TOWN OF MALABAR
PLANNING AND ZONING ADVISORY BOARD
REGULAR MEETING
WEDNESDAY OCTOBER 9, 2013
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 – 09/25/2013

   Exhibit: Agenda Report No. 1
   Recommendation: Motion to Approve

E. PRESENTATION:

F. ACTION:

G. DISCUSSION:

2. **Continued Discussion on Code Requirements for Assisted Living Facilities**
   Exhibit: Agenda Report No. 2
   Recommendation: Discussion

H. ADDITIONAL ITEMS FOR FUTURE MEETING

I. PUBLIC:

J. OLD BUSINESS/NEW BUSINESS:

K. 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: 1
Meeting Date: October 9, 2013

Prepared By: Denine M. Sherear, Planning and Zoning Board Secretary

SUBJECT: Approval of Minutes

BACKGROUND/HISTORY:

The minutes must reflect the actions taken by the Board:

- Who made the Motion
- What is the motion
- Who seconded the motion
- What was the vote

Malabar has historically included discussion to provide the reader the understanding of how the Board came to their vote. It is not verbatim and some editing is done to convey the thought. People do not speak the way they write.

ATTACHMENTS:
Draft minutes of P&Z Board Meeting of September 25, 2013

ACTION OPTIONS:
Secretary requests approval of the minutes.

"The following draft minutes are subject to changes and/or revisions by the Planning and Zoning Board and shall not be considered the official minutes until approved by the P&Z Board."

MALABAR PLANNING AND ZONING BOARD REGULAR MEETING
SEPTEMBER 25, 2013 7:30 PM

This meeting of the Malabar Planning and Zoning was held at Town Hall at 2725 Malabar Road.

A. CALL TO ORDER, PRAYER AND PLEDGE:
Meeting called to order at 7:30 P.M. Prayer and Pledge led by Chair Pat Reilly.

B. ROLL CALL:

CHAIR:	PAT REILLY
VICE-CHAIR:	LIZ RITTER
BOARD MEMBERS:	BUD RYAN
	DON KRIEGER
	GRANT BALL
ALTERNATE:	DICK KORN
ALTERNATE:	LEEANNE SAYLORS
BOARD SECRETARY:	DENINE SHEREAR
TOWN PLANNER	KEITH MILLS

ADDITIONAL ATTENDEES:

C. ADDITIONS/DELETIONS/CHANGES:

D. CONSENT AGENDA:
1. **Approval of Minutes** Planning and Zoning Meeting – 09/11/2013

MOTION: Ryan/Krieger to approve minutes of 09/11/13 as edited:
VOTE: All Ayes.

Liz
Page 4/62 second parag. under "G" re working = reworking
Leeanne
Page 4/62 second parag 1st sentence take out ~~about~~
Grant
Page 6/62 2nd parag 4th line than=then & last sentence "unit's"= units
Last parag 2nd to last sentence then=than
Liz Page 6/62 4th parag last sentence over run = overrun
Korn
Page 7/62 4th parg 1st sentence take out "in"
Grant
Page 7/62 last pargraph 5th line down verses=versus
Grant
Page 8/62 1st parag.11th line than=then
Liz
Page 9/62 1st paag last line map= match
2nd parg 1st line take out second ~~"add"~~
Krieger asks about Page 9/62 4th parag 1st line (Paladin Project), for clarification purpose Ryan said "for any project in general"..... Has to be in place first.

E. PRESENTATION:

F. ACTION: NONE

G. DISCUSSION:

2. Code Requirements for Assisted Living Facilities
Exhibit: Agenda Report No. 2
Recommendation: Discussion

Reilly is explaining to Board that he has asked the Town Planner, Keith Mills to help finish up these suggestions for Code Requirements to make sure we are consistent with other municipalities based on the knowledge of other Codes and to make sure we stick with our Code. We don't want density of people; we can have resident/beds, added Ritter. Reilly suggest reviewing what we have done so far before we move forward. Reilly is going over Table 1-3.2 pages 59/62 & Table 1-6.1(B) pages 60/62; we are addressing only those we want to except in Malabar.

Ritter made corrections to Table 1-3.2 on bottom "*" should read: Allowed in RR-65 (1-2 persons) as defined in FS Title XXX CH 419 & 429. Also take "C" out of OI & INS that is under Convalescent Homes.

Mills asks if these Tables are suppose to reflect what the lawyer did in draft Ordinance? Ritter responds we don't know where that came from and Reilly says yes but are redoing his Ordinance. Ritter explains that the Board is redoing everything that we want in our Codes, and we are using the verbiage that is in the Florida Statutes.

Mills saw one of the main discussion points was using the word "people" for figuring density. The levels and use of persons is from FS. Reilly explains for the levels it is specific. Mills discussing in the institutional zoning you're choosing to make these all conditional uses? Reilly replies originally that hospitals and nursing homes were already per our table conditional uses. Mills explains that that zone is set up for that kind of use, so you are extended this all too conditional uses. Reilly explains that the Board wants to look at every project and not have just anything come in.

Krieger asks both the ALF and Adult Family Care your level 1 is 1 to 5 persons but your "*" says 1 to 2 persons. Krieger is saying you have to be careful that the Ordinance when you start referring to Florida State Statutes that would override anything you put in little asterisks. Ritter explains that it is in the FS under special exceptions for 1 to 2 persons. Ritter is explaining that this is in the RR-65 in a home setting and the conditional use is only up to 2 persons. Leeanne adds that it is still conditional because it depends on if there are other facilities doing this and zoning and they have to come to us. Ritter is explaining that we have put a lot on the FS because they regulate everything.

Reilly is explaining to Mills the changes made to Table 1-6.1. Ritter want the Table 1-6.1 to match Table 1-3.2 in the same order. (correction) Reilly explains to Mills these are our final tables and would like your review.

