

TOWN OF MALABAR
PLANNING AND ZONING ADVISORY BOARD
REGULAR MEETING
WEDNESDAY MAY 11, 2011
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** - Planning and Zoning Meeting – 4/27/2011
Exhibit: Not Ready

E. PUBLIC HEARING:

F. ACTION:

- 2. **Amend Code to Provide Current Regulations for Adult Facility (Ord 2011-38) REVISED BY TOWN ATTORNEY May 3, 2011**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE TOWN'S LAND DEVELOPMENT CODE; DELETING SECTION 1-2.6.B. 8, LAND USE CLASSIFICATIONS; PROVIDING FOR ADULT CARE FACILITIES; AMENDING SECTION 1-3.1.I DISTRICT PROVISIONS; PROVIDING FOR LIMITED RESIDENTIAL USES IN THE OI (OFFICE/INSTITUTIONAL) ZONING DISTRICT; AMENDING TABLE 1-3.2; REMOVING REFERENCES TO GROUP HOMES AND PROVIDING FOR ADULT CARE FACILITIES; AMENDING TABLE 1-6.1 (B) DELETING REFERENCES TO GROUP HOMES AND MAKING PROVISIONS FOR ADULT CARE FACILITIES; AMENDING SECTION 1-9.2.12; PROVIDING FOR ADULT CARE FACILITIES; ESTABLISHING PARKING REQUIREMENTS FOR ADULT CARE FACILITIES; DELETING THE DEFINITION OF GROUP CARE FACILITY IN ARTICLE XX; AMENDING TABLE 1-3.3.A PROVIDING FOR A MINIMUM SQUARE FOOTAGE FOR SINGLE FAMILY HOMES IN THE RM-6 AND R/LC ZONING DISTRICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 2
Recommendation: Action

- G. DISCUSSION:**
- H. PUBLIC:**
- I. OLD BUSINESS/NEW BUSINESS:**
- J. ADJOURN**

NOTE: THERE MAY BE ONE OR MORE MALABAR ELECTED OFFICIALS ATTENDING THIS MEETING.

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: 2
Meeting Date: May 11, 2011

Prepared By: Debby K. Franklin, Town Clerk/Treasurer

SUBJECT: Code Amendment for Adult Care Facility (Ord 2011-38) revised version
from Town Attorney Karl Bohn-May 3, 2011

BACKGROUND/HISTORY:

During the Council discussion of the proposed Assisted Living Facility Site Plan on March 7, the Mayor pointed out that the current Code did not relate to Assisted Living Facilities and the language in the Code was out of date. Action on the Site Plan and CUP was tabled until an ordinance could be adopted to update the language of our Code.

Since this was changed by P&Z to a discussion item on April 27, council discussed it on May 2. They reiterated the reason for the direction to the Attorney to update the code so they could proceed with the project review. They gave the Attorney further direction to revise the ordinance to expand on the statutory requirements. The Attorney updated the ordinance to include the latest legislation dealing with assisted living facilities and related uses.

I did do historical research on this and found that Council adopted Ordinance 89-5 on December 5, 1989 that dealt with repealing Division 11 and 14 of Code related to PC (Professional Commercial) and Institutional Districts and providing for OI (Office Institutional Zoning and creating policies for managing office-institutional development.

When Ordinance 90-5 was adopted on April 10, 1990, it formally adopted the "Land Development Code" and specifically repealed Chapter 20, which I think was Ordinance 89-5.

I provide it for your consideration.

ATTACHMENTS:

Email from Town Attorney Karl Bohne
Ordinance 2011-38 revised by Town Attorney
5-page Letter from Plata Engineering
Information from Melbourne related to assisted living facilities
Malabar Ordinance 89-5

ACTION:

Recommendation to Council on Ordinance 2011-38

MEMORANDUM

Date: 5/3/2011
To: Town of Malabar Planning and Zoning Board
From: Karl W. Bohne, Jr., Town Attorney
Ref: Ordinance 2011-38

The references in the proposed ordinance to the Florida Statutes is broken down as follows:

1. Long Term Care Facilities, Part I of Chapter 400; FS 400.0060 (5): (5)“Long-term care facility” means a nursing home facility, assisted living facility, adult family-care home, board and care facility, or any other similar residential adult care facility.

2. Assisted Living Facilities, Part III of Chapter 400; FS 400. The statute has now changed and the reference now is Part I, Chapter 429, FS 429.02 (5): (5)“Assisted living facility” means any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.

3. Adult Family-Care Homes, Part VII of Chapter 400, The statute has now changed and the reference is Part II of Chapter 429; FS 429.65 (2); (2)“Adult family-care home” means a full-time, family-type living arrangement, in a private home, under which a person who owns or rents the home provides room, board, and personal care, on a 24-hour basis, for no more than five disabled adults or frail elders who are not relatives. The following family-type living arrangements are not required to be licensed as an adult family-care home:

(a) An arrangement whereby the person who owns or rents the home provides room, board, and personal services for not more than two adults who do not receive optional state supplementation under s. 409.212. The person who provides the housing, meals, and personal ¹care must own or rent the home and reside therein.

(b) An arrangement whereby the person who owns or rents the home provides room, board, and personal services only to his or her relatives.

(c) An establishment that is licensed as an assisted living facility under this chapter.

4. Adult Day Care Centers Part V of Chapter 400. The statute has changed and the reference is now Part III of Chapter 429; FS 429.901 (1): (1)“Adult day care center” or “center” means any building, buildings, or part of a building, whether operated for profit or not, in which is provided through its ownership or management, for a part of a day, basic services to three or more persons who are 18 years of age or older, who are not related to the owner or operator by blood or marriage, and who require such services.

5. Health Care Facilities, Part I of Chapter 408; FS 408.032 (8): (8)“Health care facility” means a hospital, long-term care hospital, skilled nursing facility, hospice, or intermediate care facility for the developmentally disabled. A facility relying solely on spiritual means through prayer for healing is not included as a health care facility.

6. Continuing Care Chapter 651: 651.011 (2); (2)“Continuing care” or “care” means, pursuant to a contract, furnishing shelter and nursing care or personal services as defined in s. 429.02, whether such nursing care or personal services are provided in the facility or in another setting designated by the contract for continuing care, to an individual not related by consanguinity or affinity to the provider furnishing such care, upon payment of an entrance fee. Other personal services provided must be designated in the continuing care contract. Contracts to provide continuing care include agreements to provide care for any duration, including contracts that are terminable by either party.

I changed the ordinance to accommodate the changes in the statute and to make it more specific as to the applicable statutes.



REVISED BY TOWN ATTORNEY May 3, 2011
ORDINANCE NO. 2011-38 P&Z Review May 11, 2011

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE TOWN'S LAND DEVELOPMENT CODE; DELETING SECTION 1-2.6.B. 8, LAND USE CLASSIFICATIONS; PROVIDING FOR ADULT CARE FACILITIES; AMENDING SECTION 1-3.1.I DISTRICT PROVISIONS; PROVIDING FOR LIMITED RESIDENTIAL USES IN THE OI (OFFICE/INSTITUTIONAL) ZONING DISTRICT; AMENDING TABLE 1-3.2; REMOVING REFERENCES TO GROUP HOMES AND PROVIDING FOR ADULT CARE FACILITIES; AMENDING TABLE 1-6.1 (B) DELETING REFERENCES TO GROUP HOMES AND MAKING PROVISIONS FOR ADULT CARE FACILITIES; AMENDING SECTION 1-9.2.12; PROVIDING FOR ADULT CARE FACILITIES; ESTABLISHING PARKING REQUIREMENTS FOR ADULT CARE FACILITIES; DELETING THE DEFINITION OF GROUP CARE FACILITY IN ARTICLE XX; AMENDING TABLE 1-3.3.A PROVIDING FOR A MINIMUM SQUARE FOOTAGE FOR SINGLE FAMILY HOMES IN THE RM-6 AND R/LC ZONING DISTRICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

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

Section 1. Sections 1-2.6.B.8 is hereby deleted. A new section 1-2.6.B.2 is added to read as follows:

"2. Adult Care Facilities. Any facility meeting the criteria and requirements of Long Term Care Facilities, Florida Statute 400.0060 (5), as amended from time to time; Assisted Living Facilities, Florida Statute 429.02 (5), as amended from time to time; Adult Day Care Centers, Florida Statute 429.901 (1) ; Adult Family-Care Homes, Florida Statute 429.65 (2); Health Care Facilities, Florida Statute 408.032 (8), as amended from time to time and Continuing Care, Florida Statute 651.011 (2), as amended from time to time."

