

EMERGENCY ORDINANCE 2007-15

AN EMERGENCY ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING SECTION 2 OF ORDINANCE NO. 2007- 12; PROVIDING FOR FINDINGS: CORRECTING THAT PORTION OF SECTION 2 WHICH STATES THAT THERE WILL BE A 9.9% INCREASE OF THE ROLLED BACK RATE TO STATE THAT THERE WILL A -5.0% DECREASE OF THE ROLLED BACK RATE; PROVIDING FOR CONFLICT AND REPEAL, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, on September 17, 2007 the Town Council adopted Ordinance 2007-12 establishing the Town's millage rate to fund the expenses for the fiscal year commencing October 1, 2007 and ending September 30, 2008; and

WHEREAS, Ordinance 2007-12 incorrectly stated that the final levy of 1.2693 mills will result in a 9.9% increase of the rolled back rate of 1.3361 when in fact it should have stated that the final levy of 1.2693 mills will result in a -5.0% decrease of the rolled back rate of 1.3361; and

WHEREAS, it is necessary for the Town to amend Ordinance 2007-12 to correct this error; and

WHEREAS, Florida Statute 166.041 (3) (b) authorizes the Town Council to enact emergency ordinances upon a two-thirds vote without complying with ordinance adoption procedures in Florida Statute 166.041 (3) (a); and

WHEREAS, the Town's Charter, section 2.16(e), provides that an emergency ordinance can be passed by the Town Council with two readings at the same meeting; and

WHEREAS, the Town Council finds that this emergency ordinance is in the best interests of the Town; and

WHEREAS, a public hearing as prescribed by the Town's Charter was duly called and held.

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

SECTION 1. The above recitals are true and correct and are an integral part of this ordinance.

SECTION 2. Section 2 of Ordinance 2007-12 is amended as follows:

“The final levy of 1.2693 mills will result in a ~~9.9% increase~~ -5.0% decrease of the rolled back rate of 1.3361.”

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed and the provisions of Ordinance 2007-12 to the extent not modified or amended by this ordinance shall remain in full force and effect.

SECTION 4. In the event a court of competent jurisdiction shall hold or determine that any part of this ordinance is invalid or unconstitutional, the remainder 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 further be assumed that the Town Council would have enacted the remainder of this ordinance without said invalid or unconstitutional provision, thereby causing said remainder to remain in full force and effect.

SECTION 5. This ordinance shall and is hereby declared effective, *nun pro tunc*, September 17, 2007.

This ordinance was moved for adoption by Council member Borton and was seconded by Council member McClelland and, upon being put to a vote, the vote was as follows:

Council Member Nancy Borton	<u>Aye</u>
Council Member Brian Vail	<u>Aye</u>
Council Member Charles D. (Chuck) McClelland	<u>Aye</u>
Council Member Roberta (Bobbi) Moccia	<u>Aye</u>
Council Member Patricia D. Dezman	<u>Not Present</u>

This ordinance was then declared duly passed and adopted by two-thirds of the Town Council this 15th day of October, 2007.

By: Thomas M. Eschenberg
Mayor Thomas M. Eschenberg, Chair

First Reading: 10/15/07
Second Reading: 10/15/07

Approved as to form and content:

Karl W. Bohne, Jr.
Karl W. Bohne, Jr.
Town Attorney

ATTEST:

Debby K. Franklin
Debby K. Franklin, CMC
Interim Town Clerk/Treasurer

(seal)