Reilly explains that the next task is the hardest, to write the verbiage. Ritter is discussing pages 61 & 62 of this Agenda Package.

Reilly is explaining that we have to come up to the point of verbiage, the directions we need is for example RM6, it is 6 units per acre but how big are units and how many people? Then that will establish density. Reilly explains that Mr. Paladin was gracious to give his idea tonight what that

was, and he suggested we have a formula. Leeanne adds that Liz had come up with a formula at the last meeting page 11/62. Ritter explains we would just change where it says people to "residents/beds". Reilly is explaining that 6 units per acre, a unit would be a 3 or 4 bedroom house, but when you are talking ALF a unit is the room as small as 250 sq ft for 1 person in the codes the 250 was the minimum or you can have 1,000 sq ft room. We have to come up with code that tells everybody, so there is a multiplication factor of 2.5 because usually they are shared units in a building so we say 6 units per acre times (x) 2.5 factor which = 15 units x 1.2 residents/beds which is 18 per acre. Reilly is explaining to Mills that we need to put this in words in our Code, which is the key. We have to do each district and say what is allowed in each district. Reilly explains we have to define what we say and identify each zone with a formula.

Reilly explains to Mills we need to do verbiage for Article II & Article III. Ritter comments about page 62/62, which are her suggestions for verbiage. Reilly explains that the County is pretty vague on all this. Mills asks how are you proposing to get this written. Reilly responds that typically the lawyers have copy code from other municipalities and that was the starting basis. Reilly explains that we have gathered data from surrounding municipalities. Mills asks who and what form you are looking to have this constructed as. Reilly responds if I got your help we just need a start. Ritter adds that is does not have to be a whole lot because the majority is governed by FS, it is mainly what we can control with our zoning. The Tables are going to take of the rest. Reilly comments that we have control over the formula to keep it rural. Reilly explains basically we need to come up with a good paragraph for Article II Land Use & Zonings and be more specific in Article III.

Mills explains that W. Melbourne (WM) is based on units and or beds there are no levels. Mills comments that referencing the FS is better than repeating. Using that as example 15 units per acre is what it is based on and parking spaces off of that. Mills is explaining that there are different types of units, some with kitchens and some with common area kitchens. Mills asks a question about RM6, it is typically 6 units per acre, now you are proposing to allow over 6 units per acre? Reilly says because it is an ALF and they don't have a garage, that is where the 2.5 comes from. Mills explains unit count, if the Comp Plan calls for 6 units per acre on this piece of property, I understand it is a different kind of use but you are going to have to cover that in some fashion to allow the result of the multiplier, since it is not a traditional home.

Ritter explains that since it is not a traditional home and they have shared faculties like the kitchen and dining room, their living space is considered the unit instead of the house. The building is he house and the bedrooms are the units. Ritter explains that we have to justify the "multiplier" because of the size of the units. Leeanne explains that we need to be very specific that this multiplier only applies to these certain types of facilities so we don't allow anyone else to use this multiplier. Mills is explaining maybe not to use units in the formula.

The Board is discussing the formula for Occupancy. Mr. Paladin is commenting on the "formula" the first part would be "units" your 1.2 would = residents/bedrooms. Ritter says it is still a type of unit we just have to find a different name for it.

Korn asks Mr. Paladin when you were proposing on this same piece of property to do condos, were you still limited to 6 or was there a multiplier? Mr. Paladin responded it was RM6 and we were doing condos, it was limited to 6. Korn says the question will come up down the road, how does this differs from apartments; you have common walls, not separate houses. Ritter says there is a definite distinction between an ALF and condos or apartments. Ritter explains that we did not want all units as doubles so we are restricting it. Reilly and Board discussing the ALF Formula:

Zoning		ALF Units		Residence/Bed
RM6	6 units x 2.5 factor	15	x 1.2 =	18

Ritter is explaining we are trying to get all this down and explain units, then the density issue for residence/beds then we have some control of how many people are over that area.

Reilly comments that in the commercial world the unit is the building. Korn says what it fit our mission here to stop at that point, because they are all conditional and each applicant is going to have to come before us to satisfy the conditions that we put before them. Ritter explains that what we want to control the density.

Ritter wanted a "factor" for whatever zoning. Reilly explains that these are the only ones that apply to this formula are RM4 & RM6 zoning. Krieger comments that no matter what we come up with we should always say at the end: unless it conflicts with Florida State Statutes, whichever is the more restricted will be used.

Krieger's suggestions for the Formula Table: Take out the units, we are talking about acreage the numbers end up the same no matter what way they do it. If you take 19 acres +/- X 6 units per acres you get 114 X 2.5 units = 285 units and 342 = resident/beds

Krieger agrees with Mills that you cannot change your units it is 6 and that is what it is. The multiplier factor is for beds or residents whatever you want it to be. Krieger is explaining that you are making this more complicated than it needs to be.

The Board is discussing the ALF & Adult Care Homes (ACH) Formula for units.

Krieger asks what affects the changes of the multiplying factor. Ritter explains that regulates how many units in that type of facility that they can have. The 1.2 tells how many double occupancies they can have.

Korn asks if this changing of the verbiage will satisfy the comp plan or do we further have to do and amendment to the comp plan. Mills is explaining that what is being attempted is to not change it. Mill adds that as long as legal Council agrees and does not conflict with the comp plan.

Mr. Paladin explains the subject on special exception is on Indian River County (IRC) the only way to change this after you set up a formula is to get another special exception- variance to do it. You cannot do it with the zoning you have for the rules you are passing today. It is set 1.2 or 2.5 the formula is good.

Paladin explains that residence/beds control how many people you can have, if we limit our single units to 500 sq ft and dble 750 sq ft a safety factor. You are governed by sq ft. max of 500 sq ft. Leeanne, if you put 650 sq ft. If you keep under 500 the state is working for you.

