



**PLANNING AND ZONING ADVISORY BOARD
REGULAR MEETING
WEDNESDAY, JULY 9, 2008
7:30 PM
MALABAR COUNCIL CHAMBER
2725 MALABAR ROAD
MALABAR, FLORIDA**

AGENDA

- A. CALL TO ORDER, PRAYER AND PLEDGE**
- B. ROLL CALL**
- C. ADDITIONS/DELETIONS/CHANGES**
- D. CONSENT AGENDA**
 - 1. Approval of Minutes**
Regular Planning and Zoning Meeting – June 25, 2008
Exhibit: Agenda Report No. 1
Recommendation: Motion to approve
- E. PUBLIC HEARING**
- F. ACTION**
 - 2. Review of Landscape Code Art. XIV – Florida-Friendly Landscape**
Exhibit: Agenda Report No. 2
Recommendation: Discussion and Direction
 - 3. Discuss Billboards and Signage in Malabar**
Exhibit: Agenda Report No. 3
Recommendation: Discussion and Direction
- G. DISCUSSION ITEMS – General Items**
- H. OLD BUSINESS/NEW BUSINESS**
- I. ADJOURN**

If an individual decides to appeal any decision made by this board with respect to any matter considered at this meeting, a verbatim transcript may be required, and the individual may need to insure that a verbatim transcript of the proceedings is made (Florida Statute 286.0105). The Town does not provide this service.

In compliance with the Americans With Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the Town's ADA Coordinator at 321-727-7764 at least 48 hours in advance of this meeting.

**TOWN OF MALABAR
PLANNING AND ZONING
AGENDA ITEM REPORT**

AGENDA ITEM NO: 1
Meeting Date: July 9, 2008

Prepared By: Michele Kelly, Secretary to P&Z

SUBJECT: Approval of P&Z Minutes

BACKGROUND/HISTORY:

Attached are the summary minutes for the following meeting
Regular P&Z Meeting - June 25, 2008

ATTACHMENTS:

- Minutes from Planning and Zoning regular meeting June 25, 2008

ACTION OPTIONS:

Motion to Approve

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 2

Meeting Date: July 9, 2008

Prepared By: Michele Kelly, Secretary to P&Z

SUBJECT: Review of Landscape Code Art. XIV – Florida-Friendly Landscape

BACKGROUND/HISTORY:

Mayor Eschenberg attended a quarterly meeting with 'The Congress of Regional Leaders' in which they discussed Xeriscape (Florida Ordinance 373.185). Mayor Eschenberg is requesting P&Z review and make suggests regarding future development based on the Xeriscape.

ATTACHMENTS:

- Florida Statues 373.185 Local Xeriscape ordinance.

ACTION OPTIONS:

Discuss and Offer Suggestions

Select Year:

The 2007 Florida Statutes

Title XXVIII
NATURAL RESOURCES; CONSERVATION, RECLAMATION,
AND USE

Chapter 373
WATER
RESOURCES

View Entire
Chapter

373.185 Local Xeriscape ordinances.--

(1) As used in this section, the term:

(a) "Local government" means any county or municipality of the state.

(b) "Xeriscape" or "Florida-friendly landscape" means quality landscapes that conserve water and protect the environment and are adaptable to local conditions and which are drought tolerant. The principles of Xeriscape include planning and design, appropriate choice of plants, soil analysis which may include the use of solid waste compost, efficient irrigation, practical use of turf, appropriate use of mulches, and proper maintenance.

(2) Each water management district shall design and implement an incentive program to encourage all local governments within its district to adopt new ordinances or amend existing ordinances to require Xeriscape landscaping for development permitted after the effective date of the new ordinance or amendment. Each district shall adopt rules governing the implementation of its incentive program and governing the review and approval of local government Xeriscape ordinances or amendments which are intended to qualify a local government for the incentive program. Each district shall assist the local governments within its jurisdiction by providing a model Xeriscape code and other technical assistance. A local government Xeriscape ordinance or amendment, in order to qualify the local government for a district's incentive program, must include, at a minimum:

(a) Landscape design, installation, and maintenance standards that result in water conservation. Such standards shall address the use of plant groupings, soil analysis including the promotion of the use of solid waste compost, efficient irrigation systems, and other water-conserving practices.

(b) Identification of prohibited invasive exotic plant species.

