

ORDINANCE NO. 2011-41

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, RELATING TO TAXATION; AMENDING CHAPTER 14, SECTION 14-72 (a) OF THE CODE OF ORDINANCES OF THE TOWN BY DELETING REFERENCES TO “WATER” AND “FUEL OIL” FROM THE TEN PERCENT (10%) TAX IMPOSED BY SAID SECTION; REPEALING SECTION 14-73 RELATING TO FUEL OIL TAX; PROVIDING FOR CODIFICATION, SEVERABILITY AND CONFLICTS; PROVIDING FOR AN EFFECTIVE DATE.

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

SECTION 1. Section 14-72 (a) of Chapter 14 of the Code of Ordinances of the Town of Malabar is hereby amended to read as follows:

“Section 14-72. Levy; payment by purchasers.

(a) There is hereby levied on each and every purchase of fuel oil, electricity, metered or bottled gas (natural, liquefied petroleum gas or manufactured), water and telegraph service within the town a tax of ten (10) percent, which tax in every case shall be paid by the purchaser to the seller of such goods and services upon which tax is hereby levied at the time of paying the charges thereof.”

SECTION 2. Section 14-73 is repealed in its entirety and said section shall be declared reserved for the future.

“Sec. 14-73. – Fuel oil.

~~(a) Fuel oil is hereby declared to be a competitive utility service.~~

~~(b) The levy by the town on each and every purchase of fuel oil within the town shall be limited to four cents (\$0.04) per gallon, which tax in every case shall be paid by the purchaser for the use of the town to the seller of such goods and services upon which a tax is hereby levied at the time of paying the charge therefor. If the town levies less than a ten (10) percent tax on the services and utilities in section 14-72, the tax on fuel oil shall bear the same proportion to four cents (\$0.04) that the tax rate levied in section 14-72 bears to ten (10) percent.”~~

SECTION 3. Codification.

It is the intention of the Town Council of the Town of Malabar, Brevard County, that the provisions of Section 1 and 2 of this Ordinance become part of the Code of Ordinances of the Town of Malabar. The Town Clerk is hereby authorized and directed to cause the provisions of Section 1 and 2 of this ordinance to be incorporated into the Code of Ordinances.

SECTION 4. 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 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. Conflicts.

All ordinances or parts thereof in conflict herewith are hereby repealed to the extent of such conflict with this Ordinance.

SECTION 6. Effective Date.

This Ordinance shall become effective January 1, 2012.

The foregoing Ordinance was moved for adoption by Councilmember Rivet.
The motion was seconded by Councilmember Acquaviva and, upon being put to a vote, the vote was as follows:

Council Member Carl Beatty	Aye
Council Member David White	Aye
Council Member Steve Rivet	Aye
Council Member Jeffrey (Jeff) McKnight	Aye
Council Member Marisa Acquaviva	Aye

This ordinance was then declared to be duly passed and adopted this 1 day of August, 2011.

TOWN OF MALABAR

BY: Thomas M. Eschenberg
Mayor Thomas M. Eschenberg

First Reading: 7/7/2011
Second Reading: 8/1/2011

ATTEST:

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

Approved as to form and content:

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