

**ORDINANCE 2013-65**

**AN ORDINANCE OF THE TOWN OF MALABAR , BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES OF THE TOWN; CREATING SECTIONS 13-10 THROUGH 13-15; IMPLEMENTING PROVISIONS FOR THE OPERATION OF GOLF CARTS ON DESIGNATED TOWN ROADS; PROVIDING FOR LEGISLATIVE INTENT; PROVIDING FOR DEFINITIONS; ESTABLISHING OPERATIONAL STANDARDS AND REQUIREMENTS; PROVIDING FOR SIGNAGE; PROVIDING FOR LIMITATIONS AND OTHER PROHIBITED CONDUCT; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR REPEAL, SEVERABILITY, AND INCORPORATION INTO THE CODE OF ORDINANCES OF THE TOWN; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Section 316.212 (1), Florida Statutes permits municipalities to allow golf carts to be operated on municipal roads provided that the municipality determines that golf carts may travel on or cross such public roads or streets upon considering the speed, volume and character of motor vehicle traffic using those roads or streets: and

**WHEREAS**, such designation for use of golf carts on municipal roads must be preceded by a determination that the particular road or roads may be traveled upon or crossed considering factors including traffic speed, volume and character of motor vehicle traffic; and

**WHEREAS**, Section 316.212 (5), Florida Statutes, allows golf carts to only operate on such public roads during hours between sunrise and sunset unless the Town has determined that a golf cart may be operated during the hours between sunset and sunrise and the golf cart is equipped with headlights, brake lights, turn signals and a wind shield; and,

**WHEREAS**, Section 316.212 (8) (a), Florida Statutes permits the Town to enact a more restrictive ordinance relating to golf cart operation and equipment; and,

**WHEREAS**, the Town of Malabar is a rural community as described in the preamble to the Town's Charter; and,

**WHEREAS**, the Town finds that motorized golf carts are a valid form of transportation and commonly used in rural communities as a mode of transportation and for utility purposes; and,

**WHEREAS**, golf carts also provide an environmentally friendly mode of transportation; and,

**WHEREAS**, golf carts generally operate at low speed and can otherwise be operated safely when properly driven and when adorned with proper safety equipment; and,

**WHEREAS**, the Town Council believes that the regulations in this ordinance will promote and enhance the health, safety and welfare of its citizens.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, STATE OF FLORIDA, AS FOLLOWS:**

**SECTION 1.** Article I of Chapter 13 of the Code of Ordinance of the Town is amended by adding new sections 13-10 through 13-16 which new sections shall read as follows:

**“Sec. 13-10. Golf cart usage; Legislative intent and purpose.**

It is the intent of this article to permit and regulate the use of golf carts upon designated roads of the Town. The purpose of this Ordinance is to (1) provide for the orderly operation of golf carts on designated Town roads; and (2) to set standards for such operation. The Town Council further finds that, based on the speed, volume and character of motor vehicle traffic on designated town roads, golf carts may be operated on such designated Town roads in accordance with these regulations.

**Sec. 13-11. - Definitions.**

*All terrain vehicles/off-road vehicles* shall mean any motorized off-highway vehicle 50 inches or less in width, having a dry weight of 1,200 pounds or less, designed to travel on three or more nonhighway tires, having a seat designed to be straddled by the operator and handlebars for steering control, and intended for use by a single operator with no passenger. For the purposes of this section, “all-terrain vehicle” also includes any “two-rider ATV” as defined in s. 317.0003.

*Bicycle path* shall mean any road, path, or way that is open to bicycle travel, which road, path or way is physically separated from motorized vehicular traffic by an open space or by a barrier and is located either within the highway right-of-way or within an independent right-of-way.

*Designated Town, streets or roads* shall mean all improved streets or roads or portions of roads or streets upon which golf carts shall be allowed to operate, under the conditions as provided for herein, which are identified herein.

*Golf cart* shall mean a motor vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour. [Reference F.S. § 316.003(68) (2010), and 320.01 (22) (2010)].

*Operator* means the person registering the golf cart with the Town and any person who uses a golf cart in accordance with the provisions of this ordinance.

*Low-speed vehicle (LOV)* shall mean any four-wheeled electric vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including neighborhood electric vehicles. Low-speed vehicles must comply with the safety standards in 49 C.F.R. s. 571.500 and s. 316.2122.

*Right-of-way* shall mean the unimproved portion of a designated street or road.

*ROV* shall mean any motorized recreational off-highway vehicle 64 inches or less in width, having a dry weight of 2,000 pounds or less, designed to travel on four or more nonhighway tires, having nonstraddle seating and a steering wheel, and manufactured for recreational use by one or more persons. The term “ROV” does not include a golf cart as defined in ss. 320.01(22) and 316.003(68) or a low-speed vehicle as defined in s. 320.01(42).

**Sec. 13-12. - Operation.**

(a) The operation of any golf cart on Town roads or streets in the Town under the following conditions is prohibited:

- (1) Operation between the hours of sunset and sunrise except as otherwise provided for herein.
- (2) Failure to equip a golf cart with efficient brakes, reliable steering apparatus, safe tires, a rearview mirror, and red reflectorized warning devices on both the front and rear of the golf cart when operated on designated roads/streets.

(3) Operation between the hours of sunset and sunrise, except that the operation of a golf cart between sunset and ten (10:00) p.m., is permitted if the golf cart is equipped with headlights, brake lights, tail lights, turn signals, and a windshield as well as the equipment specified in subsection (2).