(c) Identification of controlled plant species, accompanied by the conditions under which such plants may be used.

(d) A provision specifying the maximum percentage of turf and the maximum percentage of impervious surfaces allowed in a xeriscaped area and addressing the practical selection

and installation of turf.

(e) Specific standards for land clearing and requirements for the preservation of existing native vegetation.

(f) A monitoring program for ordinance implementation and compliance.

The districts also shall work with local governments to promote, through educational programs and publications, the use of Xeriscape practices, including the use of solid waste compost, in existing residential and commercial development. This section may not be construed to limit the authority of the districts to require Xeriscape ordinances or practices as a condition of any consumptive use permit.

(3) A deed restriction or covenant entered after October 1, 2001, or local government ordinance may not prohibit any property owner from implementing Xeriscape or Florida-friendly landscape on his or her land.

History.--s. 3, ch. 91-41; s. 3, ch. 91-68; s. 7, ch. 2001-252.

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 3

Meeting Date: July 9, 2008

Prepared By: Michele Kelly, Secretary to P&Z

SUBJECT: Discuss Billboards and Signage in Malabar

BACKGROUND/HISTORY:

Billboards and Signage raised and briefly discussed at P&Z meeting on June 25, 2008.

ATTACHMENTS:

- Article XIX: Signage

ACTION OPTIONS:

Discussion and Direction

Article XIX

SIGNAGE

Section 1-19.1. Definitions.

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

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

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

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

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

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

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

Replacing shall mean rebuilding, enlarging or any change in size, structure, or lettering other than repainting to an original status and repair of original electrical apparatus.

Sign shall mean any device or display consisting of letters, numbers, symbols, pictures, illustrations, announcements, cut-outs, insignia, trademarks, banners, or demonstrations; designed to advertise, inform, identify, or to attract the attention of persons, which is visible from outside the premises on which the device or display is located. A sign shall be construed to be a display or device containing elements related and composed to form a single unit. In cases where material is displayed in a random or unconnected manner without organized relationship of the components, each component or element shall be considered to be a single sign.

Sign Area shall mean that area within a line including the outer extremities of all letters, figures, characters, and delineations, or within a line including the outer extremities of the framework or background of the sign, whichever line includes the larger area. The support for the sign background, whether it be columns, a pylon, or a building, or part thereof, shall not be included in the sign area. In measuring the area of a double-faced sign, only one face shall be calculated to determine the total area.

Sign Construction Class shall mean the manner in which any sign type is constructed and/or located, and in this article shall include animated, beacon light, detached, flashing, marquee, portable, projecting, roof, snipe, and wall as defined below:

- (1) *Animated* shall mean any sign of which all or any part thereof revolves, swings or moves in any fashion whatsoever, and any sign which contains or uses for illustration any light, lights or lighting device or devices which change color, flash or alternate, shows movement or motion, or change the appearance of said sign or any part thereof automatically, including wind operated devices.
- (2) *Beacon Light* shall mean any light with one or more beams capable of being directed in any direction or directions, or capable of being revolved automatically, or capable of having any part thereof revolve automatically, or a fixed, flashing, or rotating high intensity light or beam, or light.
- (3) *Detached* shall mean a sign not attached to or painted on a building, but which is affixed to the ground. A sign attached to a flat surface such as a fence or wall not a part of a building, shall be considered a detached sign.
- (4) *Flashing* shall mean any sign on which the electrical lighting device or devices go on or off alternately, either all of such lights or lighting devices or part thereof. Any revolving illuminated sign shall be considered a flashing sign.
- (5) *Marquee* shall mean any sign of fire resistant cloth, plastic or metal attached to or projecting from a building over any private thoroughfare or sidewalk, whether or not such a sign is capable of being raised or lowered to a position flat against a wall.
- (6) *Portable* shall mean any sign which is not securely and permanently attached to the ground or a building or other approved structure.
- (7) *Projecting* shall mean any sign that is affixed to any building, wall, or structure extending more than twelve (12) inches beyond such building, wall or structure. The term projecting sign includes a marquee sign.
- (8) *Roof* shall mean a sign which is fastened to or supported by or on the roof, or painted on the roof of a building, or which extends over the roof of a building. Roof signs shall be prohibited in the Town.
- (9) *Snipe* shall mean any sign of not over one and one-half (1½) square feet in area regardless of material, method of attachment, location, or subject matter.
- (10) *Wall* shall mean any sign which is erected on the wall of any structure or part of a structure and is not more than twelve (12) inches from that structure, including any sign which is painted or otherwise directly on the wall of any structure.

