

## **ORDINANCE 2023-33**

**AN ORDINANCE OF THE TOWN OF MONTVERDE, FLORIDA, AMENDING CHAPTER 5 OF THE TOWN OF MONTVERDE CODE OF ORDINANCES TO INCLUDE ARTICLE III TITLED UNFIT AND UNSAFE BUILDINGS; INCLUDING DEFINITIONS, REPORTING OR OBSERVANCE OF VIOLATIONS, IDENTIFYING AN UNFIT OR UNSAFE STRUCTURE, DISPOSITION OF UNFIT STRUCTURES, DETERMINATION OF OWNER AND MANNER OF SERVING NOTICE, PROCESS FOR VIOLATIONS AND AN APPEAL PROCEDURE; PROVIDING FOR LIENS, EMERGENCY ACTION AND PENALTIES; PROVIDING FOR CODIFICATION AND SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town Council is authorized pursuant to Ch. 166, and 163, Florida Statutes, to adopt this ordinance, and recognize municipal authority to enact regulations to protect health, safety, and welfare; and

**WHEREAS**, the Town of Montverde actively participates in the enforcement of regulations important to ensuring safe, sanitary, and habitable property maintenance and structures and desires to impose clear requirements within the Town of Montverde; and

**WHEREAS**, under its Home Rule powers, the Town may regulate and govern property maintenance to ensure the well-being of its citizens; and

**WHEREAS**, the Town of Montverde has determined that it is in the best interest of the health, safety, and welfare of its citizens, businesses, and patrons of such businesses within the Town, to adopt the regulations set forth herein for the maintenance and control of structures; and

**WHEREAS**, the Town Council of the Town of Montverde held a public hearing which was advertised in accordance with law and held such public hearing no less than 10 days after the day advertisement was published.

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Montverde, Florida, as follows:

**SECTION 1. Legislative Findings and Intent.** The findings set forth in the recitals above are hereby adopted as legislative findings pertaining to this Ordinance.

**SECTION 2.** Article III in Chapter 5, of the Town of Montverde Code of Ordinances is created to read as follows:

## ARTICLE II. – UNFIT AND UNSAFE BUILDINGS

### Sec. 5-50. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except when the context indicates a different meaning:

*Abandoned* means a dilapidated, deteriorated or decayed building or structure that is vacant and unsecured.

*Unfit or unsafe* mean structures, dwellings, dwelling units, multiple dwellings, including garages, sheds and similar accessory structures and fences, which by reason of inadequate maintenance, obsolescence or abandonment are dilapidated, deteriorated, decayed, unsafe, unsanitary, constitute a fire hazard or are otherwise dangerous to human life or property or are no longer adequate for the purposes for which they were originally intended.

### Sec. 5-51. Reporting unfit or unsafe dwellings or structures.

Upon receipt of a written complaint to the town manager of dwellings or structures which appear to be an unfit or unsafe dwelling or structure or portion thereof, including accessory buildings, within the terms of this article, or if the town manager has reason to believe that a dwelling or structure, including accessory buildings, presents an imminent threat to public health, safety, or welfare or imminent destruction of habitat or sensitive resources, the town manager is authorized to utilize the services of the building official, engineers, architects or other professionals, in order to determine the condition of the structure in question and such costs shall be assessed in the same manner as provided for in section 5-59.

### Sec. 5-52. Unfit or unsafe dwellings or structures, declared nuisance.

- (a) When a dwelling or other structure, or any portion thereof, including accessory buildings, is found unfit or unsafe for human habitation, or may imperil the health, safety, welfare and morals of the occupants thereof or of the surrounding areas, upon inspection by the town manager or designee, such official shall require the repair, securing, demolition or removal thereof.
- (b) The term "unfit or unsafe dwelling or structure or portion thereof, including accessory buildings," shall include:
  - (1) Dwellings or structures, or portions thereof, including accessory buildings, that are structurally unsafe, unstable, unsanitary, inadequately provided with exit facilities, or use of unsafe equipment that is in such disrepair or condition that the equipment is a hazard to life, health, property or safety of the public or occupants of the dwelling or structure;
  - (2) Any structure not provided with permanent means of adequately securing all openings against unauthorized entry;
  - (3) Constituting a fire hazard;
  - (4) Unsuitable or improper for the use of occupancy for which they are intended because is insanitary, is of a condition conducive for vermin or rat infested,

contains fifth and contamination, broken glass, or lacks ventilation or other essential equipment required by any applicable code;