(Note to Codifier: Section 1-2.6.B shall be renumbered to accomplish the changes herein).

				(feet)	Nonresidenti al District (feet)	District (5)	
<u>Group Homes Adult Care Facilities</u>	(3)	(3)	<u>N/A Arterial</u>	<u>N/A 60/30</u>	<u>N/A 25/20</u>	<u>N/A Type A/C</u>	(7)

• • •

“(3) Minimum spatial requirements shall comply with the standards requirements established by the ~~Florida Department of Health and Rehabilitative Services~~ District Provisions.”

• • •

Section 5. Section 1-9.2 is amended to include the following:

“Adult Care Facilities. One (1) space for each five (5) beds plus one (1) space for each employee, including doctors.”

(Note to Codifier: Section 1-9.2 shall be renumbered to accomplish the changes herein).

Section 6. Section 1-20.2 of Article XX is amended by deleting the definition for “Group Care Facility”.

Section 7. Table 1-3.3.A is hereby amended to provide for a minimum square footage of 1,200 square feet for single family homes in the RM-6 and R/LC zoning districts.

Section 8. Severability. In the event a court of competent jurisdiction shall hold or determine that any part of this ordinance is invalid or unconstitutional, the remainder of this ordinance shall not be affected and it shall be presumed that the Town Council, of the Town of Malabar, did not intend to enact such invalid or unconstitutional provision. It shall be further assumed that the Town Council would have enacted the remainder of this ordinance without said invalid and unconstitutional provision, thereby causing said remainder to remain in full force and effect.

Section 9. Repeal. All other ordinances or resolutions to the extent that conflict with this ordinance are hereby expressly repealed.

Section 10. Codification. The provisions of this ordinance shall become part of the land development code of the Town of Malabar.

Section 11. This Ordinance shall become effective immediately upon its adoption.

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

Council Member, Carl Beatty	_____
Council Member, David White	_____
Council Member, Steven (Steve) Rivet	_____
Council Member, Jeffrey (Jeff) McKnight	_____
Council Member, Marisa Acquaviva	_____

This ordinance was then declared to be duly passed and adopted this ____ day of _____, 2011.

Town Of Malabar
By Mayor Tom Eschenberg

First Reading _____
Second Reading _____

ATTEST:
By _____
Debby K. Franklin
Town Clerk/Treasurer

(Seal)

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney



plata engineering, inc.

ENGINEERS * PLANNERS * CONSTRUCTION MANAGEMENT

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www.plataengineering.com - EB 0005636 - Excellence in service since 1990.

Telephone: (321) 259 – PLAT Facsimile: (321) 259 - PLAN

May 5, 2011

Town of Malabar
Karl Bohne, Esquire, Town Attorney.
Denine Shearer, P&Z Advisory Board Secretary.

Attention: Debby Franklin, CMC, Town Clerk/Treasurer.
2725 Malabar Road, Malabar, Florida 32950-4427.

Re: ORDINANCE NO. 2011-38, Revision by Town Attorney dated May 3, 2011.

Dear Ms. Franklin:

This letter is to respectfully submit our opinions and suggestions for the Ordinance No. 2011-38. We hope these suggestions are helpful to Town Attorney, based on our understanding of the concerns expressed by the Wednesday April 27, 2011 Planning and Zoning Board discussion.

Since the Ordinance 89-5 that included Adult Care Facilities, the current Code only has definitions for Group Homes and Nursing Homes. The *Nursing Homes* per table 1-2.2 also includes rest homes. The *Group Homes*, for over 14 residents and *Extended Care Facilities* definition in Article XX Section 1-20.2, for homes for the aged can also apply to Assisted Living Facilities.

Karl Bohne, Esquire, has drafted an excellent Ordinance in only six Sections, to clarify and include the Adult Care Facilities. We offer our comments on each section as follows:

Section 1. {No changes needed. It is the same definition used in other codes.}

P&Z discussion: Need more information, show definition, Statutes of the facilities, not just chapters.

Our Comment: The May 3 revision took care of the concerns, added the exact Statutes and definitions.

Section 2. {May need a change of word from “residential” to “community facilities.”}

P&Z discussion: This change may appear like residential use, which could conflict within Institutional.

Comment: Adult Care facilities are not residential use. According to the Town of Malabar Code Section 1-2.6. Land use, the Adult Care Facilities, are considered Type B, *Community Facilities*. It includes nursing homes, places of worship, et cetera, which are allowable Community Facilities within the Office/Institutional. This Ordinance also removes the word “group homes”, which some have businesses using residential structures. Therefore that conflict is now removed from the I/O District.

Change could be like this:

• Accommodate only office buildings, Community Facilities and institutional land uses and shall expressly exclude residential uses, ~~(except those uses identified as Adult Care Facilities in 1-2.6.B.2)~~, general retail sales and services, warehousing, and outside storage; and

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Re: ORDINANCE NO. 2011-38, Revision by Town Attorney dated May 3, 2011.

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Section 3. { Seems acceptable as is, CUP, or could change to “Permitted” within the O/I and I. }

P&Z discussion: They may need to see zoning allowances for Assisted Living Facilities in other municipalities.

Our Comment: This O/I zoning is the best fit zoning for Assisted Living Facility. Acceptable as CUP, or could change to be Permitted use by right (no CUP needed).

The Attachment “A” may help. It shows City of Melbourne and Brevard County, the Assisted Living Facility is a permitted use by right within the Institutional zoning. The Assisted Living Facility is also allowed in all non-residential districts and by CUP in some of the multi-family zoning. The Assisted Living Facility is one of the lowest impact non-residential developments.

Section 4. { It may need to add full word description. }

P&Z discussion: Only concern was the term in Note (3) of “District Provisions” is not clear.

Our Suggestion: Maybe add : Town of Malabar , Land Development Code, Article III

“(3) Minimum spatial requirements shall comply with the standards requirements established by the ~~Florida Department of Health and Rehabilitative Services~~ Town of Malabar Code of Ordinances, - LAND DEVELOPMENT CODE, Article III - DISTRICT PROVISIONS

Additionally, all non-residential zonings show 20 FT setback. The current review was per District provisions of 20 FT. A suggested change from 30 to 25 FT within non residential:

Conditional Land Uses	Minimum Size Site	Minimum Width/Depth (feet)	Access Required to Street	Building Setback from Residential District/Nonresidential District (feet)	Parking Lot Setbacks from Adjacent Residential District/Nonresidential District (feet)	Perimeter Screening Residential District/Nonresidential District (5)	Curb Cut Controls
Group Homes Adult Care Facilities	(3)	(3)	N/A Arterial	N/A 60/30 60/25	N/A 25/20	N/A Type A/C	(7)

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Re: ORDINANCE NO. 2011-38, Revision by Town Attorney dated May 3, 2011.

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Section 5. {Section 1-9.2 parking addition, it is acceptable as shown, comparable.}

“Adult Care Facilities. One (1) space for each five (5) beds plus one (1) space for each employee, including doctors.”

P&Z discussion: They may look at other municipalities, to see parking for Adult Care Facilities.

Our Comment: This information was submitted in January 2011. Just looking at facilities can be confusing, since they may have different medical staff, service or different business altogether.

Comparing the national standards and other local codes:

Per proposed Town of Malabar code, minimum requirement for this site is 36 spaces.

Per the INSTITUTE OF TRANSPORTATION ENGINEERS, Parking required would be: 36 spaces.

Considering the Brevard County Land Development code: The parking would be 40 spaces.

Using the Indian River County Land Development code requirement would be: 23 parking spaces.

The City of Melbourne off-street parking required for this: 37 spaces required.

Section 6. {No comments}

Section 1-20.2 of Article XX is amended by deleting the definition for *“Group Care Facility”*.

We hope that this information can help, should you need any additional information, please contact us at 321- 259-7528.

Sincerely,

Frank Plata

Frank S. Plata, P.E., R.A., C.G.C.

CC: Don Foley, /Property Owners/

May 5, 2011

Re: ORDINANCE NO. 2011-38, Revision by Town Attorney dated May 3, 2011.

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ATTACHMENT "A"

CITY OF MELBOURNE ORDINANCES:

APPENDIX B - ZONING

ARTICLE V. – DISTRICT REGULATIONS

Sec. 2. - District use and dimensional standards.