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

Sign, Directly Illuminated shall mean a sign designed to give forth artificial light and/or designed to reflect light from one or more sources of artificial light erected for the purpose of providing light for the sign.

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

Sign, Number shall mean for the purpose of determining the number of signs, a sign shall be considered to be a display and/or display device containing elements organized, related, and/or composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, each element shall be considered a single sign. A double-faced sign shall be considered a single sign.

Sign Structure shall mean any construction designed to support or to provide a surface for a sign, and including any marquee, canopy, awning, or clock.

Sign Type shall mean any one of the various signs as differentiated by their purpose, and in this ordinance shall include accessory, billboard, construction, directional, directory, future improvement, general outdoor advertising, outdoor display, real estate, and subdivision as defined below:

- (1) *Accessory* shall mean a sign relating only to the uses of the premises on which the sign is located, or indicating the name and address of a building or the occupants or management of a building on the premises where the sign is located.
- (2) *Billboard* shall mean any sign or display which is not a directional sign, which advertises, illustrates, demonstrates, or identifies product, service, or place of business at another location not within two hundred (200) feet of the sign, and/or any sign of a size over sixty (60) square feet.
- (3) *Construction* shall mean a temporary sign erected on a building site between the time of the issuance of the building permit and the completion and/or occupancy. Such signs may display thereon any or all of the following: a designation of the job, the name of the owners, architect, general contractor, subcontractor, building or project under contraction [construction], and building permit.
- (4) *Directional* shall mean any sign less than three (3) square feet in area used for public direction and containing no advertising or commercial identification of any product, service, or place of business.
- (5) *Directory* shall mean signs which give the name and/or occupation of the occupants of the building or gives the use of the building, including office building directories, church directories, and apartment house directories.
- (6) *Future Improvement* shall mean a temporary sign announcing the construction of a facility in the near future on the site on which the sign is located.
- (7) *General Outdoor Advertising* shall mean any sign which is not herein described or limited by these definitions and regulations.
- (8) *Outdoor Display* shall mean each piece or portion of any matter, merchandise, or device displayed outside a building with the intent of advertising, demonstrating, or identifying the nature of business or articles for sale or other merchandise inside or

outside the building of the person doing business, which would not ordinarily be construed a sign, but rather as merchandise, [and] shall be considered a separate outdoor display sign.

- (9) *Real Estate* shall mean any sign used solely for the purpose of offering [for] sale, for lease, or for rent, the property and/or building on which the sign is located.
- (10) *Subdivision* shall mean any sign designed as a permanent structure to identify a subdivision or neighborhood. Such signs are not used for development or promotional purposes, but may also be used to identify mobile home parks, townhouse and other planned housing developments as defined by the zoning ordinance.
- (11) *Zone* shall mean the various zoning districts as established and described by the zoning ordinance of the Town.

Section 1-19.2. Purpose and intent.

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

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

Section 1-19.3. Exemptions.

The following are exempted from the provisions of these regulations which require a permit, certificate, license or fee for erection or maintenance. Such activities must abide, however, by the rules and regulations herein and all other laws and ordinances of the Town:

- (1) Signs not visible from areas other than the site on which they are located;
- (2) Integral decorative or architectural features of structures, except letter, trademarks, moving parts, or moving lights;
- (3) Memorial signs, tablets or plaques or names of buildings and date of erection; when the same are two (2) square feet or less in size and are cut into any masonry surface or when constructed of bronze or other incombustible material;
- (4) Signs not exceeding one (1) square foot in area and bearing only property numbers, names of occupants of premises, and other identification or information concerning the premises not having commercial use or connotations, including no trespassing, posted, no hunting, private and similar prohibitions or limitations;
- (5) Legal notices, identification, informational or directional signs erected or required by government bodies;

- (6) Noncommercial flags and insignia of any government when not displayed in connection with a commercial promotion or as an advertising device;
- (7) Changing the copy of a bulletin board, poster board, display encasement, or marquee provided, however, that the device upon which the copy is located meets all the requirements of this article;
- (8) Decals affixed to or signs painted on equipment used for dispensing retail products or services where such signs are not displayed in connection with a commercial promotion or as an advertising device;
- (9) Temporary signs, within five (5) feet inside of a store window, not exceeding twenty (20) inches of the glassed area of the window in which the sign is located, which advertise a bona fide "going out of business" sale, or other service or merchandise sale, and which are erected for a period of not over fifteen (15) days;
- (10) Signs on motor vehicles while in use in the normal course of business. This section shall not be interpreted to permit parking of a vehicle on which signs are attached or painted in a manner or location where such signs are not permitted in order to avoid the requirements of this article. Similarly, this section shall not be interpreted to permit parking of portable trailer signs in a manner or location where the signs are not permitted in order to avoid the requirements of the article.