Paladin explains the average size for a single unit in the 12 facilities we did the research was 362 sq ft & 749sq ft or larger for double size, actually 501 sq ft you can have a double unit. Leeanne comments if we say you can only have so many beds, it doesn't matter how big your unit are. Ritter adds it depends on the building size and the facility they are going to build. Reilly comments that if you have a 1,000 sq ft unit you can have 4 beds per unit. Ritter says you can only a single unit for up to 500sq ft.

Paladin explains that a big concern you had was that you want to keep rural this as rural as possible, the way you do this is control your density, the two ways to control you density would be to approve more density, which is safe for everybody, and the second way is by eliminating your sq ft so your state regulations support controlling your density to keep it as rural as you want so nobody can change it.

Reilly and Leeanne commenting about controlling density by the "factor" we use in our formula table. Ritter adds that it is not altering the size of the units. Paladin explains that this is market driven like most free enterprises, the only thing I am trying to do with the sq ft is to keep an "in fill" from happening in the future. Leeanne asks, are you proposing another layer on top of what we are doing to control the density. Paladin responds, yes. Reilly asks Mills about this to control the density. Reilly says we just need to control density by changing the "factor" in our formula table, we cannot control units per acre and I don't want to change the 1.2 factor that controls the single and double units, but we can control the "2.5 factor". Mr. Paladin explains the 2.5 factor is the common denominator used; I am just trying to prevent 5 years from now just adding beds. Anything in free enterprise is market driven; these places are all filled up. Paladin explains that in an ALF you have a lot of common areas you do not have in a regular home. Reilly explains we will put in our words for now and review. Paladin discusses a previous meeting about 1,000 sq ft unit some day there is nothing stopping someone from putting 4 beds in there, and this is true. Ritter replied that we have a maximum beds/ resident number. Paladin says if you keep the sq ft to the state regulations then they cannot do this.

Krieger asks about the 2.5 being a generality and 1.2 is unique to the project. Ritter explains to control the density. Reilly says if you can combine both numbers and made a bigger factor that would work. Reilly explaining if we do this it would be one number and this would be the maximum resident/beds you can have and you can split up however you want. Ritter and Krieger explain the ALF Factor would be"3". Reilly explains they can have as many units as they want and single or double units. Leeanne adds that the state controls the sq ft. Ritter comments that the FS and Building Codes designate the living size they have to have. Mr. Paladin says that would be fine, you would have the same amount of cap on the amount of residents. Mills comments that this is a good way to do this. Ritter adds that one we are restricting the units and then controlling density and this we are not restricting units. Leeanne comments that the state controls how many sq ft they must have.

Ritter and Mills discussing units page 14/62, if you are going under nursing home they reference "single resident" or "bed" in the FS. They reference 1 bed = 1 resident.

Paladin references Brevard County; they refer to units and trips. Ritter referring to page 35/62 this is the Application Check List for Health Care ALF, they base their licensing fee on per beds. We are making sure each bed = 1 resident.

Ritter discussing with the Board the Application process for ALF and different forms. Ritter comments that they are very regulated by the state.

Krieger asks where we are as far as formula, to change to "3" for the factor and write language to correspond to this formula. This would be the verbiage for Article II & III.

Reilly submitted verbiage for Article II & III suggestions on page 61/62.

Mills comments that the Town Manager would have to authorize for his assistance to work on verbiage on these Articles.

The Board is discussing the purpose and intent verbiage for Articles, Mills suggests that if you want to do that, you don't need me; someone can do this on the Board and submit. Leeanne said she would take a stab at it and Ritter would also try it again. Reilly would ask everyone on the Board to present something and work together. Reilly asks Mills if he can come back the end of October after they get it worked out.

Reilly is going to present to Council the Two Tables and what we intend to do with those two chapters. Sherear asks Reilly when he intends on going to Council so I can inform Debby so it can be put on the Agenda. Reilly replies October 7.

Krieger's understanding is that "formula" becomes independent of zoning classifications across the Board, the Board explains it is only for RM4 & RM6 and only for ALF's and Adult Care Homes (ACH).

Paladin asks that his understanding now on the sq ft the minimum sq ft is governed by state regulations and there is no maximum sq ft? Reilly replies, correct. Leeanne adds that we do appreciate your suggestions.

Reilly explaining we want to do all this right. Paladin comments that I think you are close and we are all working together and all on the same page. Reilly asks if we are ok on your time schedule, my goal was to have this all done by the end of September, it will probably end of October, and then it will go on to Council. Paladin responds, in reality where I am, actually my deadline is December, if I can get this approved and something to a point that I can build an ALF on this site with this formula and up to this many units, if I can this by December or end of November, I am a happy camper, my finances are in place everything stays in place I can continue on my drawings and continue with my negotiations with my off site developers agreement to bring in the water and sewer in and it doesn't slow anything down.

Ryan asks in reference to water/sewer that there is something in this material referencing that you were already in negotiation with Palm Bay, is there a target date? Mr. Paladin responds that yes he has been in touch and a target date is that he wanted to make sure he could build his ALF project, Ryan asks if bonds and all that was discussed. Paladin responds yes we discussed all that and I am fine with all that, it just a matter of us deciding on my engineer has some preliminary drawings from years ago. We have to bring our drawings up to date and get them approved by Palm Bay and approve developer's agreement on how I can recapture some of my investment for spending $2.5 million installing the water/sewer. Ritter explains that a lot of this regulated by the checklists from FS.

H. ADDITIONAL ITEMS FOR FUTURE MEETINGS:

Future Land Use Maps as a discussion and defining R/LC (Land Use Change) for

Sherear explains that coming before this Board is a zoning change to R/LC on Marie Street the "Old School House", 1490 Marie Street. It will be the last meeting in October.

