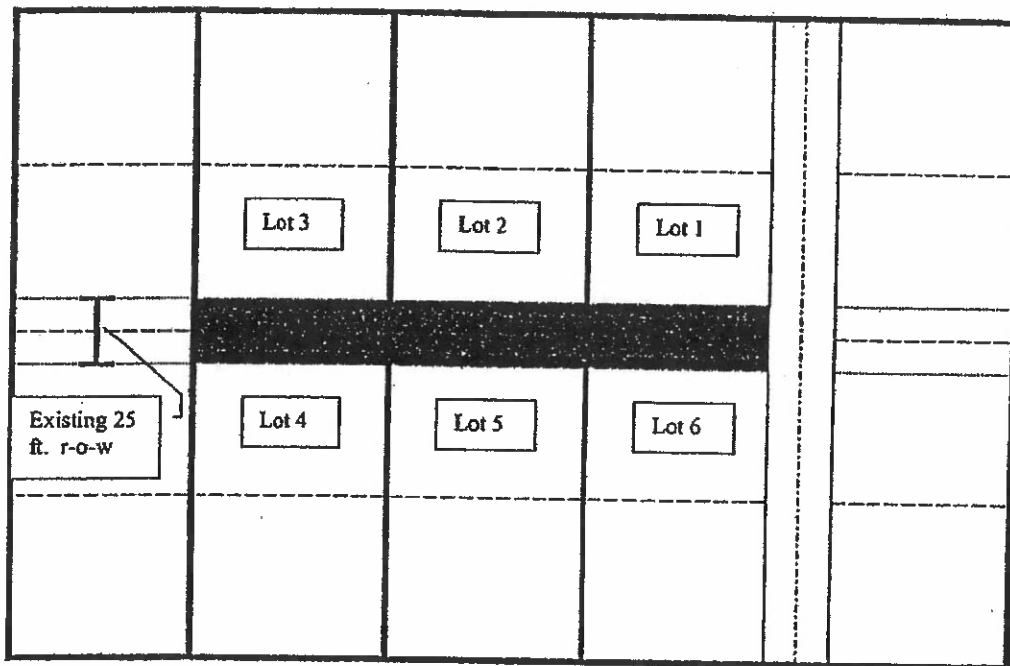
Unaccepted road shall mean any unimproved road, street, or right-of-way that has not been accepted by the town for maintenance by affirmative vote of the town council resulting in such street, road or right-of-way to be approved and included on the official list of "accepted" roads within the town.

(Ord. No. 01-01, § 1-2, 2-5-01; Ord. No. 03-01, § 1, 2-24-03; Ord. No. 2021-04, § 1, 5-15-21)

Sec. 13-38. Precondition to issuance of building permit—Completion of road.

(a) As a precondition for the issuance for any permit for a new residence or new commercial structure on property that abuts an unimproved right-of-way or unaccepted local street/road within the Town of Malabar, Brevard County, Florida, the owner of the property for which such permit is requested must provide for the improvement of the local street/road from which a person will obtain primary ingress and egress to and from such property from the nearest improved and accepted road continuously in the most direct route (or route otherwise approved by the town) on public rights-of-way through and including the furthest boundary of the lot of record on which the principal structure is to be constructed. Furthermore, as a precondition for the issuance for any permit for an existing or new residence or commercial structure or an existing residence or commercial structure which has been destroyed by fire or natural disaster on property within the Town of Malabar, the owner of the property for which such permit is requested must dedicate right-of-way to the Town of Malabar in accordance with section 13-39.

Illustration #1



(Illustration No. 1 only depicts the length or distance for which the right-of-way must be improved if the owner of Lot No. 4 requests a boundary permit or other development order).

In determining whether any parcel "abuts" such unaccepted local street/road for purposes of this chapter, any property that lies contiguous to an existing unimproved local street/road or right-of-way and which is intended to be used as ingress and egress to said property, shall be deemed to abut the unimproved local street/road or right-of-way.

(b) Ownership of contiguous lots.

- (1) In the event that such owner owns more than one (1) lot of record on the same local street/road and if such lots are contiguous, such local street/road shall be completed only through the furthest boundary of the lot on which the principal structure is to be wholly constructed.
- (2) However, should such principal structure not be located wholly on one (1) lot, or should the owner desire to construct accessory uses, ponds or outbuildings (accessory to the principal structure) on the contiguous lot, then the local street/road shall be improved through the furthest boundary on which such accessory building to be constructed.

(c) *Waiver*. The town council may grant a waiver to the provisions of section 13-38 (a), (b)(1) and (2).

- (1) The below stated procedures shall in all respects be utilized for consideration of a waiver to subsection (a), (b)(1) and (2). In order to authorize a waiver under this section the town council must find the following:
 - a. That special conditions and circumstances exist and that the presence of which would make complying with section 13-38(a), (b)(1) or (2) unreasonable. Financial or economic reasons, conditions or circumstances shall not be grounds for a waiver under this section;
 - b. The special conditions and circumstances are not caused in any way by the owner or applicant;
 - c. That such waiver will not be injurious or detrimental to the public welfare;
 - d. That the waiver granted is the minimum waiver that will make possible the reasonable use of the land;
 - e. As a condition to the issuance of a waiver the owner of the property for which such waiver is granted shall dedicate the right of way required by section 13-39 of the Code, if no such public right of way exists at the time of the granting of a waiver authorized herein, through the furthest boundary of the lot of record on which a principal structure or accessory structure is to be constructed.
- (2) The owner of the property for which such waiver is granted shall also execute an agreement in recordable form with the town that binds the owner and his/her successors in interest of the property for which such waiver is granted to pay for the

completion of the entire width of the right of way as it existed on the date the waiver is granted by the town council through the furthest boundary of the lot of record on which a principal structure or accessory structure is constructed in the event the road is completed by another. The agreement shall provide, in part, that should the owner of the property for which the waiver was granted fail to pay for the completion of the entire width of the right of way through the furthest boundary of the lot of record when it is constructed by another then the town may reimburse the person who completed the road portion through the furthest boundary of the lot of record of the owner who was granted the waiver and the Town shall be entitled to record a lien against the property for which such a waiver was granted for the cost of the reimbursement and/or the town may withhold the issuance of any future building permit, development order or development permit, for the property for which such waiver is granted.