- (5) Constituting a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment;
- (6) Dangerous to life or property including but not limited to means of ingress or egress fails to conform to the approved building or fire code, any portion of the dwelling or structure has been damaged by fire, wind, flood, vandalism, deterioration, neglect, or abandonment or by any other cause to such an extent that it is likely to partially or completely collapse or to become detached or dislodged; or
- (7) Otherwise in violation of any of the following: the Florida Building Code, the Florida Fire Prevention Code and the Life Safety Code, the International Codes published by the International Code Council, and the National Electric Code (NFPA 70), .

(c) Such structures are further declared a nuisance or unsafe dwelling or structure.

**Sec. 5-53. Authority to order disposition of unfit structure.**

- (a) The town manager shall order the vacation, demolition, removal or securing of any unfit or unsafe dwelling or structure, including accessory buildings, or may order the repair, restoration or replacement of any part of any structure, including accessory buildings, in the town when any such part or parts, by reason of fire, age, decay, deterioration, structural defects, improper design, unstable foundation or termites, affords the opportunity of being a nuisance to the public, or a haven for vagrants, criminals or trespassers, or by acts of God or other causes shall be dangerous to the occupants thereof or to surrounding buildings and the occupants thereof, a menace to public health, a fire hazard, or so unsafe as to endanger life or property or render the use of the public streets dangerous.
- (b) In default of the owner or other parties in interest repairing, restoring or demolishing, removing, securing or replacing such part of such dwelling or structure, including accessory buildings within the specified time or such other reasonable time fixed in such order by virtue of section 5-54 or 5-57, the town manager may order vacation of the premises and proceed under the provisions of section 5-56.

**Sec. 5-54. Determination of owner.**

When the town manager or designee verifies the existence of a dwelling or structure, including accessory buildings, which is unfit or unsafe or which constitutes a nuisance as set out in section 5-52, it shall be his/her duty to determine the owner of record of the real estate upon which the dwelling or structure, including accessory buildings, is located, and send a notice of violation and/or order of condemnation to such party and all other persons who are determined to have an interest in the property as verified by an ownership and encumbrance report from the town attorney or a licensed title company doing business within the county. Such notice shall be in writing and shall contain the following:

- (1) A designation of the premises affected;

- (2) A statement of the reasons it is being issued;
- (3) A specified time for the performance of any act it requires, with a minimum of ten (10) days and a maximum of thirty (30) days to obtain a permit and begin the required work, unless extended for good reason by the town manager. The work shall be completed within thirty (30) days from the issuance of the permit;
- (4) An outline of remedial action which, if taken, will effect compliance with the provisions of this article and with the rules and regulations adopted pursuant thereto;
- (5) A statement that upon failure to remedy the violation or violations covered by such notice within the time specified, the owner or occupant shall be subject to the action of the town provided for in this article.

**Sec. 5-55. Manner of serving notice.**

- (a) Notice to any owner or other interested person and notice of any hearing or other proceeding pursuant to any motion or resolution adopted under the authority of this article may be served by certified mail, return receipt requested, addressed to the party to be served at his/her residence address or at his/her business address, or by personal service in the same manner provided by state statute for personal service of original process in civil actions, except that such service may be made by not only the persons named in such statutes, but also by an officer, agent or employee of the city, in which case return and proof of service may be made by affidavit.
- (b) If notice sent by certified mail is returned undelivered and the address of such party cannot be ascertained after diligent search and inquiry, service may be effected by publishing a notice two (2) times, one (1) week apart, in a newspaper of general circulation in the city, qualified to print legal advertisements. The first of such publications shall be at least eight (8) days before the time required for any action or the time set for any public hearing as stated therein, and a copy of the notice shall be posted upon the structure and at town hall. Such service shall be deemed complete on the date of the second publication. Any notice of hearing to assess and levy liens shall describe the land proposed to be so assessed.
- (c) Where any property or interest therein is owned by tenants by the entirety or by joint tenants, each tenant shall be deemed to be the agent of the other and notice to one (1) of them shall be deemed to be notice to both or all of them, and service upon one (1) of them shall be deemed to be service upon both or all of them.