Ritter asks Don if we ever finished the definition on R/LC. Reilly explains that we did this with Serene Harbor, if we envisioned that we were going to move forward. Krieger suggests that we should concentrate on Marie Street to Highway 1. We should wait to see the widening take place before we move forward. What we have done is a pandemic change which is as far as I am concerned we have suggested to the town that it is a work in progress. It seems as though we have 3 or 4 R/LC's coming up between Marie Street and the railroad tracks basically. Ritter discussing the paragraph with one study that was done that specifically states where R/LC is US 1, Reilly replies that is what it says in our Comp Plan, we would go against our Comp Plan we did already when they approve Serene Harbor, about 5 to 7 years ago. Reilly asked if that was spot zoning and it was not because the Town envisioned creating R/LC 600 ft north of Malabar Road, It is our future land use. Korn said he was under the impression that there was zoning corridors on either side of Malabar Road that wet back 600 ft. Reilly said that is correct.

Ritter is explaining to Mills that we did not do an adoption of changing area to R/LC we did not want to do an overall adoption we figure we would wait till the people came in and asked for it and then the future would become the present we did not want to force everyone to go with what visions we have, it might change their tax base. Mills suggests that the first one you do, you might want to revise that language. Reilly explains that Debby called it a minor comp plan; you are allowed to do that every so often.

Leeanne asks if the R/LC is a lesser use then CL, Krieger would love to see something in our Code specifically that talks about if you're using property as lesser use. Krieger said there is one zoning that allows for live in guards, Reilly explains it is "OI", BerriPatch. I would suggest that we take the leaps and bounds out of R/LC, and put that one line in all the zoning you should be able to have a night guard all the time.

I. PUBLIC:

J. OLD BUSINESS/NEW BUSINESS:

Ritter asks about the septic tank and Kempfer's Feed and Ryan explains it is a work in progress and come to a happy ending for everybody.

Leeanne, we received a memo last week from Bonnie and I think she has revised it but having said that, I have aerial photos from Brevard County Property Appraiser's office of the pool and I have been told that we have no Code or Ordinance for filling in a pool. Reilly said that is an incorrect statement, we did a decorative water feature. Reilly said to me it is settled. Leeanne also stated that she was told it was a flower bed. Korn asks how is this P&Z subject. Then another thing too I was told was a garden was the pit that was dug on 1250 US Hwy 1, and I have aerial's of the pit that was dug there and I was told that it was a garden. Reilly asked if she brought all this to Code Enforcement and Leeanne said she did. Reilly replied it is not a P& matter it is a staff matter. Leeanne just says this is in response to the memo we received the last few days.

K. ADJOURN

There being no further business to discuss, **MOTION:** Ryan/Ritter to adjourn this meeting. **Vote:** All Ayes. The meeting adjourned 9: 24P.M.

BY:

_____
Pat Reilly, Chair

_____
Denine Sherear, P&Z Board Secretary

10/09/2013
Date Approved: as corrected

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 2
Meeting Date: October 9, 2013

Prepared By: Denine M. Sherear Planning & Zoning Secretary

SUBJECT: Code Requirements for Assisted Living Facilities (ALF)

BACKGROUND/HISTORY:
At the 9/25/13 meeting the Town Planner, Keith Mills was present to provide his input. The Board reviewed the Tables 1-3.2 and 1-6.1(B) again and made some corrections. There will be continued discussion on verbiage for Article II & III and VI.

It was suggested at the last meeting that all Board members submit their recommended verbiage to the Board Secretary. Then the Board could discuss the submittals and make a final recommendation.

Chair Pat Reilly will do a presentation to Town Council on October 7, 2013, to bring them up to date on the Boards progress on the ALF Code requirements. This will include all updates.

ATTACHMENTS: (Please bring 3-Ring Binder from June 26th Meeting)

- Packet that Chair Pat Reilly will present to Council
- Article III verbiage suggestion submitted by Chair, Pat Reilly

ACTION OPTIONS:
Board Discussion.

Update from Planning & Zoning Board on Code Requirements for Assisted Living Facilities (ALF)

- 2012 Florida Statutes Chapters & Parts
- Article II-Land Use & Zoning
- Article III-District Provisions
- Article VI-Conditional Use & Special Exception Use Criteria

Presented by: Chair Pat Reilly

1. We are using the Florida Statutes as a guide
    a. Title XXIX, Public Health; Chapters 381 – 408

Notes: We only want to add to the Land Development Code:

1. Chapter 395, Hospital Licensing and Regulation
2. Chapter 400, Nursing Homes and related Health Care Facilities

    b. Title XXX, Social Welfare; Chapters 409 - 430
        i. Part I: Assisted Living Facilities
        ii. Part II: Adult Family-Care Homes (Presently Group Homes)
        iii. Adult Day Care Centers (No overnight staying)

Notes: We only want to add to the Land Development Code:

1. Chapter 419, Community Residential Homes
2. Chapter 429, Assisted Care Facilities

2. Updating Article II in the Land Development Code, Land Use and Zoning
    a. Section 1-2.6, Land Use Classifications

Notes: We need to add the new ALF classifications into Paragraph B, Community Facilities.