- (3) By way of example, and not by way of limitation, "special circumstances" may include:
 - a. Environmental conditions, and restrictions exist which prohibit any disturbance of such area and make it impossible to complete the road to the furthest extent of the property; [for example where mitigation is not possible]; or
 - b. There exists no dedicated public right of way immediately abutting and beyond the furthest boundary of the lot of record for which the waiver applies; or
 - c. The property immediately abutting and beyond furthest boundary of the lot of record for which the waiver applies is owned by a governmental agency and is designated as conservation or environmentally sensitive land; or
 - d. The property immediately abutting and beyond the furthest boundary of the lot of record for which the waiver applies already has existing accepted access through the use of another public or private right of way
- (4) Town council may impose additional reasonable conditions and safe-guards that it deems appropriate;
- (5) The town council may prescribe a reasonable time limit within which the action for which the waiver is required shall be begun or completed or both.
- (6) The decision of the town council regarding a request for a waiver is final and no reconsideration, rehearing or further appeal to the Town is available.
- (7) Application process: Any person owning an interest in any real property may apply to the town council for a waiver hereunder. The application shall be accompanied by a fee established from time to time by the town council. The application shall be in such form as provided by the town, and shall contain the following information:
 - a. The name of the owner of the particular real property shall be included.
 - b. If the applicant is other than all the owners of the particular property, written consent signed by all owners of the particular real property shall be attached.

- c. The application shall contain the legal description of the particular real property, accompanied by a certified survey of that portion of the map maintained by the property appraiser reflecting the boundaries of the particular real property.
 - d. The application shall contain the current zoning classification, and any specified conditions or conditional use designation as recorded on the official zoning maps.
- (8) Public hearing; notice upon receipt of an executed application pursuant to this section, the town clerk forthwith schedule a hearing on the application before the town council. Notice of the time and place of the public hearing shall be given to the applicant at least fifteen (15) days prior to the public hearing. Notice of the time and place of the public hearing on the application shall be mailed, at least fifteen (15) days prior to the public hearing, to all affected property owners abutting the road right of way in question. Such notice shall contain the name of the applicant, the legal description of the affected property, and that the owner of the affected property desires a waiver to section 13-38(b)(1) or (2). In addition, a notice containing such information shall be posted at town hall and on the town's website.
- (Ord. No. 01-01, § 1-3, 2-5-01; Ord. No. 03-01, § 2, 2-24-03; Ord. No. 03-05, § 1, 6-16-03; Ord. No. 07-11, § 1, 7-16-07; Ord. No. 08-07, § 1, 6-16-08; Ord. No. 2016-02, § 1, 10-3-16; Ord. No. 20-01, § 1, 2-3-20; Ord. No. 2021-04, § 2, 5-15-21)

Sec. 13-39. Precondition to issuance of building permit—Dedication of sufficient right-of-way.

Except as provided for in section 13-39.1, as a precondition for the issuance of any building permit for a permitted structure on property that abuts an unimproved or unaccepted right-of-way within the Town of Malabar, Brevard County, Florida, the owner of the property for which such permit is requested must agree to dedicate that portion of his property which abuts said right-of-way or unaccepted road such that the town can achieve its goal of acquiring rights-of-way as required by the Town Land Development Code and Comprehensive Plan.

(Ord. No. 01-01, § 1-4, 2-5-01; Ord. No. 07-11, § 2, 7-16-07; Ord. No. 09-29, § 1, 12-7-09)

Sec. 13-39.1. Authorization for the acceptance of easements in lieu of dedicated right-of way under certain circumstances.

In those instances where land abutting an unimproved or unaccepted right-of-way within the town is owned by a governmental entity, and such land is conservation land, and due to restrictions placed upon the land prohibiting the owner from divesting itself of ownership of such land, the town is authorized to accept an easement, in lieu of dedication, of that portion of the property which abuts said right-of-way or unaccepted road.

(Ord. No. 2009-29, § 2, 12-7-09)

Sec. 13-40. Reserved.

Editor's note—Ord. No. 2021-04, § 3, adopted May 15, 2021, repealed § 13-40, which pertained to cost of improvement (bond) and derived from Ord. No. 01-01, § 1-5, adopted Feb. 5, 2001.

Sec. 13-41. Road permit application and fee.