This section defines and prescribes the specific uses allowed within each zoning district identified in this Code,

(D) **Use and dimensional standards tables.** Tables 1A and 1B contain a list of uses allowed in each district and specify whether they are permitted by right (P) or if they require conditional use approval (CU). Tables 2A and 2B contain the dimensional standards for the various uses allowed in each district.

TABLE 1A. RESIDENTIAL

I TABLE 1B. NON-RESIDENTIAL

USES	R-A	R-1 AAA AA	R-1A	R-1B	R-2 R-3 R-4	R-P	C-1 A	C-1	C-2	C-3	C-P	M-1	M-2	I-1
ASSISTED LIVING FACILITY	N	N	N	N	C	C	C	P	P	C	P	P	P	P
CONVALESCENT/ NURSING HOMES	N	N	N	N	C	P	P	P	P	N	P	N	N	P
GROUP HOME FACILITIES	N	N	N	N	C	C	C	C	C	C	C	N	N	N

Sec. 2. - Zoning districts and intent.

R-2 — Multiple-Family Dwelling Medium Density District. Some non-residential uses compatible with the character of the district are also permitted as conditional uses.

R-3 — Multiple-Family Dwelling High Density District.

R-4 — Two-Family Dwelling District.

R-P — Residential—Professional District.

C-1A — Professional, Offices and Services District.

C-1 — Neighborhood Commercial District. C-2 — General Commercial District.

C-3 — Central Business District. C-P — Commercial Parkway District.

M-1 — Light Industrial District. M-2 — General Industrial District.

I-1 — Institutional District. The provisions applicable to this district are intended to apply to an area which can serve the needs of the community for public and semi-public facilities of an educational, recreational, health or cultural nature.

Parking (41.) Nursing or convalescent homes and sanitariums—Congregate Care intermediate care. One (1) space for each three (3) beds, plus one (1) space for every one and one-half (1 1/2) employees on the largest working shift, exclusive of spaces required for doctors.

May 5, 2011

Re: ORDINANCE NO. 2011-38, Revision by Town Attorney dated May 3, 2011.

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BREVARD COUNTY

Sec. 62-1826. - Assisted living facilities.

Sec. 62-1483. - Retail, warehousing and wholesale commercial, BU-2.

The BU-2 retail, warehousing and wholesale commercial zoning classification encompasses lands devoted to general retail and wholesale business

Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):
Assisted living facility.

Within either the institutional or high intensity use designations, permitted uses with conditions are as follows (see division 5, subdivision II, of this article):
Assisted living facilities.

Sec. 62-1573. - **Institutional Use**, IN(L) and IN(H).

The purpose of the institutional use zoning classification is to provide for private, nonprofit or religious uses which are intended to service the needs of the public for facilities of an educational, religious, health or cultural nature.

The classification is divided into two types, low intensity and high intensity. Low intensity uses are those that are of such limited scale and impact that they are compatible with residential uses in residential land use designations, or neighborhood commercial uses in neighborhood commercial land use designations. High intensity uses are more suited to community commercial or industrial areas.

(1) *Permitted uses.* Uses that are listed in the "low intensity" column as "permitted" or "permitted with conditions" are subject to intensity limitations as established in paragraph (4) below. Uses listed as "permitted with conditions" in either designation are subject to specific conditions for that particular use as established elsewhere in division 5, subdivision II.

Use	Low Intensity	High Intensity
Residential Health		
Assisted living facility (Sec. 62-1826	Permitted with conditions	Permitted with conditions

Assisted living facilities allowed in low intensity and high intensity districts.

High Intensity = Site ADT traffic generated per acre, high rate as commercial/ office development, 482.64 trips per acre.

Cindi Kelley

From: Kathy Lee [klee@melbourneflorida.org]
Sent: Friday, May 06, 2011 3:41 PM
To: Cindi Kelley
Cc: Cheryl Dean
Subject: Re: Assisted Living Facilities
Attachments: APP B ART V SEC 2 -Tables 1B-2B Non-Residential Uses.pdf

Hey Cindy,

The following is the City of Melbourne, City Code, definition of Assisted Living Facility:

Assisted living facility. Also congregate **living** facility. Any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, one (1) or more meals, and one (1) or more personal services for a period exceeding twenty-four (24) hours to one (1) or more adults who are not relatives of the owner or administrator (F.S. § 429.02(5), as amended from time to time).

I am attaching City Code, Appendix B, Article V, Section 2, Table 1B, which is a Table of Uses for non-residential districts, and indicates which zoning districts allow assisted living facilities.

I have highlighted in RED, the Florida Statute I mentioned to you on the phone. Please let me know if you need anything further.

Thanks,

Kat

Kat Lee
Planning & Zoning Technician
City of Melbourne
(321) 608-7507 Phone
(321) 608-7519 Fax

>>> "Cindi Kelley" <ckelley@townofmalabar.org> 5/6/2011 3:22 PM >>>
Kat,

I need a favor, please. Do you have any regulations on assisted living facilities? If you do, can you scan it in and send me the information. We have a P & Z meeting next week and this information would be very helpful to the Board.

Thank you,

Cindi Kelley, CMC
Deputy Town Clerk
Town of Malabar
2725 Malabar Road
Malabar, Florida 32950
321.727.7764, ext. 11
321.722.2234 (fax)
www.townofmalabar.org

City of Melbourne Code

Table 1B. Table of Uses, Non-Residential Districts

USE	R-P	C-1A	C-1	C-2	C-3	C-P	M-1	M-2	I-1
Amusement center*	N	N	C	P	C	P	P	P	P
Agricultural uses*	N	N	N	N	N	N	C	C	N
Assisted living facilities	C	C	P	P	C	P	P	P	P
Bars (see Art. VI, sale of alcohol)	N	N	C	C	C	C	C	C	C
Bed and breakfast	N	N	P	P	P	N	N	N	N
Brewpub	N	N	P	P	P	P	P	P	N
Building, contractor & equipment storage (outdoor) ¹	N	N	N	N	N	N	P	P	N
Car wash establishments, free-standing*	N	N	N	C	N	C	P	P	N
Child care facilities	C	C	P	P	P	P	P	N	P/A
Church, convent or parish house	C	P	P	P	P	P	P	P	P
Clubs and lodges	N	N	P	P	P	P	C	C	C
Community center building	C	C	C	P	C	P	P	N	N
Convenience stores with gas pumps/ gas stations*	N	N	N	C	N	C	P	P	N
Domestic violence shelter*	P	N	P	P	N	P	N	N	P
Drive-in theaters*	N	N	N	N	N	C	N	N	N
Dwellings, accessory (see Art. VII, Section 2(C))	P	P	P	P	P	P	P	P	P
Dwellings, multi-family (see Art. VI, Section 1(I))	P	P	P/C	N	P	P/C	N	N	N
Dwellings, single-family (see Art. VI, Section 1(I))	P	P	P	N	P	N	N	N	N

* See Article VI, Section 2, Use Standards, or Article VII, Section 2, Standards for Accessory Uses, for special conditions.

P - Permitted Uses;

C - Uses that require Conditional Use approval;

N- Prohibited; P/A - Permitted as Accessory Use;

P/C - Permitted or Conditional Use

- ¹ Outside storage areas shall be effectively walled on all sides where adjacent to rights-of-way or non-industrial uses, per Appendix D, Chapter 9, Article III, Section 9.45, to avoid any deleterious effect on adjacent property.
- ² Provided that the minimum floor area for hotel and motel units shall be three hundred (300) square feet.
- ³ Financial Institutions in R-P require Conditional Use approval.
- ⁴ Directly associated with a profession.
- ⁵ Except automotive and similar uses. See Article VI, Section (2)(F) for outdoor display standards.
- ⁶ In enclosed structures, including refrigerated storage and bulk storage, excluding hazardous substances, hazardous wastes and petroleum products.