3. Updating Article III in the Land Development Code, District Provisions
    a. Section 1-3.1, Purpose and Intent of Districts

Notes: Not sure if we need to update any of this section or not. Need help here.

    b. Table 1-3.2, Land Use by Districts

Notes: Updating the table with the new ALF classifications in the Community Facilities section

4. Updating Article VI in the Land Development Code, Conditional Use and Special Exemption Criteria
    a. Table 1-6.1(B), Conditional Land Use Requirements

Notes: Updating the table with the new ALF classifications

FLORIDA STATUTES 2012
CHAPTERS AND PARTS

Select Year: 2012 Go

The 2012 Florida Statutes

Click a Title to View Chapters and Parts

TITLE I	CONSTRUCTION OF STATUTES	Ch.1-2
TITLE II	STATE ORGANIZATION	Ch.6-8
TITLE III	LEGISLATIVE BRANCH; COMMISSIONS	Ch.10-11
TITLE IV	EXECUTIVE BRANCH	Ch.14-24
TITLE V	JUDICIAL BRANCH	Ch.25-44
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TITLE XXIX	PUBLIC HEALTH	Ch.381-408
TITLE XXX	SOCIAL WELFARE	Ch.409-430
TITLE XXXI	LABOR	Ch.435-452
TITLE XXXII	REGULATION OF PROFESSIONS AND OCCUPATIONS	Ch.454-493
TITLE XXXIII	REGULATION OF TRADE, COMMERCE, INVESTMENTS, AND SOLICITATIONS	Ch.494-560
TITLE XXXIV	ALCOHOLIC BEVERAGES AND TOBACCO	Ch.561-569
TITLE XXXV	AGRICULTURE, HORTICULTURE, AND ANIMAL INDUSTRY	Ch.570-604

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TITLE XXXVI	BUSINESS ORGANIZATIONS	Ch.606-623
TITLE XXXVII	INSURANCE	Ch.624-651
TITLE XXXVIII	BANKS AND BANKING	Ch.655-667
TITLE XXXIX	COMMERCIAL RELATIONS	Ch.668-688
TITLE XL	REAL AND PERSONAL PROPERTY	Ch.689-723
TITLE XLI	STATUTE OF FRAUDS, FRAUDULENT TRANSFERS, AND GENERAL ASSIGNMENTS	Ch.725-727
TITLE XLII	ESTATES AND TRUSTS	Ch.731-739
TITLE XLIII	DOMESTIC RELATIONS	Ch.741-753
TITLE XLIV	CIVIL RIGHTS	Ch.760-765
TITLE XLV	TORTS	Ch.766-774
TITLE XLVI	CRIMES	Ch.775-896
TITLE XLVII	CRIMINAL PROCEDURE AND CORRECTIONS	Ch.900-985
TITLE XLVIII	K-20 EDUCATION CODE	Ch.1000-1013

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7-10-13

Chapter 381 PUBLIC HEALTH: GENERAL PROVISIONS
Chapter 382 VITAL STATISTICS
Chapter 383 MATERNAL AND INFANT HEALTH CARE
Chapter 384 SEXUALLY TRANSMISSIBLE DISEASES
Chapter 385 CHRONIC DISEASES
Chapter 386 PARTICULAR CONDITIONS AFFECTING PUBLIC HEALTH
- Part I: SANITARY NUISANCES (ss. 386.01-386.051)
- Part II: INDOOR AIR: TOBACCO SMOKE (ss. 386.201-386.2125)

Chapter 388 MOSQUITO CONTROL
Chapter 390 TERMINATION OF PREGNANCIES
Chapter 391 CHILDREN'S MEDICAL SERVICES
- Part I: GENERAL PROVISIONS (ss. 391.011-391.097)
- Part II: CHILDREN'S MEDICAL SERVICES COUNCILS AND PANELS (ss. 391.221, 391.223)
- Part III: DEVELOPMENTAL EVALUATION AND INTERVENTION PROGRAMS (ss. 391.301-391.308)

Chapter 392 TUBERCULOSIS CONTROL
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Chapter 421 PUBLIC HOUSING
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Chapter 422 HOUSING COOPERATION LAW

Chapter 423 TAX EXEMPTION OF HOUSING AUTHORITIES

Chapter 425 RURAL ELECTRIC COOPERATIVES

Chapter 427 SPECIAL TRANSPORTATION AND COMMUNICATIONS SERVICES
- Part I: TRANSPORTATION SERVICES (ss. 427.011-427.017)
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Chapter 430 ELDERLY AFFAIRS

7.10.13

ARTICLE II, LAND USE AND ZONING

(5) *Shorelines.* Boundaries indicated as following shorelines shall be construed as following such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline, boundaries indicated as approximately following the centerline of streams, rivers, canals, or other bodies of water shall be construed to follow such centerlines.

(6) *Parallel Lines.* Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

(7) *Bisecting Lines.* Where district boundary lines approximately bisect blocks, the boundaries are the median line of such blocks, between the center line of boundary streets.

(8) *Uncertainties.* Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map or in case any other uncertainty exists, the Town Council shall interpret the intent of the Official Zoning Map as to the location of district boundaries.

(9) *Street Abandonments.* Where a public road, street or alley is officially vacated or abandoned, the regulations applicable to the property to which it reverted shall apply to such vacated or abandoned road, street, or alley.

(10) *Excluded Areas.* Where parcels of land and water areas have been inadvertently excluded from a zoning district classification in any manner, said parcels shall be classified in conformance with the most restrictive zoning district which abuts the excluded area until or unless changed pursuant to amendment procedures contained herein.

Section 1-2.5. Compliance with district regulations.

No building or structure shall be erected, reconstructed or structurally altered, nor shall any building, land or water be used for any purpose other than a use permitted in the district in which such building, land or water is located. No building or land shall be used so as to produce greater heights, smaller yards, less unoccupied area, or higher density or intensity than is prescribed for such building or land within the district regulations in which the building or land is located. No lot, which is now or which may be hereafter built upon shall be so reduced in area so that the yards and open spaces will be smaller than prescribed by this Code.

Section 1-2.6. Land use classifications.

The purpose of these provisions is to classify uses into specially defined types on the basis of common functional characteristics and land use compatibility. These provisions apply throughout the zoning regulations.

All land use activities are classified into the following activity types.