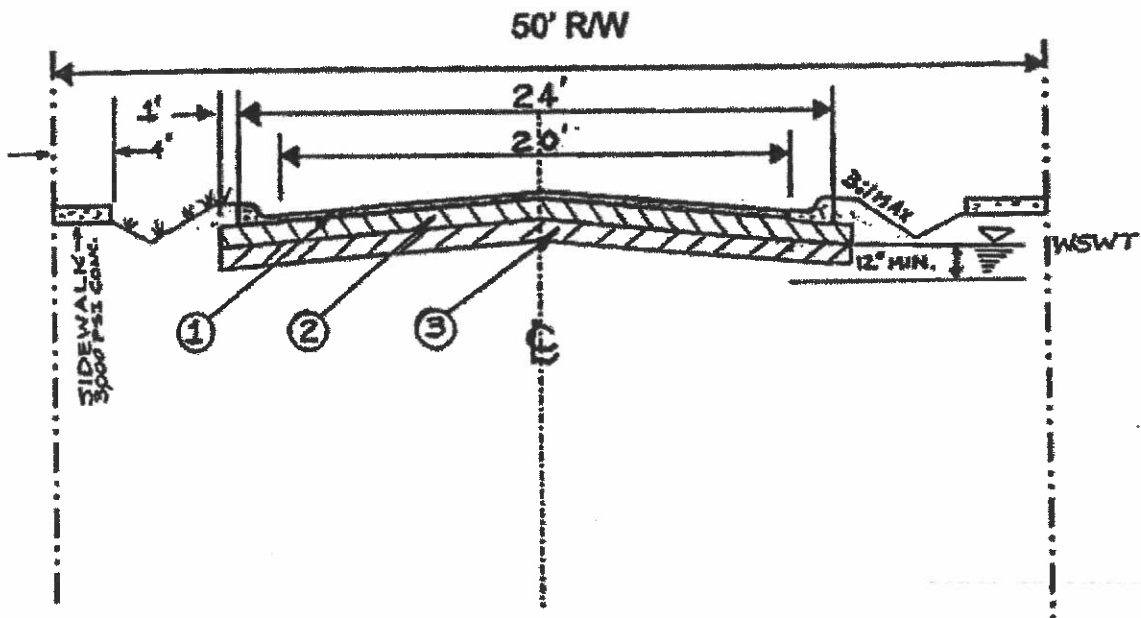
In order to obtain a road permit, an applicant must complete road permit application. The application for a road permit shall be in a form approved by the town and shall include the following:

- (1) Such surveys and drawings as are required by the standards attached hereto as Exhibit "A," "B-1," "B-2," or "B-3," "B-4," "B-5" or "B-6" whichever is applicable. The standards set forth in Exhibit "A" through "B-3" may be amended from time to time by resolution of the town council of the town.
- (2) Such reports as to soil composition as are required by the standards attached hereto as Exhibit "A," "B-1," "B-2," or "B-3," "B-4," "B-5" or "B-6" whichever is applicable. The standards set forth in Exhibit "A" through "B-6" may be amended from time to time by resolution of the town council of the town.
- (3) A written estimate, based upon such surveys and drawings described hereinabove in paragraphs (1) and (2), which estimate shall contain a sufficient description of the work to enable the town engineer and building official to determine that the proposed improvement is consistent with the specifications of the town.

The town council shall set the fee for such road permit, which fee may be amended from time to time by town council by resolution. No action shall be taken on behalf of the applicant until a completed road application permit is filed with the town clerk and the applicable application fee is paid.

Upon receipt of a completed application and fee, the town clerk shall forward the application package to the appropriate town staff as directed by the town manager. (Ord. No. 01-01, § 1-6, 2-5-01; Ord. No. 03-01, § 3, 2-24-03; Res. No. 12-04, § 1, 10-18-04; Ord. No. 2021-04, § 4, 5-15-21)