Section 1-19.4. Administration requirements.

A. Permits. Before any sign is erected, constructed, posted, painted, altered, affixed, or relocated in the Town, a permit for such sign shall be obtained from the Building Official.

The contractor or owner securing the permit for any sign shall call the Building Official and request an inspection whenever any sign requiring a permit is being installed, and before any concrete is poured; a final inspection shall be requested upon completion. At the time of a request for final inspection, a photograph of the completed sign shall be taken by the inspector. (Minimum 2 1/4" x 2 1/4", maximum 3" x 5" for filing purposes.)

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

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

- (a) Name, address and telephone number of the sign erector and the sign owner.
- (b) Written statement signed by landowner, or a lease or rental agreement, authorizing the placement of the proposed sign.

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

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

D. Label Requirement. Each sign requiring a permit shall be clearly marked with the permit number and the name of the person or firm placing the sign on the premises.

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

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

Section 1-19.5. Annual license required.

A. *Application for Annual License.* At the same time a permit to build or erect or certification of nonconformity is issued, an annual license must be applied for and granted for each sign of over five (5) square feet defined in this article as any of the following:

- (1) Residential and mobile home or trailer park zoning districts:
 - a. Accessory;
 - b. Construction;
 - c. Future Improvement;
 - d. General Outdoor Advertising;
 - e. Subdivision.

(2) Nonresidential zoning districts and bona fide agricultural uses within the RR-65 district:

- a. Accessory;
- b. Construction;
- c. Directory;
- d. Future Improvement;
- e. General Outdoor Advertising;
- f. Subdivision.

(3) All other categories and signs under five (5) square feet are exempt from licensing.

B. *Licenses to be Displayed.* The license number for the current term of one (1) year shall be displayed clearly on each sign which requires a license.

C. *Renewal of License.* License will require renewal each year on the first day of the month in which the original license was purchased. Within thirty (30) days of expiration and nonrenewal of license, the sign must be removed by the owner or it shall be illegal and subject to removal by the Town at the owner's or property owner's expense ten (10) days after written notification by the Town.

Section 1-19.6. Appeals and variances.

Matters involving appeal of an administrative decision or variance of these regulations shall be handled by the Planning and Zoning Board with further appeal to the Council.

Section 1-19.7. Nonconforming signs.

A. *Replacement of Nonconforming Signs.* Within the Town, there presently exist certain signs that are not in conformance with these regulations. Such signs are declared by this article to be incompatible with the development of the Town. It is further the intent of this article that these non-conforming signs shall not be replaced, enlarged, expanded or extended and are not to be used as grounds for adding or enlarging other signs not permitted in the district.

B. *Amortization Periods for Nonconforming Signs.* Such nonconforming signs shall be altered to conform or removed by the owner within one (1) year of the date of adoption of the ordinance from which this [article] was derived, except that signs with a structure valued at more than one thousand dollars (\$1,000.00) shall be altered to conform or removed within two (2) years, and signs with a structure valued at more than two thousand five hundred dollars (\$2,500.00) shall be altered to conform or removed within three (3) years. After the expiration date, all nonconforming signs shall be removed by the Town at the owner's expense. The period of amortization for nonconforming signs existing prior to April 17, 1990 shall not be changed by the passage of the land development code.

C. *Certification of Nonconforming Signs.* All persons owning signs within the Town that do not conform with this article shall, within thirty (30) days of the date of the adoption of the ordinance from which this article was derived apply for certification of nonconformity. In applying for such certificate, the owner shall state in what manner the sign does not conform. The certificate must be presented to the Planning and Zoning Board, which may then instruct the building inspector to issue a certificate which shall contain the information as well as the date by which the sign must be removed or altered to conform to these regulations. This certificate is issued in lieu of the sign permit.