A. *Residential Activities.*

1. Single Family Dwellings.

2. Two Family Dwellings.
3. Multi Family Dwellings.
4. Mobile Homes.
5. Accessory Residential Activities.

B. *Community Facilities.*

1. *Administrative Services (Public or Private Not-for-Profit).* Activities typically performed by not-for-profit private or public social services and utility administrative offices.
2. *Cemetery.* Property used for the interring of the dead.
3. *Child Care Services.* Activities typically performed by an agency, organization or individual providing day care without living accommodations for preteens not related by blood or marriage to, and not the legal wards or foster children of, the attendant adult.
4. *Clubs and Lodges (Not-for-Profit).* Activities typically performed by a group of persons for social or recreational purposes not operated for profit and not including activities which primarily render services which are customarily carried on as a business for profit.
5. *Cultural or Civic Activities.* Activities typically performed by public or private not-for-profit private entities for the promotion of a common cultural or civic objective such as literature, science, music, drama, art or similar objectives.
6. *Educational Institutions.* A place for systematic instruction with a curriculum the same as customarily provided in a public school or college. These activities include nursery school and kindergarten facilities designed to provide a systematic program to meet organized training requirements.
7. *Golf Course and Support Facilities.* A golf course is comprised of at least nine separate holes and may be regulation length, executive length, or par three (3) length. A golf course shall be required to comply with recommended minimum design standards established by the U.S. Golf Association or the American Society of Golf Course Architects. The following acreage requirements shall be the minimum standards for a golf course:

Type of Golf Course	*Minimum Acres Required*
Regulation Course	120 acres
Executive Course	40 acres
Par 3 Course	35 acres

Commercial miniature golf courses and driving ranges and similar facilities are excluded from this activity as defined.

8. *Group Homes.* Facilities licensed by the Florida Department of Health and Rehabilitative Services (HRS) or a successor agency to provide a family residential living environment for persons with special needs, disabilities or handicaps. This service is provided in a minimum restriction home environment and includes

supervision, and low intensive personal or therapeutic care necessary to meet physical, emotional, and social needs of clients.

9. *Hospitals and 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, room and board facilities, and general nursing care. 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, 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.).

10. *Nursing Homes (including Rest Homes or Convalescent Homes).* Activities customarily performed by a home for the elderly or infirmed in which three or more persons not of the immediate family are received, kept or provided with food, shelter and care for compensation. This activity shall not include duly state licensed volunteer adult foster care homes in which three or less foster adults are placed. Neither does the principal activity include hospitals, clinics or similar institutions devoted to the diagnosis and treatment of the sick or injured.

11. *Places of Worship.* Activities customarily performed in a building where persons regularly assemble for religious worship and which building, together with its accessory building and uses, is maintained and controlled by a religious body organized to sustain public worship.

12. *Protective Services.* Fire, law enforcement and emergency medical related facilities planned and operated for the general welfare of the public.

13. *Public Parks and Recreation Areas.* Public parks and recreation land and facilities developed for use by the general public.

14. *Public and Private Utilities (including Essential Government 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; wastewater collection and disposal; communication; and similar services and facilities.

ARTICLE III, DISTRICT PROVISIONS

Article III

DISTRICT PROVISIONS

This article describes the purposes and intent of each zoning district, identifies permitted and conditional uses by zoning district, and provides size and dimensional regulations for respective zoning districts.

Section 1-3.1. Purpose and intent of districts.

This section presents the basic purpose and intent of each zoning district.

A. *CP "Coastal Preserve."* The CP district was originally established by the Town Council through Ordinance Number 7-1-76, § 5.12 and Ordinance Number 7-12-79 § 1. This district is intended to preserve a narrow strip of land east of highway US 1 directly abutting the Indian River Lagoon, a State designated Aquatic Preserve. The district provisions are intended to assist in implementing land use, coastal management, and conservation goals, objectives, and policies within the comprehensive plan. For instance, the district provisions reduce exposure to natural hazards to persons or property as a result of windstorms and high tides; preserve the marine resources of the Aquatic Preserve; and restrict usage to noncommercial piers, boat slips, and docks.

B. *RR-65 "Rural Residential."* The rural residential district is established to implement comprehensive plan policies for managing rural residential development at a density not to exceed one and one-half (1.5) acres per dwelling unit. The district is intended to protect and preserve existing agricultural and rural residential lands. These lands are generally developed for agricultural uses or for large lot rural residential home sites. The areas designated for rural residential development generally contain few urban services and the street system is generally incapable of carrying traffic generated by more intense urban development. The district is intended to accommodate and preserve a unique lifestyle which cannot be accommodated in more dense residential areas.

C. *RS-21 "Single-Family Low-Density Residential."* This district is established to implement comprehensive plan policies for managing low-density, single-family residential development at a density not to exceed two (2) single-family dwelling units per acre. The RS-21 district is established in order to protect the quality and character of existing and future conventional single-family low-density neighborhoods, preserve open space, and manage future densities in order to assure compatibility with existing developments, natural features of the land, as well as existing and projected public services and facilities within the area.

D. *RS-15 "Single-Family Medium-Density Residential."* The RS-15 district is designed to accommodate traditional single-family development on lots not less than 15,000 square feet. The district is established to preserve the stability of existing and future conventional single-family residential neighborhoods, preserve open space, and manage future densities in order to assure that future densities are compatible with existing

developments, natural features of the land, as well as existing and projected public services and facilities within the area.

E. *RS-10 "Single-Family Medium-Density Residential."* The RS-10 district is established to implement comprehensive plan policies for managing traditional single-family residential development on lots not less than 10,000 square feet. This district is established to preserve the stability of existing and future single-family residential neighborhoods, preserve open space, and manage future densities in order to assure that they are compatible with existing developments, natural features of the land, as well as existing and projected public services and facilities within the area.

F. *R-MH "Residential Mobile Homes."* The R-MH district is established to implement comprehensive plan policies for managing high density mobile home residential development. The district is designed for managing mobile home development at a density not to exceed six units per acre. The district is intended to provide sites for mobile home development within existing established mobile home parks.