EXHIBIT "A"
TYPICAL PAVED ROAD SECTION WITH CURBS FOR 50' WIDE R/W

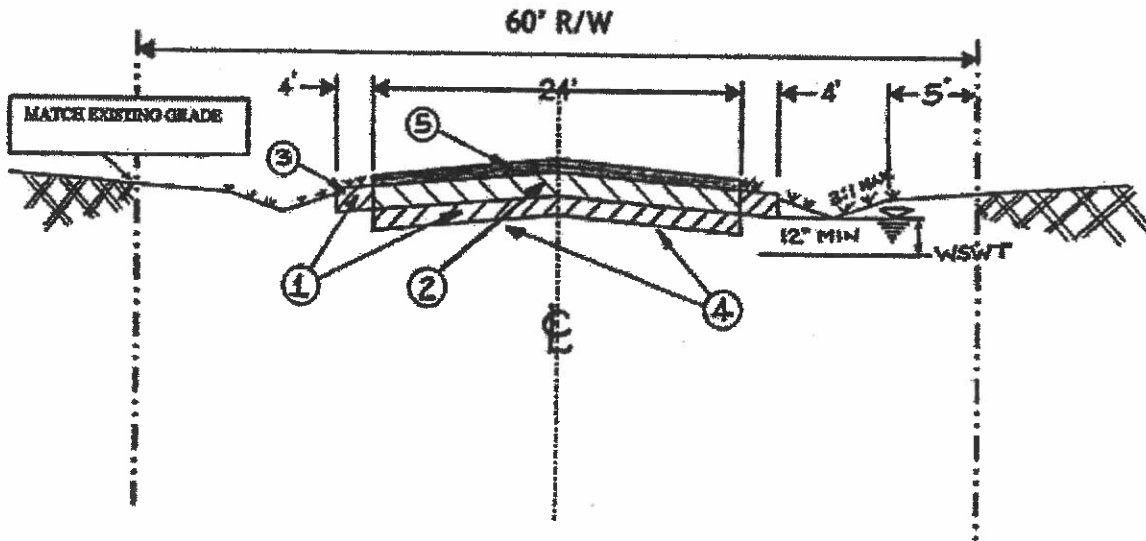


CLEAR & GRUB 50' R/W EXCEPT FOR SPECIMEN TREES TO BE LEFT OUTSIDE SWALES

- 1 CAP ROAD W/MINIMUM 1.5" THICK TYPE S-1 OR TYPE III ASPHALTIC CONCRETE SURFACE (MINIMUM 1500 PSI MARSHALL)
- 2 BASE MINIMUM 6" THICK COMPLYING WITH FDOT "BASE THICKNESS AND OPTION CODES"
- 3 STABILIZED 8" THICK SUB-BASE COMPACTED TO 98% OF MAXIMUM DENSITY PER AASHTO T-180 WITH MINIMUM LBR = 40
- 4 STABILIZED SHOULDERS BOTH SIDES AND SOD ADJACENT TO THE PAVEMENT MINIMUM 2' WIDE
- 5 CURB & GUTTER TO BE 3,000 PSI MIN. CONCRETE
- 6 DRAWING IS NOT TO SCALE

EXHIBIT "B-1"

TYPICAL PAVED ROAD SECTION FOR 60' WIDE R/W

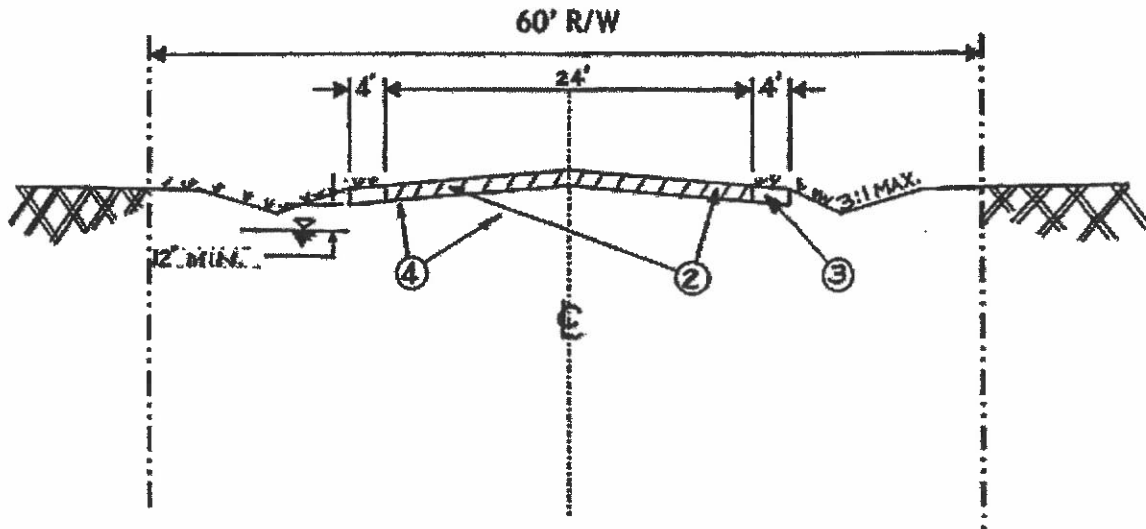


CLEAR & GRUB 60' R/W EXCEPT FOR SPECIMEN TREES TO BE LEFT OUTSIDE SWALES. DISPOSE OF ALL DEBRIS OFF SITE.

1. STABILIZED & MECHANICALLY MIXED 8" THICK ROAD SUB-BASE COMPACTED TO 98% OF MAXIMUM DENSITY PER AASHTO T-180 WITH MINIMUM LBR = 40
2. BASE MINIMUM 6" THICKNESS (COMPLY WITH FDOT BASE THICKNESS AND OPTION CODES)
3. STABILIZED SHOULDERS BOTH SIDES AND SOD ADJACENT TO THE PAVEMENT MINIMUM 2' WIDE AND ON SWALE BANKS. SWALE SIDE SLOPES MAX 3:1.
4. SUITABLE SOILS FREE OF ORGANICS. COMPACT TO 98% DENSITY PER AASHTO T-180
5. CAP ROAD W/MINIMUM 1.5" THICK TYPE S-1 OR TYPE III ASPHALTIC CONCRETE SURFACE (MIN. 1500 PSI MARSHALL).
5. DRAWING IS NOT TO SCALE

EXHIBIT "B-2"