Table 2B. Table of Dimensional Standards, Non-Residential Districts

NON-RESIDENTIAL	R-P	C-1A	C-1	C-2	C-3	C-P	M-1	M-2	I-1*
Minimum lot area (sq. ft.)	7,000	6,000	5,000	5,000	4,000	22,500	10,000	10,000	20,000
Minimum lot width (ft.) 1	70	60	50	50	30	150	100	100	100
Minimum lot depth (ft.)	100	100	100	100	100	150	100	100	150
Maximum lot coverage (%)	40	50	50	50	100 ²	40	50	50	
Minimum building area (sq. ft.)	See table 2A	300	300	300	300	300	300 ³	300 ³	
Maximum height (ft.) 4	355	40	40 ^{fn25}	40 ^{fn25}	80 ^{fn25}	40 ^{fn25}	40	40	NA
Minimum setback requirements (ft.) 6			See footnote 7						25 ⁸
Front	20	25	20	20 ft.	None	50	20	20	
Side interior lot 9	7.5	None	None	None	None	25	None	None	
Side corner lot	20	20	20	20 ft.	None	40	20	20	
Rear	20	20	15	20 ft.	None	30	20	20	
Rear-abutting alley	15	15	10	10 ft.	None	10 ft.	15	15	
Additional buffer 10	N	N	Y	Y	Y	Y	Y	Y	Y

1 If calculated a mean width, the width at the street line shall not be less than eighty (80) per cent of the required lot width except for lots on the turning circles of cul-de-sac or on the outside radius of a curve; in such cases the lot width at the street line shall be no less than twenty-five (25) feet.

2 Except for required yards.

3 Except where no buildings are proposed.

4 See Article IV, Section 1, Exceptions and Variations to Height Regulations.

5 Additional height may be allowed subject to Conditional Use approval and the criteria standards set forth in IV, Section 1 (Exceptions and Variations to Height).

6 See Art. VI(I), Residential Uses in Non-Residential Districts, and Art. IV, Section 1, Exceptions and Variations to Height Regulations, for additional setbacks requirements.

7 Residential developments in a C-1 zone must meet the yard requirements specified for the R-2 zone.

8 Thirty-five (35) feet if abutting a residential use; fifty (50) feet if adjacent to a collector or arterial. Ten (10) additional feet setback for every ten (10) feet in height over ten (10) feet. Interior yards shall meet the requirements necessary for adequate police and fire protection.

9 If abutting a residential district that requires setbacks, use the setback required in that district along the abutting property line. For multi-story developments, see Article IV, Section 1, Exceptions and Variations to Height Regulations for additional setback requirements.

Townhome setbacks are determined between buildings; interior townhome units do not have side setback requirements.

10 Notwithstanding the setbacks required as noted in the table above, new COM, HDR, IND, and INST developments requiring formal site plan approval, adjacent to established single-family lots, shall provide a buffer of no less than fifty (50) lineal feet, (unless subject to Appendix B, Article IV, Section 1(b)). A six-foot masonry wall and vegetative landscape buffer shall be provided. This does not apply to projects located within redevelopment districts.

Cindi Kelley

Melbourne Zoning

From: Kathy Lee [klee@melbourneflorida.org]
Sent: Friday, May 06, 2011 4:09 PM
To: Cindi Kelley
Subject: RE: Assisted Living Facilities

Here you go. This is City Code, Article III, Section 2

Sec. 2. - Zoning districts and intent.

For the purpose of classifying, regulating and restricting the location of trades and industries, and the location of buildings designed for industry, business, residence and other uses, the City of Melbourne is hereby divided into the following zoning districts, which implement the City of Melbourne Comprehensive Plan. The designation of use districts and uses by letter symbols as set forth herein, when used throughout this Code and upon the zoning map shall have the same effect as if the full description of said district were stated.

(A)

AEU - Agricultural Estate Use District. The AEU agricultural estate district encompasses lands devoted to agricultural pursuits and single-family residential development of spacious character. The AEU zoning district is intended to be similar to the Brevard County AU zoning district in rural areas.

(B)

REU - Rural Estate Use District. The REU rural estate district encompasses lands devoted to single-family residential development of spacious character. The REU zoning district is intended to be similar to the Brevard County RR-1 zoning district in rural areas that are transitioning from rural to suburban use.

(C)

R-1AAA, R-1AA, R-1A - Single-Family Low Density Residential Districts. The provisions of these districts are intended to apply to an area of single-family residential development. Lot sizes and other restrictions are intended to protect and promote high quality residential development.

(D)

R-1B - Single-Family Low Density Residential District. The provisions of this district are intended to apply to an area of single-family residential development with incentives on lot size for affordable housing projects. (See Appendix B, Article V, Section 2, Table 2A, Footnote 6 and Appendix B, Article VI, Section 1(A)). Lot sizes and other restrictions are intended to permit a flexibility of design and a variety of housing styles, promote affordable single-family housing, and encourage the preservation of natural features such as scrub habitat, unique hardwood canopies and wetlands.

(E)

R-2 - One-, Two- and Multiple-Family Dwelling Medium Density District. The provisions of this district are intended to apply to an area of low or medium density residential development with a variety of housing types. Lot sizes and other restrictions are intended to promote and protect low or medium density residential development, maintaining an adequate amount of open space for such development. Some non-residential uses compatible with the character of the district are also permitted as conditional uses.

(F)

R-3 - Multiple-Family Dwelling High Density District. The provisions of this district are intended to apply to an area of low, medium, or high density residential development. Lot, height, and other building restrictions are intended to accommodate a variety of residential development, maintaining an adequate amount of open space for residential uses. Some nonresidential uses compatible with the character of the district or as accessory uses to serve high density residential are also allowed.

(G)

R-4 - Two-Family Dwelling District. The provisions of this district are intended to apply to an area to be developed solely for duplexes at a low or medium density. It is intended that this district accommodate a compatible development of residential use at a higher density than single-family use, but at no lower standard of quality. Internal design, attractiveness, order and efficiency are encouraged by providing for adequate usable open space for dwellings and related facilities and through consideration of good functional relationship both between dwellings and surrounding uses.

(H)

R-A - Residential Holding District. The provisions of this district are intended to apply to a sparsely developed area capable of supporting single-family residences at very low densities. This classification is also intended to place land in a holding pattern until such time that a specific development request is presented which is consistent with the comprehensive plan.

(I)

R-2T - Planned Residential Development for Mobile Home Parks. Mobile home parks developed in such a manner as to make efficient, economical and aesthetically pleasing use of the land, so restricted that same will be continually maintained by the owner, and when such is provided for in a carefully drawn plan, the city council may permit upon recommendation of the planning and zoning board such development providing the conditions contained in Article V, section 2(G) of this Code are met.

(J)

PUD - Planned Unit Development District. The planned development is a concept which encourages mixed uses and unconventional development designs in those cases where the developer can demonstrate improved living environments, protection of natural resources or increased effectiveness of service delivery and the reduction of external trips. The purpose of a planned development is to encourage the development of large tracts of land as planned residential neighborhoods and communities that provide a more varied and interesting urban pattern and a full range of residence types as well as commercial uses designed to serve the inhabitants of the planned development. It is recognized that only through ingenuity, imagination and flexibility can residential developments be produced which are in keeping with the intent of this section while departing from the strict application of conventional use and dimension requirements of other zoning districts and subdivision regulations.

The standards for planned unit developments contained in Article V are intended to achieve the following objectives:

(1)

Accumulation of large areas of usable open spaces for recreation and preservation of natural amenities.

(2)

Flexibility in design to take the greatest advantage of natural land, trees, historical and other features.

(3)

Creation of a variety of housing types and compatible neighborhood arrangements that give the home buyer greater choice in selecting types of environment and living units.

(4)

Allowance of sufficient freedom for the developer to take a creative approach to the use of land and related physical development, as well as utilizing innovative techniques to enhance the visual character of the City of Melbourne.

(5)

Efficient use of land that may result in smaller street and utility networks and reduce development costs.

(6)

Establishment of criteria for the inclusion of compatible associated uses to complement the residential areas within the planned unit development.

(7)

Simplification of approval procedures of proposed developments through simultaneous review by the city of proposed land use, site consideration, lot and setback consideration, public needs and requirements, and health and safety factors.

(8)

Economical and efficient use of land, utilities and streets with resulting lower housing costs.

(K)

R-P - Residential-Professional District. The provisions of this district are intended to apply to a transition area between commercial and residential uses. Principal uses and restrictions of the district are intended to promote and protect low or medium density residential development in combination with low intensity commercial development to provide a buffer area between residential and nonresidential areas as well as to facilitate cohesive grouping of more intensely developed commercial activities with high traffic generating capabilities.

(L)

C-1A - Professional, Offices and Services District. The provisions of this district are intended to apply to an area adjacent to major streets and convenient and complementary to major commercial, industrial and/or transportation facilities. The types of uses permitted and other restrictions are intended to provide an amenable environment for the development of professional offices and services separate from the intensive development of commercial and industrial facilities.