G. *RM-4 "Multiple-Family Medium-Density Residential."* The RM-4 district is established to implement comprehensive plan policies for managing medium-density residential development not to exceed four units per acre. The district is established to ensure sufficient land area for development of medium-density multiple-family residential developments which are fully serviced by adequate public facilities. Sites for medium-density multiple-family residential development shall be located so that they provide a smooth transition between low density residential development and areas developed and/or designated for more intense uses.

H. *RM-6 "Multiple-Family High-Density Residential Development."* The RM-6 district is established to implement comprehensive plan policies for managing high-density residential development at a density not to exceed six units per acre. The district is established to ensure that sufficient land is available for developments of high-density residential development and is intended to ensure availability of adequate public facilities.

I. *OI "Office-Institutional."* The OI district is established to implement comprehensive plan policies for managing office-institutional development. This district is designed to accommodate businesses and professional offices together with institutional land uses on sites which:

- Have accessibility to major thoroughfares;
- Have potential to be served by a full complement of urban services;
- Contain sufficient land area to accommodate good principles of urban design, including sufficient land area to provide adequate landscaping and buffers to separate existing as well as potential adjacent land uses of differing intensities;
- Accommodate only office buildings and institutional land uses and shall expressly exclude residential uses, general retail sales and services, warehousing, and outside storage; and

TABLE 1-3.2. LAND USE BY DISTRICTS

	RR-65	*RS-21*	*RS-15*	*RS-10*	*RM-4*	*RM-6*	*R-MH*	*OI*	*CL*	*CG*	*R/LC*	*IND*	*INS*	*CP*
RESIDENTIAL USES														
Duplex					P	P					P			
Mobile Homes							P							
Multiple Family Dwelling					P	P					P			
Single Family Dwellings	P	P	P	P	P	P	P				P			
COMMUNITY FACILITIES														
Administrative Services (Public and Not-for-Profit)								P	P	P	P		P	
Child Care Facilities								C			C		C	
Churches, Synagogues and Other Places of Worship	C	C	C	C	C	C		P, A[1]	P	P	P		P	
Clubs and Lodges (Not-for-Profit)									P	P				
Cultural or Civic Activities								P	P	P	P		P	
Educational Institutions								C, A[1]					C	
Golf Course Facilities	C													
Group Homes					C	C		C			P		C	
Hospital and Extensive Care Facilities								C					C	
Nursing Homes (Including Rest Homes and Convalescent Homes)					C	C		C			C		C	
Protective Services					C	C	C	C	C	C	C	C	C	
Public Parks and Recreation	C	C	C	C	C	C	C	C	C	C	C	C	C	
Public and Private Utilities	C	C	C	C	C	C	C	C	C	C	C	C	C	

REVISED from last P&Z (9/25/13) suggestions. Conditional(C) & Permitted (P) .

Table 1-3.2

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
Hospital and Extensive Care Facilities								C					C	
Nursing Homes (including Rest Homes and Convalescent Homes)					C	C		C					C	
Community Residential Home														
Level 1 (1-6 persons)	C*				C	C								
Level 2 (7-14 persons)					C	C							C	
Assisted Care Communities														
Assisted Living Facility														
Level 1 (1 to 5 persons)		C	C	C	C	C					C			
Level 2 (6 to15 persons)					C	C								
Level 3 (16+ persons)					C	C								
Adult Family Care Homes														
Level 1 (1 to 5 persons)	C*	C	C	C	C	C					C			
Level 2 (6 to15 persons)		C	C		C	C								
Level 3 (more than 16 persons)					C	C								
Adult Day Care Centers					C	C		C			C		C	

*Allowed in RR-65, (1-2 persons) as defined in FS Title XXX Chapters 419 & 429

ARTICLE VI, CONDITIONAL USE AND SPECIAL EXCEPTION USE CRITERIA

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

Conditional Land Uses	*Minimum Size Site*	*Minimum Width / Depth (feet)*	*Access Required to Street*	*Building Setback from Residential District / Nonresidential District (feet)*	*Parking Lot Setbacks from Adjacent Residential District / Nonresidential District (feet)*	*Perimeter Screening Residential District / Nonresidential District (5)*	*Curb Cut Controls*	*Other*
Child Care Facilities	1 Acre	145	Paved	50/30	15/10	Type A/B	(7)	
Places of Worship	5 Acres	250	Paved	70/45	25/20	Type A/C	(7)	
Educational Institution	(1)	500	Arterial	70/45	25/20	Type A/C	(7)	
Enclosed Arcade Amusement Center/Electronic Gaming Establishment	1 Acre	120	Highway 1 and Babcock Street only	100/30	N/A	Type A/C	(7)	
Golf Courses	(2)	500	Paved	70/45	25/20	Type C/C	(7)	
Group Homes	(3)	(3)	N/A	N/A	N/A	N/A	(7)	
Hospital and Extensive Care Facilities	5 Acres	325	Arterial	100/75	25/20	Type A/C	(7)	
Nursing Homes	2 Acres	210	Paved	60/30	25/20	Type A/C	(7)	
Protective Services	(4)	120	Paved	50/30	25/20	Type A/C	(7)	
Public Parks and Recreation Areas	5 Acres	325	Paved	70/45	25/20	Type C/C	(7)	
Public and Private Utilities	N/A	120	N/A	70/30	25/20	Type A/C	(7)	
Commercial Stables	5 Acres	325	N/A	100/75	50/40	Type B/C		
Adult Entertainment	1 Acre (8, 9, 10)	120	US 1/Babcock	100/30	N/A	Type A/C	(7)	(6)
Bars and Lounges	1 Acre (8, 9)	120	US 1/Babcock	100/30	N/A	Type A/C	(7)	(6)
Marine Commercial Activities	1 Acre	120	US 1/Babcock/ West Railroad Avenue	100/30	N/A	N/A	(7)	
Service Stations, Including Gasoline Sales	1 Acre (8)	145	Arterial	100/30	N/A	N/A	(7)	
Trades and Skilled Services	1 Acre (8)	145	US 1/Babcock/ West Railroad Avenue	100/30	N/A	Type A/C	(7)	
Vehicular Services and Maintenance	1 Acre (8)	145	US 1/Babcock/ West Railroad Avenue	100/30	N/A	Type A/C	(7)	
Wholesale Trades and Services	1 Acre	145	US 1/Babcock/ West Railroad Avenue	50/30	15/10	Type A/C	(7)	

REVISED from last P&Z (9/25/13) suggestions.