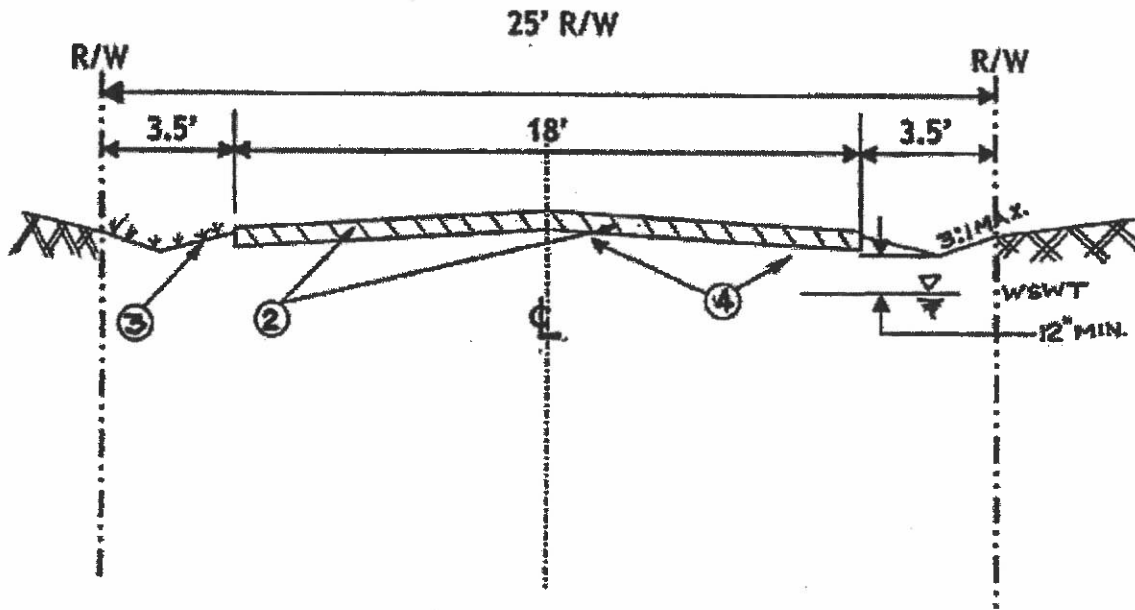
TYPICAL UN-PAVED ROAD SECTION FOR 60' WIDE R/W



1. CLEAR & GRUB 60' R/W EXCEPT FOR SPECIMEN TREES TO BE LEFT OUTSIDE SWALES. DISPOSE OF ALL DEBRIS.
2. STABILIZED AND MECHANICALLY MIXED 8" THICK ROAD-BASE COMPACTED TO 98% OF MAXIMUM DENSITY PER AASHTO T-180 WITH MINIMUM LBR = 40
3. STABILIZED SHOULDERS BOTH SIDES. SOD ADJACENT TO THE PAVEMENT MINIMUM 2' WIDE AND ON SWALE SLOPES.
4. SUITABLE SOILS FREE OF ORGANICS. COMPACT TO 98% DENSITY PER AASHTO T-180
5. DRAWING IS NOT TO SCALE

EXHIBIT "B-3"

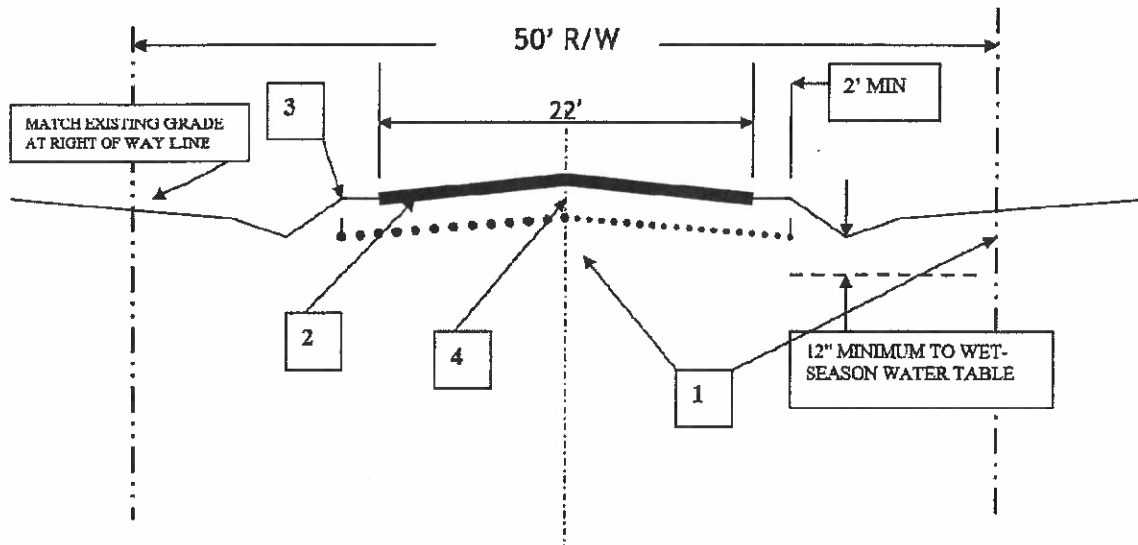
TYPICAL UN-PAVED ROAD SECTION FOR 25' WIDE R/W



1. CLEAR & GRUB 25' R/W EXCEPT FOR SPECIMEN TREES TO BE LEFT OUTSIDE SWALES
2. STABILIZED & MECHANICALLY MIXED 8" THICK ROAD-BASE COMPACTED TO 98% OF MAXIMUM DENSITY PER AASHTO T-180 WITH MINIMUM LBR = 40
3. SOD ADJACENT TO THE PAYEMENT MINIMUM 2' WIDE AND ALONG SWALE SLOPES
4. SUITABLE SOILS FREE OF ORGANICS. COMPACT TO 98% DENSITY PER AASHTO T-180
5. DRAWING IS NOT TO SCALE

EXHIBIT "B-4"

