

ORDINANCE NO. 2021-11

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 8 FIRE PREVENTION AND PROTECTION; AMENDING ARTICLE III SECTION 8-72 DEFINITIONS; AMENDING SECTION 8-73 REGARDING REQUIRED PERMITS; PROVIDING FOR REPEAL, SEVERABILITY AND CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE BE IT ORDAINED by the Town Council of the Town of Malabar, Brevard County, Florida, as follows:

SECTION 1. AMEND: Section 8-72 of Article III of Chapter 8 of the Code of Ordinances of the Town is amended to include the following new definition;

"Sec. 8-72 Definitions.

...

Open Burning means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the outdoor atmosphere without passing through a stack or chimney.

...

SECTION 2. AMEND: Section 8-73 of Article III of Chapter 8 of the Code of Ordinances of the Town is amended as follows:

Sec. 8-73. - Permit required to burn.

- (a) It shall be unlawful for any person to conduct and open burn, a non-containerized burn, of any kind within the Town without first obtaining a written permit from the Chief of the Fire Department or his assigned designee.
- (b) All persons obtaining burnings permits will follow all FDACS regulations, FFS regulations, and/or the requirements of this article. If the requirements of this article differ from the requirements of the FDACS or the FFS, the more stringent requirement shall apply.
- (c) Recreational Open burning of vegetative debris and untreated wood in a contained fire ring no larger than 3x3, examples: campfire, ceremonial bonfire, outdoor fireplace, or other contained outdoor heating or cooking device, or on cold days for warming of outdoor workers is allowed on private property. A permit is required on town property. All fires must be attended.

...

SECTION 2. REPEAL. All ordinances or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances or resolutions not in conflict herewith are hereby continue in full force and affect.

SECTION 3. 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 4. CODIFICATION. It is the intention of the Town Council of the Town of Malabar, Brevard County, Florida, and it is hereby provided that the provisions of this ordinance shall become and made part of the Code of Ordinances of the Town of Malabar.

SECTION 5. EFFECTIVE DATE. The ordinance shall take effect immediately upon its adoption.

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

Council Member Marisa Acquaviva	<u>Aye</u>
Council Member Brian Vail	<u>Aye</u>
Council Member Steve Rivet	<u>Excused</u>
Council Member David Scardino	<u>Aye</u>
Council Member Danny White	<u>Aye</u>

PASSED AND ADOPTED by the Town Council, Town of Malabar, Brevard County, Florida this 2nd day of August, 2021

BY:
TOWN OF MALABAR
Patrick T. Reilly
Mayor Patrick T. Reilly,
Council Chair

(Seal)

First Reading: 7/19/2021 Vote: 4 to 0 (CM Acquaviva excused)
Second Reading: 8/02/2021

ATTEST:

By 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