Table 1-6.1(B)

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
Hospital and Extensive Care Facilities	5 acres	325	Arterial	100/75	25/20	Type A/C	(7)
Nursing Homes (including Rest Homes and Convalescent Homes)	2 acres	210	Paved	60/30	25/20	Type A/C	(7)
Community Residential Home	2 acres	210	Paved	60/30	25/20	Type A/C	(7)
Assisted Care Communities							
Assisted Living Facility							
Level 1 (1 to 5)	2 acres	210	Arterial	60/30	25/20	Type A/C	(7)
Level 2 (6 to 15)	3 acres	210	Arterial	60/30	25/20	Type A/C	(7)
Level 3 (more than 16)	5 acres	325	Arterial	100/75	25/20	Type A/C	(7)
Adult Family Care Homes							
Level 1 (1 to 5)	2 acres	210	Paved	60/30	25/20	Type A/C	(7)
Level 2 (6 to 15)	3acres	210	Arterial	60/30	25/20	Type A/C	(7)
Level 3 (more than 16)	5 acres	325	Arterial	100/75	25/20	Type A/C	(7)
Adult Day Care Facilities	2acres	210	Arterial	60/30	25/20	Type A/C	(7)

(Submitted by Pat Reilly for PZ Meeting 1009 2013)

Land Development Code ALF Additions

8. Public Health (note: see 16/160 in notebook)
Refer to Florida Statues (F.S.) Title XXIX, Chapters 381 – 408 for the definitions and requirements of the following Public Health Facilities.

A. Mental Health
"Mental Health Facility" means any hospital, community facility, public or private facility, or receiving or treatment facility providing for the evaluation, diagnosis, care, treatment, training, or hospitalization of persons who appear to have a mental illness or have been diagnosed as having a mental illness. "Mental health Facility" does not include any program or entity licensed pursuant to chapter 400 or chapter 429. Refer to Chapters 394.

B. Hospital
"Hospital" means any establishment that:

(a) Offers services more intensive than those required for room, board, personal services, and general nursing care, and offers facilities and beds for use beyond 24 hours by individuals requiring diagnosis, treatment, or care for illness, injury, deformity, infirmity, abnormality, disease, or pregnancy; and

(b) Regularly makes 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.

However, the provisions of this chapter do not apply to any institution conducted by or for the adherents of any well-recognized church or religious denomination that depends exclusively upon prayer or spiritual means to heal, care for, or treat any person. For purposes of local zoning matters, the term "hospital" includes a medical office building located on the same premises as a hospital facility, provided the land on which the medical office building is constructed is zoned for use as a hospital; provided the premises were zoned for hospital purposes on January 1, 1992. Refer to Chapters 395.

C. Substance Abuse
Refer to Chapters 397.

D. Nursing Home and Related Health Care Facilities
Refer to Chapters 400 for the definitions and requirements of the following Nursing Home and Health Care Facilities.
Part I Long-Term Care Facilities

"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.

Part II Nursing Homes

"Nursing Home Facility" means any institution, building, residence, private home, or other place, whether operated for profit or not, including a place operated by a county or municipality, which undertakes through its ownership or management to provide for a period exceeding 24-hour nursing care, personal care, or custodial care for three or more persons not related to the owner or manager by blood or marriage, who by reason of illness, physical infirmity, or advanced age require such services, but does not include any place providing care and treatment primarily for the acutely ill. A facility offering services for fewer than three persons is within the meaning of this definition if it holds itself out to the public to be an establishment which regularly provides such services.

Part III Intermediate, Special Services, and Transitional Living Facilities

Intermediate care facilities; intent.—The Legislature recognizes the need to develop a continuum of long-term care in this state to meet the needs of the elderly and disabled persons. The Legislature finds that there is a gap between the level of care provided in assisted living facilities and in nursing homes. The Legislature finds that exploration of intermediate-level care facilities which would fill the gap between assisted living facilities and nursing homes, where both the federal and state government share the cost of providing care, is an appropriate option to explore in the continuum of care.

9. Social Welfare

Refer to Florida Statues (F.S.) Title XXX, Chapters 409 – 430 for the definitions and requirements of the following Social Welfare Facilities.

A. Community Residential Homes (note: see 35/160 in notebook)

"Community Residential Home" means a dwelling unit licensed to serve residents who are clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department of Children and Family Services or licensed by the Agency of Health Care Administration which provides a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents. Refer to Chapter 419.

B. Assisted Care Communities (note: see 39/160 in notebook)

Part I Assisted Living Facilities

"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 excedding24 hours to one or more adults who are not relatives or the owner or administrator. Refer to Chapter 429.01 – 429.54.

Part II Adult Family Care Homes (note: see 88/160 in notebook)

"Adult Family-Care Homes" 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. Refer to Chapter 429.60 – 429.87.

Part III Adult Day Care Centers (note: see 97/160 in notebook)

"Adult Day Care Centers" 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 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. Refer to Chapter 429.90 – 429.931

Pat Reilly's input, as of 2 October 2013