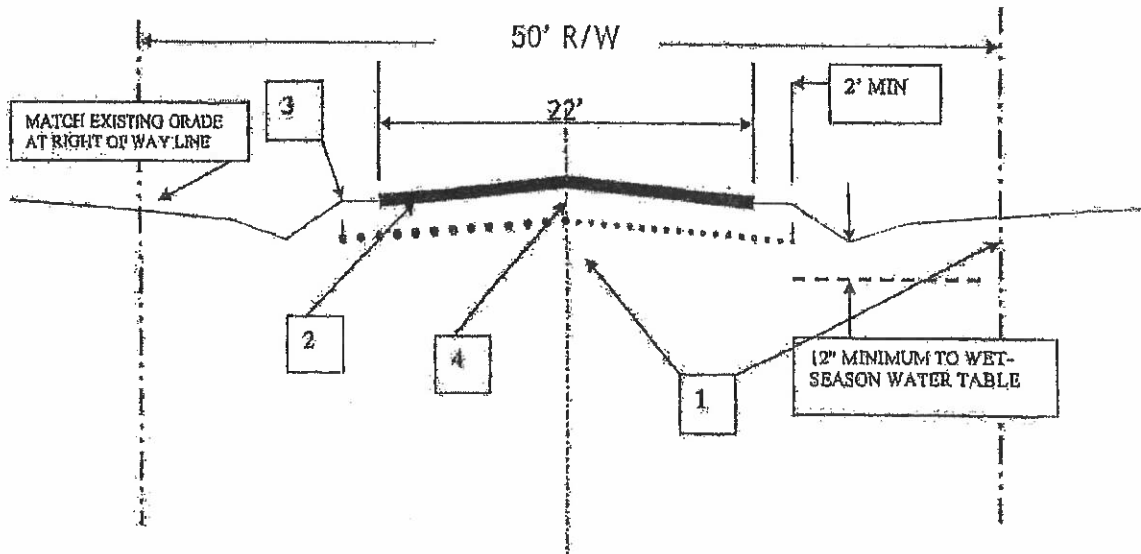
TYPICAL UNPAVED ROADWAY SECTION FOR 50' WIDE R/W



1. CLEAR & GRUB 50' R/W EXCEPT FOR SPECIMEN TREES TO BE LEFT OUTSIDE SWALES AND DISPOSE OF ALL DEBRIS OFF SITE.
2. STABILIZED & MECHANICALLY MIXED 8" MINIMUM THICKNESS ROAD BASE COMPACTED TO 98% OF MAXIMUM DENSITY PER AASHTO T-180 WITH MINIMUM LBR = 40. USE FDOT APPROVED MATERIALS OR LOCAL MATERIALS APPROVED BY TOWN ENGINEER.
3. STABILIZED SHOULDERS BOTH SIDES AND SOD ADJACENT TO THE PAVEMENT MINIMUM 2' WIDE AND ON SWALE BANKS. SWALE SIDE SLOPES MIN. 3:1. BACKSIDE OF SWALES MAY BE SEEDED.
4. SUITABLE SOILS FREE OF ORGANICS. COMPACT SOILS TO 98% DENSITY PER AASHTO T-180.
5. DRAWING IS NOT TO SCALE.

EXHIBIT "B-5" Country Lane

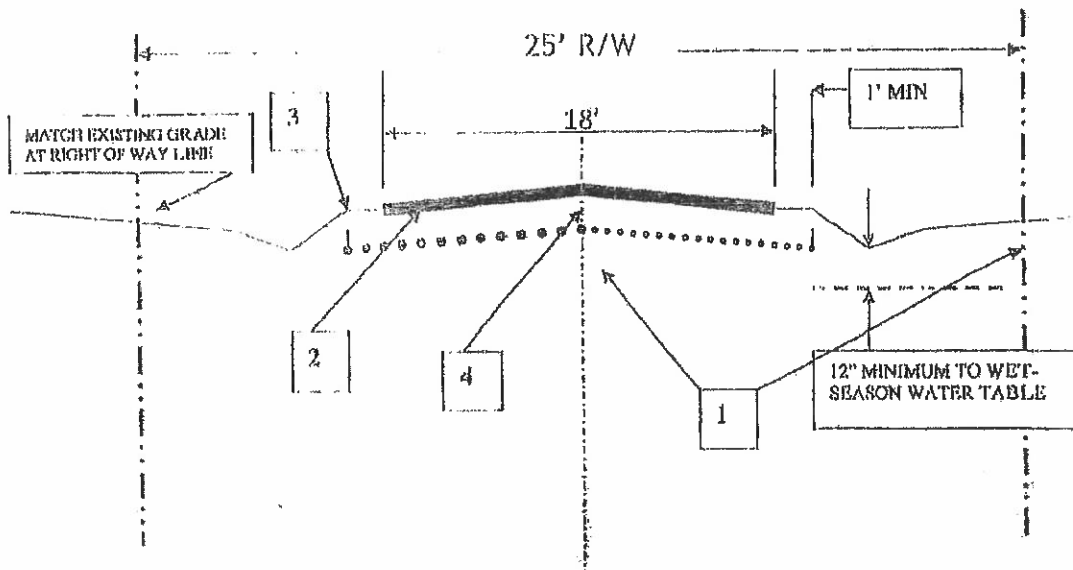
TYPICAL UNPAVED ROADWAY SECTION FOR 50' WIDE R/W



1. CLEAR & GRUB 50' R/W EXCEPT FOR SPECIMEN TREES TO BE LEFT OUTSIDE SWALES AND DISPOSE OF ALL DEBRIS OFF SITE.
2. STABILIZED & MECHANICALLY MIXED 8" MINIMUM THICKNESS ROAD BASE COMPACTED TO 98% OF MAXIMUM DENSITY PER AASHTO T-180 WITH MINIMUM LBR = 40. USE FDOT APPROVED MATERIALS OR LOCAL MATERIALS APPROVED BY TOWN ENGINEER.
3. STABILIZED SHOULDERS BOTH SIDES AND SOD ADJACENT TO THE TRAVELWAY ON EACH SIDE A MINIMUM 4' WIDE; SOD A MINIMUM OF 2' WIDE IN CENTER OF RIGHT-OF-WAY; SOD SWALE BANKS. SWALE SIDE SLOPES MIN. 3:1. BACKSIDE OF SWALES MAY BE SEEDED. SOD OR SEED OF THE ENTIRE ROADWAY SHALL BE AS APPROVED BY TOWN ENGINEER.
4. SUITABLE SOILS FREE OF ORGANICS. COMPACT SOILS TO 98% DENSITY PER AASHTO T-180.