**Sec. 5-56. Action by town for failure to comply.**

If the owner or other parties in interest shall fail to comply with any order issued pursuant to section 5-53 within the time therein fixed, the town, acting through its town manager after advising the town council, is authorized to vacate, demolish, remove, repair or secure either with town forces or by independent contractor submitting the lowest and best bid, any such dwelling or structure, including accessory buildings.

**Sec. 5-57. Extension of time to comply with order.**

- (a) If the interested parties shall have obtained a building or demolition permit within the specified period and in good faith and in due time begun work to comply with the order to repair, demolish, or otherwise dispose of the unfit structure, but it appears that they will not be able to complete the work by the date ordered, they may file a written request to the town manager stating the reasons they have been unable to fully comply. If reasonable grounds are shown therefor, the town manager is authorized to issue extensions not to exceed sixty (60) days in which to fully comply with the original order.
- (b) In exceptional cases, the town manager may further extend, by thirty (30) days, the period allowed by the previous town manager action, upon written request as merited by special hardship, unusual difficulty or unique problems. All appeals or requests for extensions shall be made either in person or by certified mail, return receipt requested, to the town clerk.

**Sec. 5-58. Appeal procedure.**

Appeals from an order issued pursuant to section 5-53 may be taken by any interested party who has been aggrieved, except in emergency cases as set forth in section 5-61. Such party is afforded a right of hearing upon a written request for such hearing to the special master within ten (10) days of receipt of notice of violation. A notice of appeal hearing by the special master shall be published once in a newspaper of general circulation in the town at least ten (10) days prior to the time and place of the hearing. The party requesting such appeal hearing may be charged a reasonable fee, which fee may include the actual cost of advertising and notice of the hearing. When the findings of the special master sustain the town manager, the special master may set a new deadline date for compliance or authorize the town manager to proceed at the expiration of thirty (30) days to demolish and remove the dwelling or structure, including accessory buildings, and report the cost to the town council. Having exhausted all administrative remedies before the special master, the appellant who remains aggrieved, within thirty (30) days from the day of the special master's order, may appeal to the circuit court, upon posting of adequate bond, as prescribed by law. Should the hearing be continued at the request of or for the convenience of the appellant, or any other person with party status, any additional cost to the town, including cost of readvertising or other notice, shall be paid by the appellant or other party requesting the continuance, prior to the commencement of the continued hearing. All costs to the town for the hearing and advertising thereof, must be paid prior to the day of the scheduled hearing. If not paid, the special master may postpone the hearing pending receipt of the funds due the town. Only one (1) such continuance shall be authorized any appellant requesting a hearing under this section. If a hearing has been continued once and the fees owed the town are still not paid prior to the continuance date, the appellant shall be deemed to have withdrawn the application for a hearing before the special master and the appealed order shall be deemed final.

**Sec. 5-59. Assessment of cost as lien on property.**

- (a) Upon expiration of the appeal period, if no appeal having been taken, the town manager, after proceeding under this article, shall report the abatement of the nuisance by the town. The special master shall assess the entire cost of such vacation, demolition, removal or securing, including any unpaid fees and costs arising out of any appeal hearing, against the

real property, upon which such costs was incurred. This assessment, including rodent extermination where employed, all administrative costs, postal expense, newspaper advertising or other similar costs, when made, constitutes a lien upon such property.

- (b) The town shall record a notice of lien in the public records of Lake County, Florida, showing the nature of the lien, the amount thereof and an accurate legal description of the property, including the street address. The lien shall date from the date of recording and recite the names of all persons notified or interested parties. Such municipal lien shall bear interest from the date of recording at the rate of nine (9) percent per year and shall be enforceable by foreclosure in the same manner and time as a town code enforcement lien if unsatisfied after the expiration of ninety (90) days from the date of recording the notice of lien.
- (c) Such lien may be foreclosed and collected in the manner and procedure by which real property mortgages are foreclosed and collected, including an award of reasonable attorney's fees and costs for recording the notice of lien and prosecuting the foreclosure proceedings.