(4) Failure to, in accordance with F.S. § 316.217, operate a golf cart with lighted headlights when operated between the time of sunset and ten (10:00) p.m. and/or during conditions of rain, smoke, or fog.

(5) Operation of a golf cart by a person under the age of 16.

(6) In violation of state, county or Town traffic regulations.

(7) On bicycle paths, ped-ways, or sidewalks.

(8) Carrying more passengers than the number of passengers which the golf cart was designed to carry.

(9) No occupants of a golf cart shall stand at any time while the golf cart is in motion.

(b) Operation of a golf cart on any Town road or street in the Town which the Town has not designated for the use or operation of golf carts, as provided for herein, is prohibited. Golf carts may be operated upon right-of-ways only in the case of an emergency or in order to allow the safe passage of other vehicles using a designated street or road.

Golf carts operated in compliance with subsection (a) above shall be allowed to operate upon the streets or roads of the Town as designated by the Town Council by resolution, from time to time, and further, only upon which the posted speed limit is 35 miles per hour or less. Notwithstanding the foregoing, golf carts are prohibited from being operated on the following:

(1) **Malabar Road;**

(2) **Highway U.S. 1;**

(3) **Babcock Street;**

The Town shall posts appropriate signs at such crossing locations to inform the public of such designated crossings.

(c) Golf carts operating upon a designated street or road shall be registered annually with the Town. The purpose of the registration requirement is to ensure that all operators of golf carts as permitted herein, acknowledge receipt of this ordinance and understand the provisions herein. The registration is non-transferrable. In that respect all such registrants shall be given a copy of this ordinance and any other rules, regulations or resolutions adopted pursuant to this ordinance and shall sign a receipt acknowledging receipt of them on a form provided by the Town at the time of registration. The registration requirement is not intended nor shall it be construed to imply that the Town has made any inspection of a golf cart to verify or ensure that the person(s) operating said golf cart can safely do so, that all necessary equipment is affixed to the golf cart or that the golf cart can be safely operated upon designated roads or streets in the Town. Upon such acknowledgement the operator releases the Town and agrees to indemnify and hold the Town harmless from any and all liability with respect to the operation and safety of the golf cart. Such release includes, but is not limited to, all causes of actions, administrative proceedings, claims, damages, injuries, awards, judgments, expenses, property and personal injuries to any property or person, death of any person, penalties, proceedings, controversies, monies, accounts, compensation, contracts, promises, fees, reimbursements, costs, debts, attorney fees, defenses, losses and liabilities of any nature liquidated or unliquidated, known or unknown, fixed or contingent, whether arising in contract, tort or at law or in equity. Each registrant shall also sign an indemnity and hold harmless agreement to be provided by the Town to the registrant at the time of registration. The Town is authorized to charge a fee to compensate the Town for such registration in an amount established from time to time by resolution of the town Council. Each golf cart will be issued a registration sticker which must be visibly affixed on the front of the golf cart. Such a sticker shall be made of reflective material in

a color and style selected by the Town Council. Such sticker must be removed when the golf cart is transferred as the registration is non-transferrable.

**Sec. 13-13. - Signage.**

The Town shall cause to be posted appropriate signs to indicate that such golf cart usage is allowed in accordance with this Ordinance. Reference to this ordinance by number shall appear on such signs.

**Sec. 13-14. Limitations and Other Prohibited Conduct**

The provisions of this Ordinance shall not be construed to authorize All-Terrain Vehicles, ROVs, or LOVs on any right-of-ways, roads or streets in the Town.

**Sec. 13-15. - Penalty and enforcement.**

Any person who violates any provision of this article shall, upon conviction, be guilty of an infraction pursuant to F.S. §§ 316.655, 318.13 and 318.14 (2010), all as may be amended from time to time. Enforcement of this article shall be pursuant to F.S. § 316.640 (2010), as may be amended from time to time. Enforcement may also be by suit for injunctive or other appropriate relief in a court of competent jurisdiction. The Town may also use the provision of the Town's Code Enforcement Ordinance as a method of enforcement against operators and owners golf carts."

**SECTION 2. Severability**

If any subsection, clause, phrase, word or provision of this ordinance is, for any reason, held invalid or unconstitutional by any court of competence jurisdiction, such invalid unconstitutional portion shall be deemed a separate, distinct, and independent provision, in such holding shall not effect the validity of the remaining portions of this ordinance, providing the remaining portions effectuate the purpose and intent of this ordinance.

**SECTION 3. Effective Date**

This ordinance shall take effect immediately upon adoption by the Town Council.

This ordinance was moved for adoption by Council Member Milucky and was seconded by Council Member Acquaviva and, upon being put to a vote, the vote was as follows:

Council Member James Milucky	Aye
Council Member Wayne Abare	NAY
Council Member Steven (Steve) Rivet	Aye
Council Member Jeffrey (Jeff) McKnight	Excused
Council Member Marisa Acquaviva	Aye

This ordinance was then declared duly passed and adopted this 4 day of Nov, 2013.

(seal)

By: Carl A. Beatty  
Carl A. Beatty, Mayor

ATTEST:  
Debby K. Franklin  
Debby K. Franklin, C.M.C.  
Town Clerk/Treasurer

Approved, as to form and content:  
Karl W. Bohne, Jr.  
Karl W. Bohne, Jr., Town Attorney

First Reading: 10/21/13  
Second Reading: 11/04/13