EXHIBIT "B-6" Country Lane

TYPICAL UNPAVED ROADWAY SECTION FOR 25' WIDE R/W



1. CLEAR & GRUB 50' R/W EXCEPT FOR SPECIMEN TREES TO BE LEFT OUTSIDE SWALES AND DISPOSE OF ALL DEBRIS OFF SITE.
2. STABILIZED & MECHANICALLY MIXED 8" MINIMUM THICKNESS ROAD BASE COMPACTED TO 98% OF MAXIMUM DENSITY PER AASHTO T-180 WITH MINIMUM LBR = 40. USE FDOT APPROVED MATERIALS OR LOCAL MATERIALS APPROVED BY TOWN ENGINEER.
3. STABILIZED SHOULDERS BOTH SIDES AND SOD ADJACENT TO THE TRAVELWAY ON EACH SIDE A MINIMUM 2' WIDE; SOD A MINIMUM OF 2' WIDE IN CENTER OF RIGHT-OF-WAY; SOD SWALE BANKS. SWALE SIDE SLOPES MIN. 3:1. BACKSIDE OF SWALES MAY BE SEEDED. SOD OR SEED OF THE ENTIRE ROADWAY SHALL BE AS APPROVED BY TOWN ENGINEER.
4. SUITABLE SOILS FREE OF ORGANICS. COMPACT SOILS TO 98% DENSITY PER AASHTO T-180.

(Res. No. 14-02, § 2, 8-19-02; Res. No. 12-04, § 1, 10-18-04; Ord. No. 2021-04, § 4, 5-15-21)

Sec. 13-42. Roadway improvement process.

(a) Any person (applicant) desiring to improve a public right-of-way within the Town of Malabar shall follow the process described herein:

- (1) Obtain a copy of the town's roadway design standards and permit forms.
- (2) Provide the town with a right-of-way survey prepared by, signed and sealed by a Florida registered surveyor.
- (3) Provide the town with a set of design plans and specifications signed and sealed by a Florida registered engineer and complying with the town's roadway specifications.
- (4) Obtain a roadway improvement permit from the town with administrative approval by the engineer as directed by the town manager.
- (5) Reserved.
- (6) Retain a Florida or Brevard County licensed contractor, meeting the town's licensing and insurance requirements, to perform the construction in accordance with the plans, specifications and permits.
- (7) Schedule inspection of the work through the building department at (1) completion of clearing and rough grading, (2) completion of drainage infrastructure and satisfactory test reports of roadway sub-grade and (3) final inspection.
- (8) Provide certified soils laboratory test reports indicating that the completed construction or construction progress complies with the roadway plans, specifications and permits.
- (9) Provide, to the town, "as built" drawings of the roadway improvements certified by a Florida registered surveyor or engineer.
- (10) Request, in writing, to the building department for the town's designated engineering firm to examine the completed facilities and certify that the work meets the requirements of the Town Code and roadway specifications and provide a written recommendation that council accept the road for maintenance.
- (11) Provide written documentation to the town of roadway survey, design, permitting, testing, mitigation, construction and inspection costs that may be reasonably considered to be included in the costs of improving the right-of-way for certification of costs and determination of the linear foot payback amount.
- (12) Request Malabar to place on the next regular town council agenda consideration of formally accepting the roadway and certifying the completed improvement costs as public facilities and assume the maintenance responsibilities.

(b) After determination that the roadway design meets current town standards the town's designated engineer shall approve the construction plans for the roadway improvement and stamp the plans. After administrative approval the owner shall pay the applicable fees for

the town roadway improvement permit, the inspection fee estimated by the building department and furnish the proposed roadway construction schedule. After such determination the town staff will:

- (1) Perform, as a minimum, inspections of the laboratory test results and three (3) inspections of the construction work. The first inspection is at the time of completion of land clearing, the second is at completion of drainage and sub-base shaping/compaction and a final inspection at completion of the roadway work and receipt of documentation of final costs, test results and "as built" drawings.
- (2) Collect, from property owners abutting that segment of the roadway improved, a pro-rata share of the roadway improvement costs from and after the date of roadway acceptance by the town. Payment to the town treasurer is required prior to issuance of any building permit for an improvement on such abutting property.
- (3) Keep a record of payments to the town and disbursement of funds to the applicant.
- (4) Place on the next regular town council agenda, after receipt of the town's designated engineering firm written certification of roadway construction completion, an item for consideration of acceptance of the completed segment of the roadway for operation and maintenance.
- (5) The town council shall not unreasonably withhold acceptance of the completed roadway.

(Ord. No. 07-11, § 3, 7-16-07; Ord. No. 11-36, § 1, 6-6-11; Ord. No. 2021-04, § 5, 5-15-21)

Editor's note—Ordinance No. 07-11, § 3, adopted July 16, 2007, amended § 13-42 to read as herein set out. Formerly, such section pertained to improvement process—bid process, alternatives and derived from Ord. No. 01-01, § 1-7, 2-5-01; Ord. No. 04-04, § 1, 4-5-04.

Secs. 13-43—13-45. Reserved.

Editor's note—Ordinance No. 07-11, § 3, adopted July 16, 2007, repealed §§ 13-43—13-45. Formerly, such sections pertained to final report of improvements; cost certification of improvement; return of unused portion of bond and derived from Ord. No. 01-01, §§ 1-8—1-10, 2-5-01.

Sec. 13-46. Standards for road improvements.

