

**ORDINANCE 2014-13**

**AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING ORDINANCE 2014-04 ADDING AN ADDITIONAL EXEMPTION TO THE REGULATIONS PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, REPEAL AND AN EFFECTIVE DATE.**

**WHEREAS**, Malabar Town Council recently adopted regulations governing the use of fertilizers in an attempt to reduce pollutants into the Indian River Lagoon and have since discussed and determined that an additional exemption is needed for home grown fruit and vegetable gardens on private property grown solely for the property owners personal consumption.

**NOW, THEREFORE**, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR as follows:

**SECTION 1.** A new exemption is hereby added to Chapter 7.5, Article III, Section 7.5-49 of the Code of Ordinances of the Town which shall read as follows:

**"Art. III. Fertilizer Use and Application**

▪       ▪       ▪       ▪       ▪       ▪

**Sec. 7.5-49. EXEMPTIONS**

The provisions set forth above in this Ordinance shall not apply to:

- a. bona fide farm operations as defined in the Florida Right to Farm Act, Section 823.14 Florida Statutes;
- b. other properties not subject to or covered under the Florida Right to Farm Act that have pastures used for grazing livestock;
- c. any lands used for bona fide scientific research, including, but not limited to, research on the effects of fertilizer use on urban stormwater, water quality, agronomics, or horticulture.
- d. athletic fields at Town of Malabar public parks that apply the concepts and principles embodied in the Florida Green BMPs, while maintaining the health and function of the specialized turf areas.
- e. Fruit and vegetable gardens on private property grown solely for the property owners personal consumption.

**SECTION 2. CONFLICTS AND RELATIONSHIP TO OTHER LAWS**

Whenever regulations or restrictions imposed by this ordinance conflict with other ordinances or regulations, or are either more or less restrictive than regulations or restrictions imposed by any governmental authority through legislation, rule or regulation, the regulations, rules or restrictions which are more restrictive or which impose the highest standards or requirements shall govern.

**SECTION 3. CODIFICATION**

The provisions of this ordinance shall become and be made a part of the Code of Ordinances of the Town. Sections of the ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "chapter", "article," or such other appropriate word or phrase in order to accomplish such intentions.

**SECTION 4. REPEAL**

All ordinances, or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances not in conflict herewith are hereby continued in full force and effect.

**SECTION 5. EFFECTIVE DATE.**

This ordinance shall take effect five (5) days after adoption.

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

|                                    |            |
|------------------------------------|------------|
| Council Member Jim lucky           | <u>Aye</u> |
| Council Member Wayne Abare         | <u>Aye</u> |
| Council Member Steven Steve) Rivet | <u>Aye</u> |
| Council Member Dick Korn           | <u>Aye</u> |
| Council Member Marisa Acquaviva    | <u>Aye</u> |

This ordinance was then declared duly passed and adopted this 8<sup>th</sup> day of September, 2014.

(seal)

**TOWN OF MALABAR**

By: 

Steve Rivet, Council Chair

**1<sup>st</sup> Reading: 07/21/2014** (vote 4 to 0 for 1<sup>st</sup> reading)

**2<sup>nd</sup> Reading: 09/08/2014**

**ATTEST:**



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

Approved as to form and content:



Karl W. Bohne, Jr., Town Attorney