D. *Posting of Nonconforming Certificate Number.* A certificate number shall also be issued which shall be attached to the sign in the same manner as required for a sign permit.

E. *Illegal Signs.* Any sign not containing a certificate or permit number and a current license number after this ordinance has been in effect thirty (30) days is hereby declared to be illegal and shall be removed by the owner, or by the Town at the owner's expense, within ten (10) days of written notice by the Town.

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

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

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

Section 1-19.9. Applicability of signage regulations.

The following regulations apply generally to all signs and are in addition to the regulations contained elsewhere in this article:

A. *Compliance Required.* No sign, unless herein excepted, shall be erected, constructed, posted, painted, altered, maintained, or relocated, except as provided in this article.

B. *Required Inspection Prior to Permitting.* No sign shall be approved for use unless it has been inspected by the Building Official and is found to be in compliance with all

other applicable codes and ordinances, including the building code, electrical code, and land development regulations. Unless otherwise specified, all signs shall comply with the yard requirements of the zoning district in which they are located.

Section 1-19.10. Temporary permits.

A. The building inspector upon application, may issue temporary permits for the following signs and displays for a period not exceeding thirty (30) days, when in the building inspector's opinion, the use of such signs and displays would be in the public interest and would not result in damage to private property. There will be no license or license fee for these signs, but the regular permit fee shall apply. Temporary signs shall not be illuminated except for holiday signs which may be illuminated or special event signs approved by the Town Council. Such signs shall be located in private property outside of a public right-of-way or easement.

- (1) Special decorative displays used for holidays, public demonstrations, or window signs which do not cover more than twenty (20) percent of the surface area of the transparent portion of the window or door to which they are attached.
- (2) Temporary signs announcing any public, charitable, education, religious or other special event or function may be installed subject to compliance with the following conditions.
 - (a) *Timing of Placement and Removal.* Such signs shall be placed not more than fourteen (14) days prior to the event and must be removed not later than twenty-four (24) hours after termination of the event.
 - (b) *Character of Signs.* Such signs shall satisfy the sign area, location, setback, and height requirements of similar type signs in the district where placed.
 - (c) *Waiver from Requirement of Section.* The Building Official shall advise any applicant desiring relief from the requirements of this sub-section of his right to approach the Town Council to request a waiver of such requirements. A waiver by Town Council may be obtained only after introduction of the matter on an agenda of a Town Council meeting. Said waiver shall be in writing signed by the Chairperson or designate.
- (3) Special sale promotion displays in a district where such sales are permitted if such signs are not within five (5) feet inside a store window.

B. [A permit fee for] the following signs will not be required:

- (1) Signs advertising a special civic or cultural event such as a fair, exposition, play, concert, or meeting sponsored by a governmental, religious, cultural, civic, nonprofit, or charitable service organization;
- (2) Special decorative displays used for holidays when sponsored by a religious, governmental, cultural, civic, nonprofit or charitable service organization;

(3) A permit fee for political signs and posters will not be required, provided that said signs are subject to the following regulations:

- a. Such signs shall be removed within five (5) days following the election. If the candidate or political action committee fails to remove said sign, within the required five (5) days, the town may remove said signs. These signs will be held by the town for a period of thirty (30) days. During this period, and during regular town business hours, the candidate or political action committee may claim their signs, but shall pay a service charge of five dollars (\$5.00) to the town for each sign claimed. Any signs not claimed within thirty (30) days shall become the property of the Town.
- b. Only one (1) stationary sign per candidate or referendum issue shall be permitted on any one (1) parcel of land, except should there be more than one (1) owner or occupant of said parcel, each owner or occupant shall be permitted one (1) sign per candidate or per issue of dimensions herein specified.
- c. Said sign shall not exceed sixteen (16) square feet on aggregate area and if detached, shall not be erected in such a manner as to constitute a roof sign. Notwithstanding the provisions of this subparagraph, a sign may be placed upon any legally existing sign structure but not so as to cover an existing sign.
- d. Political or campaign signs may be allowed in a public or private right-of-way but shall be located no closer than 3 feet from the edge of pavement or in the case of a dirt road from the edge of the dirt of a public or private street or five feet from the edge of a sidewalk, bike-path, or ped-way. Further any such sign allowed in a public or private right of way may not be placed any sooner than 81 days before the election. Such signs shall not be placed closer than 50 feet to a sign of the same candidate.
- e. No political or campaign sign shall be:
 - (i) Located such that it obstructs, impedes, or otherwise creates a hazardous condition for safe and normal flow of pedestrian or motor vehicle traffic.
 - (ii) Erected on private property without the consent of the property owner.
 - (iii) Placed on any tree, utility pole, fences or fence post.
 - (iv) Placed in or on government-owned property such as a park.