The standards for the contractors to complete local road improvements on sixty (60) foot, fifty (50) foot and twenty-five (25) foot rights-of-way are respectively set forth in Exhibit "A" through "B-6" to this division and are incorporated herein. The standards may, from time to time, be modified by the town council, by ordinance, provided that no such modification shall affect any owner who has filed an application for a building permit prior to the effective date of any such change in the standards.

(Ord. No. 01-01, § 1-11, 2-5-01; Ord. No. 2021-04, § 6, 5-15-21)

Sec. 13-47. Reimbursement for expenses incurred by owner in connection with the construction of road improvement.

The certified costs, as determined pursuant to section 13-42 shall be reimbursed to the individual expending such monies to complete the improvement, or their assignees (provided such assignment is recorded as hereinbelow described), by monies obtained from property owners who subsequently apply for building permits on property adjacent to or abutting any street that has been improved by the owner seeking reimbursement, provided that such improvement has been accepted by the town and further provided that the construction of the improvement was commenced after the effective date of this division [February 5, 2001] and in accordance with the terms and conditions of this division.

Upon such certification the town council shall adopt a reimbursement resolution. The resolution shall be recorded in the Public Records of Brevard County. The resolution shall contain the certified costs as determined above and shall identify those parcels which abut an improved street or section thereof, that had been previously completely improved pursuant to this division and which will be subject to a road reimbursement based upon the formula established herein.

The method of reimbursement shall be as follows: In order for any property owner to obtain a development permit for a property that abuts any street that had previously been fully or partially improved pursuant to the terms and conditions set forth in this division, such owner must, at the time of application for a development permit, pay the town in accordance with the formula hereinbelow described.

An owner who wants a development permit for a parcel of property that abuts an improved street or section thereof, that had been previously completely improved pursuant to this division, shall pay an amount equal to their pro rata share of the total certified costs of the completed permitted section based upon a formula whereby the total certified costs of the improved sections are multiplied by a fraction, the numerator of which shall be the number of front feet of such owner's parcel that abuts the fully improved section, and the denominator of which shall be the number of total front feet of all parcels that abut such section. These monies shall be paid to the town as a precondition for issuance of a building permit.

The monies received by the town from such owner shall be disbursed to the owners of record, or assigns of record, who expended the certified costs to improve such street, pro rata, based upon the amount by which such reimbursed owners expended funds in excess of what would have been their pro rata share of the total improvement as determined by the same manner described hereinabove, less an amount equal to fifty dollars (\$50.00) or one (1) percent of the monies received from the owner making such reimbursement, whichever is greater, which monies shall be retained by the town to cover its administrative costs. Such monies shall be disbursed to such owner within thirty (30) days after receipt of a written request for reimbursement by the owner.

(Ord. No. 01-01, § 1-12, 2-5-01; Ord. No. 2021-04, § 6, 5-15-21; Ord. No. 2021-13, § 1, 8-16-21)

Sec. 13-48. Improvement of unaccepted portion of partially improved road.

When an owner wishes to obtain a development permit for a property that abuts a street that has not been completely improved pursuant to this division, such owner shall follow the procedure described hereinbefore in sections 13-38, 13-39 to construct the improved street through and including the owner's furthest property line from such improved street if the street had not been previously completed through the owner's furthest property line. Said owner shall be entitled to reimbursement for his expenses as set forth in section 13-46 13-47 of this division.

(Ord. No. 01-01, § 1-13, 2-5-01; Ord. No. 2021-04, § 6, 5-15-21)

Sec. 13-49. Improvement required if land partially abuts unaccepted road.

If an owner wishes to obtain a development permit for a property that partially abuts a street that has been improved pursuant to the terms of this division, after the effective date of this division [February 5, 2001], such owner shall complete the street through such owner's furthest property line using the procedure set forth in sections 13-38, 13-39, 13-40, 13-41, 13-42, 13-45 and 13-46 and shall be entitled to reimbursement from subsequent property owners who build on that portion of the street improved by such owner in accordance with the terms of this division. Additionally, such owner shall further be obligated to reimburse the prior owner(s) who expended certified costs to improve the street that partially abuts such owner's property in accordance with the pro rata formula described hereinabove.

(Ord. No. 01-01, § 1-14, 2-5-01; Ord. No. 2021-04, § 6, 5-15-21)

Sec. 13-50. Reimbursement record.

All monies to be reimbursed to owners who have previously expended certified costs pursuant to this division shall be returned to such owners at owner's last known address within thirty (30) days. It shall be the responsibility of the owner seeking or expecting reimbursement to provide the town with his address if other than that which is set forth in his application for a building permit. Owner shall provide such address changes to the town clerk, which shall be entered by the clerk into the certified costs records maintained by the town. The absence of such entry in the official records of the town by the clerk shall create a rebuttable presumption that no such change of address was provided. In the event that such monies reimbursed to owner pursuant hereto are not deliverable due to the failure of owner to provide a proper address to the town, the town clerk shall publish, in a newspaper of general circulation in Brevard County, notice of its intent to forfeit such monies, which notice shall appear in a newspaper of general circulation in Brevard County, Florida, for a period of five (5) consecutive days. The clerk shall retain such monies for a period of thirty (30) days following the last day on which such advertisement appears in a newspaper of general circulation and, after that time, such monies shall be deemed forfeited to the town. In the event that a claim is made to such monies and such claim is verified by the town clerk, then such monies shall be disbursed, less costs of advertising, together with an administrative fee of one hundred dollars (\$100.00) or by resolution of the town council.

(Ord. No. 01-01, § 1-15, 2-5-01)