(M)

C-1 - Neighborhood Commercial District. The provisions of this district are intended to apply to an area adjacent to arterial and major collector streets and convenient to major residential areas. The types of uses permitted are intended to serve consumer needs. Lot sizes and other restrictions are intended to reduce conflicts with adjacent residential uses and to minimize the interruption of traffic along thoroughfares.

(N)

C-2 - General Commercial District. The provisions of this district are intended to apply to an area intended to be developed and preserved as a major commercial center serving the commercial needs of the community and region as well as the motoring public. The types of uses and other restriction are intended to promote adequate protection from conflicts with adjacent residential and other noncommercial uses, and to minimize the interruption of traffic along adjacent thoroughfares.

(O)

C-3 - Central Business District. This district is intended to apply to the central commercial, professional, financial, governmental and civic core of the city. Lot and building regulations are intended to permit intensive development of the area and to discourage uses not requiring a central location and which would create friction with performance of central functions.

(P)

C-P - Commercial Parkway District. The provisions of this district are intended to apply to areas located adjacent to a main highway. The types of uses permitted and restrictions are intended to serve the needs of the motorist and provide an amenable impression of the city. Large lot sizes and other restrictions are intended to minimize frequent ingress and egress to the highway from abutting uses, thereby allowing the thoroughfare to serve its primary function of carrying an uninterrupted flow of traffic.

(Q)

M-1 - Light Industrial District. The provisions of this district are intended to apply to an area located in close proximity to rail, air or major roadway facilities and which can serve intensive commercial uses and light manufacturing, warehousing, distribution, wholesaling and other industrial functions of the city and the region. Restrictions herein are intended to minimize adverse influences of the industrial activities on nearby non-industrial areas and to eliminate unnecessary industrial traffic through non-industrial areas.

(R)

M-2 - General Industrial District. The provisions of this district are intended to apply to an area located in close proximity to rail, air and major roadway facilities and which can serve general manufacturing, storage, distribution and other general industrial functions of the city, state and region. Restrictions herein are intended to minimize adverse influence of the industrial activities on nearby non-industrial areas and to eliminate unnecessary industrial traffic through non-industrial areas.

(S)

I-1 - Institutional District. The provisions applicable to this district are intended to apply to an area which can serve the needs of the community for public and semi-public facilities of an educational, recreational, health or cultural nature. Since the site and building requirements for such uses vary with the size and type of use, a review and approval of the plans is specified and the zoning itself is predicated upon the approval of the site plan.

(Ord. No. 2005-120, § 2, 11-8-05; Ord. No. 2009-31, § 2, 8-25-09; Ord. No. 2010-14, § 3, 4-13-10)

>>> "Cindi Kelley" <ckelley@townofmalabar.org> 5/6/2011 3:48 PM >>>

Thank you for the information. Do you have a listing to give the Use code meanings; i.e. R-P etc?

Cindi Kelley, CMC
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OI ZONING DISTRICT ORDINANCE
ORDINANCE NO: 89-5

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA AMENDING CHAPTER 20 "ZONING" OF THE CODE OF ORDINANCES BY REPEALING DIVISION 11 "PC PROFESSIONAL-COMMERCIAL OFFICE DISTRICT" AND DIVISION 14 "INSTITUTIONAL DISTRICT"; AND BY PROVIDING FOR AN OI "OFFICE-INSTITUTIONAL" DISTRICT WITHIN DIVISION 11 WHICH STIPULATES: 1) THE LEGISLATIVE INTENT; 2) PERMITTED USES; 3) CONDITIONAL USES; 4) DIMENSIONAL REGULATIONS; 5) OTHER REGULATIONS GOVERNING DEVELOPMENT OF PERMITTED AND CONDITIONAL USES WITHIN THE OI DISTRICT; AND 6) DEFINITIONS OF SPECIFIC TERMS. THE ORDINANCE REPEALS ALL ORDINANCES OR PORTIONS THEREOF IN CONFLICT HERewith TO THE EXTENT OF SUCH CONFLICT; ESTABLISHES A SEVERABILITY CLAUSE; PROVIDES FOR CODIFICATION; AND ESTABLISHES AN EFFECTIVE DATE.

WHEREAS, The Town of Malabar, Florida, has duly adopted a Comprehensive Plan pursuant to Chapter 163, Part II, FS, which contains a land use element, including a future land use map incorporating a new "office-institutional" land use designation; and

WHEREAS, The Town of Malabar, Florida, must pursuant to § 163.3202, FS adopt land development regulations designed to implement the terms of the adopted Comprehensive Plan, including zoning district regulations applicable to the newly established "office-institutional" future land use map designation;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF MALABAR, FLORIDA:

SECTION 1. Repeal of Division 11 "PC Professional-Commercial Office District Regulations" and Division 14 "Institutional District". Divisions 11 and 14 of the Code of Ordinances are hereby repealed.

SECTION 11. Establishment of an OI "Office-Institutional" Zoning District. Division 11 is hereby amended to read as follows:

§ 20-331. Legislative Intent.

The OI "office-institutional" district is established to implement comprehensive plan goals, objectives, and policies for managing land designated for office-institutional (OI) development.

§ 20-332. Permitted Uses.

In the OI district, a building or premises may be used only for the below stated permitted uses as well as for the conditional uses specifically identified in § 20-333 of this code. Prior to approving any permitted use or any expansion or change in existing use, all applicable provisions of this Code shall be satisfied, including site plan review § 20-116 and all other performance criteria.

Permitted uses shall include the following uses: business and professional offices; not-for-profit cultural and civic activities; parking facilities; places of worship; public or private not-for-profit administrative services; veterinary medical services; and accessory uses.

§ 20-333. Conditional Uses.

In this district, in addition to the stipulated permitted uses, a building or premises may be used for the following conditional uses upon the Town's finding that the applicant has demonstrated compliance with all applicable provisions of this Code, including but not limited to conditional use criteria § 20-526, site plan review regulations § 20-116, and all other performance criteria. The Town Council shall determine if such conditions and provisions are satisfied after considering recommendations of the Planning and Zoning Board.

Conditional uses are expressly limited to the following: adult care facilities, child care activities; drive-through banking facilities; educational institutions; group homes; hospitals with extensive care facilities;

nursing homes (including convalescent homes); public and private utilities; public parks and recreation areas; public protective and emergency services; and accessory uses.

§ 20-334. Dimensional Regulations.

The size and dimensional regulations governing land use and development within the OI district are stipulated in Table 20-334. All land use and development shall comply with the regulations cited in Table 20-334.

TABLE 20-334 SIZE AND DIMENSION CRITERIA
OI ZONING DISTRICT

REGULATION	UNIT OF MEASURE ⁴	
MINIMUM LOT SIZE	20,000	Square Feet
	Without Central Water and Wastewater: 1 Acre	
MINIMUM LOT WIDTH	100	Feet
MINIMUM LOT DEPTH	150	Feet
MINIMUM YARD		
- Front (i.e., any yard abutting a street)	35/60 ^{1,3}	Feet
- Side	20 ²	
- Rear	25 ²	
MAXIMUM LOT COVERAGE (i.e., impervious surface)	65	% of Lot
MINIMUM OPEN SPACE (i.e., pervious green space)	35	% of Lot
MAXIMUM BUILDING HEIGHT	35	Feet
MINIMUM FLOOR AREA	1000	Square Feet
MAXIMUM FLOOR AREA RATIO (FAR):	.20	% of Lot

- NOTES:
- 1 The minimum front yard shall be sixty (60) feet on a major arterial road. Otherwise, the minimum front yard shall be thirty-five (35) feet unless a more restrictive performance standard is in effect as part of a special overlay district or as part of a stipulated natural resource preservation criteria or specification.
 - 2 The minimum side and rear yards may be more restrictive where the impacted site abuts a district or districts with greater setbacks. If greater setbacks are applicable in the abutting district, those same setbacks shall be applied to the abutting OI district yard(s).
 - 3 Any yard abutting a street shall be deemed a front yard.
 - 4 All measurements for front yards and for setbacks shall be from the nearest edge of the right-of-way.

§ 20-335. Permitted Signage.

Within the OI district signage shall be regulated pursuant to Chapter 14 and Chapter 20, § 20-430, Town of Malabar, Code of Ordinances.

§ 20-336. Screening and Buffering.