(Ord. No. 93-3, § 1, 6-7-93; Ord. No. 07-03, § 1, 5-7-07)

Section 1-19.11. General regulations.

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

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

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

D. *Illegal Signage.* No sign shall be constructed, erected, used, operated, or maintained which:

- (1) Displays intermittent lights resembling or seeming to resemble the flashing lights customarily associated with danger or such as are customarily used by police, fire, ambulance, or other emergency vehicles, or for navigation purposes;
- (2) Uses the word "stop" or "danger," or presents or implies the need or requirement for stopping or the existence of danger, or which is a copy or imitation of an official sign. This provision regarding the word "stop" or "danger" does not apply when they are part of attraction titles for a broadcast, motion picture, theater event, opera, or concert, or when they are used in descriptive lines of advertising so long as they are not used to simulate, copy, or imply any official warning, either for vehicles or persons;
- (3) Is so located and so illuminated as to provide a background of lights blending with traffic signal lights to the extent of confusing a motorist when viewed from normal approaching position of a vehicle at a distance of less than three hundred (300) feet;
- (4) Is erected in such a manner at any intersection so as to obstruct free and clear vision or at any location where, by reason of the position, shape, or color, [the sign may] obstruct the view of or be confused with any authorized traffic sign, signal or device.

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

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

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

H. *Animated Signs.* No animated sign shall be permitted in the Town except where specifically provided by these regulations.

I. *Flashing Signs.* No flashing sign shall be permitted in the Town except where specifically provided by these regulations.

J. *Portable Signs.* No portable sign including trailer signs shall be permitted in the Town.

K. Billboards. No billboards shall be permitted in the Town.

L. Outdoor Display Signs. No outdoor signs shall be permitted in the Town. This shall not be construed to prevent merchandise display in the following cases:

- (1) Rear yards or side yards if such merchandise is rendered nonvisible from off the premises by means of a solid fence, building or other solid barrier in good repair and appearance;
- (2) New and used autos, trucks, tractors, and other large and/or heavy machinery, provided the same are displayed in an orderly fashion and the appearance is kept attractive and neat, visibility at any intersection or roadway is not impaired, and the display constitutes no safety or other hazard, nor shows gross neglect and disrepair.

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

N. Signs in Excess of Sixty Feet. Notwithstanding other provisions of these regulations, no general advertising or other sign shall be erected in the Town which exceeds sixty (60) square feet in area.

Section 1-19.12. Construction standards.

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

Section 1-19.13. Maintenance.

All signs, together with all their support braces, guys, and anchors, shall be maintained in good repair and appearance. The Building Official may, upon written notice, cause to be removed within ten (10) days any sign which becomes a safety hazard, or which shows gross neglect or becomes dilapidated or where the area around such sign is not well maintained. Such removal shall be at the expense of the owner or lessee of any sign that is not properly maintained.

Section 1-19.14. Obscenity prohibited.

It shall be unlawful for any person to display upon any sign or other advertising device or structure any offensive, obscene, indecent, immoral or degrading matter.

Section 1-19.15. Obstructing exits prohibited.

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

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

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

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

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

Section 1-19.18. District sign regulations.

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

TABLE 1-19.18. ZONING DISTRICT SIGN REGULATIONS

(1) Sign Regulations Within Residential Zoning Districts:

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

SIGNAGE

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<i>Sign Type</i>	<i>Future Improvement</i>	<i>General Outdoor Advertising</i>	<i>Real Estate</i>	<i>Subdivision</i>
Construction Class	Detached	Wall or Detached	Detached	Wall or Detached
Maximum Number	1	1	1	1 per public entrance
Maximum Area	10 sq. ft.	32 sq. ft.	5 sq. ft.	32 sq. ft.
Maximum Height	10 ft.	10 ft.	4 ft.	10 ft.
Placement	Front setback: 10 ft. Side and Rear: 25 ft.	No signs to impede vision at any intersection	Front setback: 10 ft. Side and Rear: 25 ft.	No signs to impede vision at any intersection
Illumination	None	None	None	Indirect
Special Regulations	None	See Footnotes 1 and 2	None	None