In order to maintain stability of residential areas, where an OI district abuts a residential district, the applicant for development within the OI district shall provide a combination of a landscaped berm, tree canopy and lower story shrubs, forming a hedge or system of hedges. The vegetated berm, tree canopy, and lower story shrubs shall:

- ° Provide a ninety (90) percent opaque solid screen;
- ° Form a continuous screen along such abutting property lines; and
- ° Include one (1) deciduous or evergreen tree for each thirty-five (35) lineal feet or fraction thereof along the entire property line.

Notwithstanding, all development shall comply with § 20-466 and 467 of the Malabar Code of Ordinances. Where a conflict exists with the standards of this paragraph, the more restrictive requirement shall prevail.

a. Specifications for Landscaping.

- (1) All plant material used to fulfill requirements of this subsection shall conform to the "Standards for Florida No. 1" or as defined in the "Grade and Standards for Nursery Plants", Part I, II, State of Florida, Department of Agriculture, or equal thereto.
- (2) Synthetic or artificial material in the form of trees, shrubs, vines, ground cover or artificial turf shall not be used in lieu of plant requirements cited in this section.
- (3) Wherever berms are utilized, pursuant to the requirements herein, they shall be constructed with a grade not to exceed one (1) foot vertical to three (3) feet horizontal (i.e., 1:3 slope).
- (4) Palm trees shall not be used for the purpose of screening, but may be used as land cover.
- (5) Tree species shall be a minimum of eight (8) feet in height at the time of planting and shall grow to a mature height of at least twenty (20) feet.
- (6) Credit may be given for existing plant material against the requirements of this section.
- (7) The applicant and successors in ownership shall maintain the continuous screen in perpetuity.

b. Screening Not Required in Visible Triangle.

No screening shall be required which conflicts with visibility triangles required for public safety.

c. Adjustments.

Adjustments may be rendered by the Town Council to the requirements of this paragraph based on demonstrated need by the applicant and based on recommendation of the Planning and Zoning Board.

§ 20-337. Minimum Off-Street Parking and Loading Requirements.

All development within the OI zoning district shall comply with minimum off-street parking and loading requirements specified § 20-451, Town of Malabar, Code of Ordinances. In addition to the above-stated requirements, except for drives and walk-ways, a landscaped buffer shall be provided along the street frontage of any site within the OI district which abuts a street. The landscaped buffer shall have a depth of:

- ° twenty (20) feet along an arterial road;
- ° fifteen (15) feet along a collector street; and
- ° ten (10) feet along a local residential street.

The landscaped buffer shall be designed pursuant to the specifications cited above and shall be so landscaped and maintained for the full depth of the required buffer.

§ 20-338. Performance Standards for Nuisance Abatement.

All development in the OI zoning district shall comply with the performance standards for nuisance abatement in § 20-511, Town of Malabar, Code of Ordinances.

§ 20-339. Conduct of Operations.

All activities associated with offices and institutional uses within the OI zoning district shall be located within completely enclosed buildings, and there shall be no display, services, or storage outside such buildings. No public address systems or other devices for reproducing or amplifying voices or music shall be mounted outside such buildings or be audible beyond any line of the lot on which the building is situated.

§ 20.340 Setbacks for Off-street Parking.

No off-street parking facilities or loading areas shall be located closer than fifty (50) feet to any property line abutting a residential district.

§ 20.341 Supplemental Conditional Use Criteria.

This subsection is intended to stipulate general provision and criteria for considering the approval of conditional uses on specific sites within the OI zoning district. Conditional uses shall be permitted upon a finding that the respective use and proposed site plan satisfies the general criteria of § 20.526 as well as the specific criteria cited herein. In addition to satisfaction of the general provisions cited in § 20.526, a conditional use shall be permitted only upon a finding that the proposed conditional use complies with the requirements for the respective conditional use as specified below:

Wherever in the supplemental conditional use criteria below stated, the term major thoroughfare is cited, this term references the following arterial and collector roads:

Arterial Roads

- US 1 Highway
- Malabar Road (SR 514)
- Babcock Street (SR 507)

Collector Roads

- Corey Road
- Weber Road

1. Child Care or Adult Care Facilities.

a. Additional Information Requirements:

- i. The site plan shall show all adjacent paved public roads as well as the nearest major thoroughfare, proposed off-street parking facilities, and the location and size of all proposed buildings, structures and signs on the site. The narrative and graphic information submitted shall meet all site plan criteria of § 20-116 and all applicable laws and ordinances.
- ii. The site plan shall denote the location of all structures adjacent to the site as well as the location of adjacent parking facilities and points of access/egress.
- iii. Evidence shall be provided that minimum requirements to qualify for a State of Florida license have been satisfied.

- iv. Child care facilities shall describe the type of playground equipment, if any, which is to be utilized.

b. Criteria for Child Care or Adult Care Facilities:

- i. The site shall be located on a paved public road with sufficient width to accommodate pedestrian and vehicular traffic generated by the use. The facility shall be located near a major thoroughfare, as designated in the City's Major Comprehensive Plan, so as to discourage traffic along residential streets in the immediate area.
- ii. Special passenger loading and unloading facilities shall be provided on the same lot for vehicles to pick-up or deliver clientele. Such facilities shall include driveways that do not require any back-up movements by vehicles to enter or exit the premises.
- iii. All regulations of the State of Florida that pertain to the use as presently exists or may hereafter be amended shall be satisfied.
- iv. Child care facilities shall provide a fenced area of not less than two thousand (2,000) square feet of usable outdoor recreation area for the first twenty (20) children. One hundred fifty (150) square feet of usable outdoor recreation area shall be required for each additional child greater in number than twenty (20); such area shall be delineated on the site plan submitted at the time the application is filed. For the purposes of this provision, usable outdoor recreation area shall be limited to:
 - ° That area not covered by building or required off-street parking spaces.
 - ° That area outside the limits of the required front yard.
 - ° Only that area which is developable for active outdoor recreational purposes.
 - ° An area which occupies no more than eighty (80%) percent of the combined total areas of the rear and side yards.

2. Drive-Through Banking Facilities.

a. Additional Information Requirements:

- i. The site plan shall show all adjacent paved public roads as well as the nearest major thoroughfare, proposed off-street parking facilities, and the location and size of all proposed buildings, structures and signs on the site. The narrative and graphic information submitted shall meet all site plan criteria of § 20-116 and all applicable laws and ordinances.
- ii. The site plan shall denote the location of all structures adjacent to the site as well as the location of adjacent parking facilities and points of access/egress.
- iii. A floor plan shall be submitted which illustrates the location, size, and space utilization within proposed buildings.
- iv. The site plan shall denote the proposed internal circulation pattern, including directional floor, signage, waiting spaces, and proposed plan for separating drive-through and nondrive-through traffic.

b. Criteria for Drive-Through Banking Facilities.

- i. Separate lanes shall be provided for vehicles using drive-through facilities. Directional flow shall be clearly identified in order to appropriately separate and direct drive-through traffic away from nondrive-through traffic.
- ii. No more than two (2) curb cuts shall be permitted on any single street frontage. The maximum size curb cut shall be determined by the Building Official or Town Engineer.
- iii. The site plan shall provide for efficient circulation of vehicles. The site plan shall include an adequate number of waiting spaces as specified below:

(a) Number of spaces required including receiving or service window space:

Six (6) waiting spaces per drive-up window. Where this requirement is demonstrated by the applicant to be inconsistent with the traffic generating characteristics of a specific use, the applicant may request that the standard be modified. The Town Council may approve a reduction in the required waiting spaces for such use provided the applicant demonstrates that the intended use generates a low volume of drive-up traffic and does not require the standard six (6) waiting spaces. The Council shall consider the nature of the use, its intensity, size, other parking facilities provided, and other traffic generating characteristics. The Town Council shall first consider the recommendation of the Planning and Zoning Board prior to rendering its finding.

(b) Length of Spaces:

Each space shall be a minimum of twenty (20) feet in length.

(c) Width of spaces:

On curves with a radius of twenty-five (25) feet or less, a minimum pavement width of twelve (12) feet shall be provided.

On curves with a radius of more than twenty-five (25) feet, a minimum pavement width of ten (10) feet shall be provided.

(d) Surface requirements shall be the same as those specified for parking areas.

- iv. No drive-through facility shall locate within one hundred (100) feet of a residential district.

3. Group Homes: Level I, II, III and Residential Centers.

a. Additional Information Requirements:

- i. The site plan shall show all adjacent paved public roads as well as the nearest major thoroughfare, proposed off-street parking facilities, and the location and size of all proposed buildings, structures and signs on the site. The narrative and graphic information submitted shall meet all site plan criteria of § 20-116 and all applicable laws and ordinances.
- ii. The site plan shall denote the location of all structures adjacent to the site as well as the location of adjacent parking facilities and points of access/egress.

- iii. A floor plan shall be submitted which illustrates the location, size, and space utilization within proposed buildings.
 - iv. The applicant shall submit a signed affidavit stating that all applicable regulations of the State of Florida and the Town of Malabar as exist or may hereafter be amended, have been satisfied.
- b. Criteria for Group Homes: Level I, II, III and Residential Centers.
- i. Level I, II and III group homes and residential centers shall be defined as facilities licensed by HRS which provide a family living environment including supervision and care necessary to meet physical, emotional, and social life needs of clients. The facility may also provide education and training for resident clients. These group homes shall be distinguished by their resident (inclusive of staff and client/patients) capacity as follows:
 - Level I group home, up to eight (8) residents;
 - Level II group home, up to twelve (12) residents;
 - Level III group home, up to twenty (20) residents; and
 - Residential centers, twenty-one (21) or more residents.
 - ii. The use shall satisfy all applicable regulations of the State of Florida and the Town of Malabar as currently exist or may hereafter be amended.
 - iii. The Town Council shall determine that the proposed use is compatible with the surrounding neighborhood in terms of intensity of land use.

The maximum number of persons per acre shall be 15 persons per acre or 6 units per acre (2.5 persons per unit), inclusive of staff and/or clients/patients.
 - iv. To avoid unsafe or unhealthy conditions that may be produced by the overcrowding of persons living in these facilities, a minimum floor area per person shall be required. Floor area requirements shall be measured from interior walls of all rooms including closet space.
 - Total Interior Living Space. A minimum of two hundred (200) square feet of interior living space shall be provided per facility resident. Interior living space shall include sleeping space and all other interior space accessible on a regular basis to all facility residents.
 - Minimum Sleeping Areas. A minimum of eighty (80) square feet shall be provided in each sleeping space for single occupancy. A minimum of sixty (60) square feet of sleeping space shall be provided for each bed in a sleeping space for multiple occupancy.
 - Bathroom Facilities. A full bathroom with toilet, sink and tub or shower shall be provided for each five (5) residents. An additional toilet and sink shall be provided for each additional group of four (4) persons or less.
 - v. To avoid an undue concentration of group care facilities in one area, all such facilities shall be located at least 1,200 feet apart, measured from property line to property line.

- vi. If located in a single family area, the home shall have the appearance of a single family home. Structural alterations shall be of such a nature as to preserve the residential character of the building.
- vii. The facility shall satisfy all applicable off-street parking requirements of § 20-451.
- viii. The maximum capacity of such facilities shall not exceed the applicable number permitted by the Department of Health and Rehabilitative Services.

4. Hospitals with Extensive Care Facilities.

a. Additional Information Requirements:

- i. The site plan shall show all adjacent paved public roads as well as the nearest major thoroughfare, proposed off-street parking facilities, and the location and size of all proposed buildings, structures and signs on the site. The narrative and graphic information submitted shall meet all site plan criteria of § 20-116 and all applicable laws and ordinances.
- ii. The site plan shall denote the location of all structures adjacent to the site as well as the location of adjacent parking facilities and points of access/egress.
- iii. A floor plan shall be submitted which illustrates the location, size, and space utilization within proposed buildings.
- iv. The applicant shall submit a signed affidavit stating that all applicable regulations of the State of Florida and the Town of Malabar as exist or may hereafter be amended, have been satisfied.

b. Criteria for Hospitals with Extensive Care Facilities.

- i. All such facilities shall be located on a site with a minimum of five (5) acres and shall have direct access to an arterial street shown on the Comprehensive Plan.
- ii. No building shall be located within one hundred (100) feet of any property line.
- iii. The internal circulation plan shall provide for separation of vehicular and pedestrian traffic, including improved sidewalks for pedestrians which link vehicular use areas and patient/guest destination points.

5. Nursing Homes including Convalescent Care.

a. Additional Information Requirements:

- i. The site plan shall show all adjacent paved public roads as well as the nearest major thoroughfare, proposed off-street parking facilities, and the location and size of all proposed buildings, structures and signs on the site. The narrative and graphic information submitted shall meet all site plan criteria of § 20-116 and all applicable laws and ordinances.
- ii. The site plan shall denote the location of all structures adjacent to the site as well as the location of adjacent parking facilities and points of access/egress.
- iii. A floor plan shall be submitted which illustrates the location, dimension, size and use proposed for all site improvements.

iv. A license issued by the State of Florida, pursuant to Chapter 400 of the Florida Statutes.

b. Criteria for Nursing Homes, Rest Homes, Convalescent Homes and Homes for the Aged.

i. All such facilities shall have direct access to a major thoroughfare shown on the Comprehensive Plan.

ii. No structure or parking lot shall be located within fifty (50) feet of any property line. Notwithstanding, no structure on a site with two and one-half (2½) acres or more shall be located within one hundred (100) feet of any property line.

iii. The plans for the facility shall provide sufficient acreage, off-street parking and internal circulation facilities, as well as for public safety, convenience, preserve open area and pedestrian amenities, while preventing potential adverse impacts on adjacent properties.

6. Educational Facilities.

a. Additional Information Requirements:

i. The site plan shall show all adjacent paved public roads as well as the nearest major thoroughfare, proposed off-street parking facilities, and the location and size of all proposed buildings, structures and signs on the site. The narrative and graphic information submitted shall meet all site plan criteria of § 20-116 and all applicable laws and ordinances.

ii. The site plan shall denote the location of all structures adjacent to the site as well as the location of adjacent parking facilities and points of access/egress.

iii. A floor plan shall be submitted which illustrates the location, dimension, size and use proposed for all site improvements.

iv. A description of the anticipated service area and projected enrollment shall be provided.

v. A copy of all requisite licenses from the State of Florida.

c. Criteria for Educational Facilities:

i. Sites shall be located on a thoroughfare so as to discourage traffic along local residential streets in residential subdivisions.

ii. Depending on the type of facility proposed, the minimum spatial requirements for the site shall be no less than standards utilized by the Brevard County School Board and the State of Florida.

iii. No building shall be located within one hundred (100) feet of any property line.

iv. The applicant shall submit a description of anticipated service area and projected enrollment, by stages if appropriate, and relate the same to a development plan explaining:

-- Area to be developed by construction phase.

-- Adequacy of site to accommodate anticipated facilities enrollment, recreation area, off-street parking and pedestrian and vehicular circulation on site including loading, unloading and queuing of school bus traffic.

-- Safety features of the development plan.

7. Public and Private Utilities

a. Additional Information Requirements:

- i. The site plan shall show all adjacent paved public roads as well as the nearest major thoroughfare, proposed off-street parking facilities, and the location and size of all proposed buildings, structures and signs on the site. The narrative and graphic information submitted shall meet all site plan criteria of § 20-116 and all applicable laws and ordinances.
- ii. The site plan shall denote the location of all structures adjacent to the site as well as the location of adjacent parking facilities and points of access/egress.
- iii. A plan of utility system, showing how the proposed facility will connect with any existing utility systems.
- iv. A statement shall be submitted which explains the function of the proposed utility and its consistency with the goals, objectives and policies of the Town of Malabar Comprehensive Plan.
- v. A statement signed by an independent professional acceptable to the Town which identifies any potentially hazardous impacts and stipulates measures which shall be applied in preventing such hazards.

b. Criteria for Public and Private Utilities.

- i. All above ground facilities shall be located no closer than fifty (50) feet from all property lines unless the Town deems a larger separation is necessary.
- ii. All equipment, machinery, and facilities which cannot, by their size or nature, be located within an enclosed building shall be completely screened from the view of surrounding properties.
- iii. All buildings as well as parking and loading areas shall be located a minimum of fifty (50) feet from any side or rear property line adjacent to a residential zoning district. This area shall also be heavily landscaped.

8. Public Protective Services

a. Additional Information Requirements:

- i. The site plan shall show all adjacent paved public roads as well as the nearest major thoroughfare, all off-street parking facilities, and the location and size of all proposed buildings, structures and signs on the site. The narrative and graphic information submitted shall meet all site plan criteria of § 20-116 and all applicable laws and ordinances.
- ii. The site plan shall denote the location of all structures, properties adjacent to the site as well as the location of adjacent parking facilities and points of access/egress.
- iii. The site plan shall indicate all site improvements and equipment to be accommodated on site.

b. Criteria for Public Protective and Emergency Services. Public protective services such as police, fire, rescue and ambulance facilities will be allowed provided the following conditions are met:

- i. All public protective services shall provide ingress and egress onto and off of a major thoroughfare.
- ii. No building or structure shall be located closer than one hundred (100) feet from any side or rear property line abutting a residential district.