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

<i>Sign Type</i>	<i>Accessory</i>	<i>Accessory</i>	<i>Accessory</i>
Construction Class	Wall	Detached, Marquee, and Projecting	Snipe
Maximum Number	3	2 total from this group	4
Maximum Area	10% of the wall area, and no more than 60 sq. ft. of cumulative area	60 sq. ft. total cumulative area	1 1/2 sq. ft. each
Maximum Height	Roof line of building	Detached: 25 ft. Others: Roof line of building	Roof line of building
Placement	Non-Restricted	Must observe yard regulations and Front setback: 10 ft.	Must observe yard regulations
Illumination	Direct, Indirect	Direct, Indirect	None
Special Regulations	See Footnotes 1, 3, and 4	See Footnotes 4 and 5	None

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

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

<i>Sign Type</i>	<i>Future Improvement</i>	<i>Real Estate</i>	<i>Subdivision</i>
Construction Class	Detached	Wall or Detached	Wall or Detached
Maximum Number	1	3	1 per public entrance
Maximum Area	32 sq. ft.	9 sq. ft. each	12 sq. ft.

<i>Sign Type</i>	<i>Future Improvement</i>	<i>Real Estate</i>	<i>Subdivision</i>
Maximum Height	10 ft.	Detached: 4 ft. Wall: 8 ft.	10 ft.
Placement	Front setback: 10 ft. Side and Rear: 25 ft.	Front setback: 10 ft. Side and Rear: 25 ft.	No sign shall impede vision at any intersection
Illumination	Indirect	None	Indirect
Special Regulations	None	Buildings of over 10,000 sq. ft. may erect a wall sign of 12 sq. ft. See Footnotes 1 and 6.	See Footnote 3

Footnotes to charts:

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

tions on area, lot coverage, height, yards, location on the lot, or other site development standards or requirements concerning the structure or use, it may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. *Alteration, Extension, Enlargement or Expansion of Nonconforming Use or Noncomplying Building or Structure.* No such alteration, extension, enlargement or expansion of a nonconforming use or noncomplying building or structure shall be permitted in a way which increases its nonconformance or noncompliance with present site development and use standards of the zoning district in which it is located, but any such structure or use or portion thereof may be altered to decrease its nonconformance or noncompliance with present site development and use standards of the zoning district in which it is located. Nothing in this subsection shall prohibit the Building Official from ordering the compliance with all other provisions of this code and applicable building construction and safety related codes.
- B. *Replacement, Restoration and Reconstruction of Nonconforming Use or Noncomplying Building or Structure.* In the event that any existing nonconforming structure or use, as provided for in this Section, is destroyed by any means, including fire, flood, wind, explosion, act of God, or act of a public enemy such structure or use shall be permitted to be replaced, restored, or reconstructed according to the site development in effect at the time of its original construction except that replacement, restoration and reconstruction can only occur in compliance with those building, plumbing, electrical, gas, fire, and other construction and safety related regulations of the Town of Malabar in effect at the time of application for a permit to allow replacement, restoration or reconstruction. Reasonable effort shall be undertaken to remedy any prior nonconformity or noncompliance. However, in no event shall the destroyed nonconforming structure or use be replaced to a degree or level which increases the prior existing nonconformity or noncompliance.
- C. *Repairs and Maintenance of Nonconforming Use or Noncomplying Building or Structure.* Routine repairs and maintenance of nonconforming structures or uses on fixtures, wiring, or plumbing or on the repair or replacement of walls shall be permitted.
- D. *Change in Location of Nonconforming Use or Noncomplying Building or Structure.* Should any nonconforming structure or use be moved for any reason to any distance whatever from its original permitted location, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved.
- E. *Accessory or Incidental Structures or Uses.* Structures or uses normally accessory to or incidental to a permitted structure or permitted use in the zoning district in which the nonconforming use or noncomplying building or structure is located may be permitted as accessory structures to the nonconforming or noncomplying building or structure so long as a nonconformance or noncomplying building or structure is not intensified.
- F. *Treatment of Off-Street Parking and Landscape Requirements.* All changes in nonconformities or noncompliances shall satisfy the appropriate parking and landscape