9. Public Parks and Recreation Areas.

a. Additional Information Requirements:

- i. The site plan shall show all adjacent paved public roads as well as the nearest major thoroughfare, all off-street parking facilities, and the location and size of all proposed buildings, structures and signs on the site. The narrative and graphic information submitted shall meet all site plan criteria of § 20-116 and all applicable laws and ordinances.
- ii. The site plan shall denote the location of all structures adjacent to the site as well as the location of adjacent parking facilities and points of access/egress.
- iii. The site plan shall indicate all site improvements and equipment to be accommodated on site.

b. Criteria for Public Parks and Recreation Areas. Public parks and recreation areas including parks, playgrounds, piers, docks and boat launching areas that are publicly owned and used for recreational purposes by the general public will be allowed provided the following conditions are met:

- i. No building or structure shall be located closer than fifty (50) feet to any property line abutting a residential district.
- ii. Any recreational use equipped with lighting to allow the use of the facility after sunset or any facility such as a stadium which attracts large groups of users for specific events shall be allowed only as a special exception.

§ 20.343 Definitions.

This section defines land use activities identified as permitted or conditional uses within the OI Zoning district:

ACCESSORY USE OR STRUCTURE. A use of structure subordinate to the principal use or building on the same lot and serving a purpose customarily incidental to the use of the principal building, provided any such structure is built with or after the construction of the principal building.

ADMINISTRATIVE SERVICES (PUBLIC OR PRIVATE NOT-FOR-PROFIT). Activities typically performed by not-for-profit private or public social services and utility administrative offices.

ADULT CARE FACILITY. An establishment, whether operated for profit or not, which undertakes through its ownership or management to provide basic services to three or more adults, not related to the owner/operator by blood or marriage, for a period of less than twenty-four (24) hours a day on a regular basis.

BUSINESS AND PROFESSIONAL OFFICES. Offices extending the following services which provide advice, information or consultation of a professional nature; insurance, real estate, and financial services; banking services; medical offices; and executive management and administrative activities. This classification excludes commercial storage of goods and chattels for the purpose of sale or resale as a principal use.

CHILD CARE. The care, protection and supervision of a child for a period of less than twenty-four (24) hours a day on a regular basis which supplements for the child, in accordance with his individual needs, daily care,

enrichment opportunities, and health supervisions and where a payment, fee or grant is made for care.

CHILD CARE FACILITY. A facility which includes any duly licensed child center or child care arrangement that provides child care for more than five (5) children unrelated to operator and which received a payment, fee or grant for any of the children receiving care, wherever operated, and whether or not operated for profit. The following are not included: Public schools and nonpublic schools which are in compliance with the Compulsory School Attendance Law, Chapter 232, Florida Statutes; summer camps having children in full-time residence; summer day camps, and Bible schools normally conducted during vacation periods. The provisions of this ordinance shall not apply to a child care facility which is an integral part of a church or parochial schools conducting regular classes or courses of study.

CULTURAL OR CIVIC FACILITY. A building or complex of buildings that houses public or private not-for-profit facilities, offices or services, and which may include civic or community centers, theaters predominantly used for live performances, libraries, botanical gardens, historical landmarks, museums and similar facilities.

DRIVE-THROUGH BANKING FACILITIES. Facilities associated with a financial and banking institution allowed within the OI district which by physical design and/or operation allow or encourage customers to receive services while remaining in a motor vehicle.

EDUCATIONAL INSTITUTIONS. A public or private not-for-profit institution licensed by the State of Florida conducting regular and systematic instruction with a curriculum the same as customarily provided in a public primary or secondary school or college. These activities include nursery school and kindergarten facilities designed to provide a systematic program to meet an organized training requirements.

ESSENTIAL PUBLIC SERVICES. The erection, construction, alteration or maintenance, by public utilities companies or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories or buildings housing such equipment, in connection therewith; reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare.

GROUP HOMES.

Level 1. A State licensed facility which provides a family living environment including supervision and care necessary to meet physical, emotional, and social life needs of clients. The facility may also provide education and training for resident clients. Level 1 group homes shall have maximum capacity of no more than eight (8) residents.

Level II, III and Residential Centers. State licensed facilities which provide a family living environment including supervision and care necessary to meet physical, emotional, and social life needs of clients. The facilities may also provide education and training for resident clients. These group homes shall be distinguished by their resident capacity as follows:

- Level II group home, up to twelve (12) residents;
- Level III group home, up to twenty (20) residents; and
- Residential centers, twenty-one (21) or more residents.

HOSPITALS WITH EXTENSIVE CARE FACILITIES. Institutions providing health and rehabilitative services, primarily for in-patients, and medical or surgical care; including, as an integral part of the institution, related facilities, central service facilities, and staff offices. These institutions:

- a) Offer health and rehabilitative services more intensive than those offered in group homes, and general nursing care facilities. Medical offices, hospital and extensive care facilities offer facilities and beds for use beyond twenty-four (24) hours by individuals requiring diagnosis; treatment; or care for illness; rehabilitative services, including drug and/or alcohol abuse; injury, deformity, infirmity, abnormality, disease, or pregnancy; and
- b) Regularly make available at least clinical laboratory services, diagnostic X-Ray services, and treatment facilities for surgery or obstetrical care, or other definitive medical treatment of similar extent, including rehabilitative services.

A hospital or extensive care facility shall not include a facility for the care or treatment of the sick who depend exclusively upon prayer or spiritual means for healing in the practice of a religion (§395.002(6), F.S.).

NURSING OR CONVALESCENT HOME. A home, institution, building or residence, public or private, whether operated for profit or not, presently licensed by the State, which provides maintenance, personal care or nursing for a period exceeding twenty-four hours to three or more ill, physically infirm, convalescing, or aged persons who are not related by blood or marriage to the operator. The definition of nursing or convalescent home does not include hospitals, clinics or similar institutions which are devoted primarily to the diagnosis and treatment of the sick or injured (Cross reference: §400.062, F.S.).

PARKING FACILITIES. A governmental or private commercial off-street improved facility comprised of a paved lot or structure for the temporary storage of operable motor vehicles.

PLACES OF WORSHIP. Any building and accessory structures legally approved for and used upon a permanent basis for activities customarily performed in a building where persons regularly assemble for religious worship. The building and accessory structures maintained and controlled by a recognized and established religious sect or denomination organized to sustain public worship.

PUBLIC AND PRIVATE UTILITIES (INCL. ESSENTIAL SERVICES). Use of land which is customary and necessary to the maintenance and operation of essential public services, such as electricity and gas transmission systems; water distribution, collection and disposal; communication; and similar services and facilities.

PUBLIC PROTECTIVE AND EMERGENCY SERVICES. Public facilities, or private firms serving the general public, providing emergency police, fire, rescue, or ambulance or similar services, excluding funeral home.

§ III Repeal of Conflicting Provisions.

All previous ordinances, resolutions, or motions of the Town of Malabar, Brevard County, Florida, which conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

§ IV Severability.

If any section, part of a sentence, paragraph, phrase or word within this ordinance is for any reason held to be unconstitutional, inoperative or void, such holdings shall not affect the remaining portions thereof and it shall be construed as the legislative intent to pass this ordinance without such unconstitutional, invalid, or inoperative statement.

§ V Codification.

The provisions of this ordinance shall be incorporated into the Town of Malabar, Code of Ordinances and the word "Ordinance" may be changed to "Section", "Article", or other appropriate word, and the sections of this ordinance may be renumbered, reserved or relettered to accomplish such intentions.

§ VI Effective Date.

This ordinance shall take effect upon its passage as provided by law.

First Reading 10-17-89.

Second Reading 12-5-89.

I HEREBY CERTIFY THAT THE FOREGOING ORDINANCE WAS PASSED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, ON THE 5th DAY OF December, 1989

Dated: 12-5-89

TOWN COUNCIL OF THE TOWN OF MALABAR, FLORIDA

By: Gene Callagy
Gene Callagy, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

Diana Alagood
Diana Alagood, Chairman

By: _____
Town Attorney

ATTESTED TO

By: Rosalie Lasky
Rosalie Lasky, Town Clerk