**Sec. 5-60. Appearance of interested parties before council.**

Any interested party appearing before the special master to object to or appeal any proposal or order issued pursuant to this article may appear in person, by counsel or by an agent.

**Sec. 5-61. Emergency condemnations—Authority to take action; hearing.**

- (a) In cases where there is imminent peril to the public safety or general welfare or immediate danger to the life or safety of any person or where the public is endangered by hurricane hazards, unless an unfit or unsafe dwelling or structure, including accessory buildings, is immediately repaired, vacated or demolished or removed, the town manager shall report such facts to the special master at its next regular meeting or other meeting called to hear emergency condemnations. Upon a proper showing and considering all evidence, the special master may authorize the town manager to take appropriate, specific action at the expiration of fifteen (15) days from the date of the special master's order.
- (b) Public notice of the hearing of emergency cases only shall be given by posting a copy of the special master's agenda, or a good and sufficient notice of such hearing on the bulletin board in town hall for at least ten (10) days prior thereto and by certified mail, return receipt requested, to the address listed in the tax collector's office for tax notices or to the address listed in the county property appraiser's database. Failure to effect personal notice upon the individual owner shall not prevent the town from abating the nuisance and assessment of a lien on the realty as the proceedings are in rem.

**Sec. 5-62. Same—Rehearing of case.**

Where the owner or other party in interest fails to appear at an emergency condemnation hearing pursuant to section 5-61, such person may seek relief from the circuit court upon posting adequate bond as prescribed by law.

**Sec. 5-63. Notice of council's action.**

The minutes of the special master or its orders under section 5-61 shall be posted on the bulletin board at town hall. In addition, the town manager shall advise the owner or record title holder of the special master's action by the most expeditious means available, including telephone or e-mail where urgent, excluding, however, notice by publication. Notwithstanding the failure of the owner to receive actual notice or failure of the town manager to serve notice of the special master's action, the notice given at the bulletin board at town hall shall be good notice to all the world.

**Sec. 5-64. Penalty for violation of article.**

- (a) If the owner or occupant fails to comply with the written notice or order of the town manager or the special master issued pursuant to this article, then the owner or occupant may be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for a term not to exceed sixty (60) days, or by both such fine and imprisonment. Each day that a violation shall continue to exist shall be considered a separate violation and may be prosecuted as such.
- (b) If any dwelling or building or other structure described in this article is occupied and the occupant refuses to vacate the structure, in addition to the penalties set out in subsection (a), the town may apply to the circuit court for the appropriate order requiring vacation of premises and compliance with this article.

**SECTION 3. Codification.** It is the intent of the Town Council of the Town of Montverde that the provisions of this Ordinance shall be codified. The codifier is granted broad and liberal authority in renumbering and codifying the provision of this Ordinance.

**SECTION 4. Severability.** If any section, sentence, phrase, word or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word or portion of this Ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

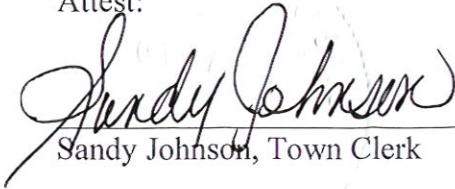
**SECTION 5. Conflicts.** In any case where a provision of this Ordinance is found to be in conflict with a provision of any other ordinance of this Town, the provision of this Ordinance shall govern.

**SECTION 6. Effective Date.** This Ordinance shall become effective immediately upon adoption.


**PASSED AND DULY ADOPTED** by the Town of Montverde, Lake County, Florida this 8<sup>th</sup> day of August, 2023.

Joe Wynkoop, Mayor

Attest:

  
Sandy Johnson, Town Clerk

Approved as to form and legality:

  
Anita Geraci-Carver, Town Attorney

First Reading 7-11-2023  
Second Reading 8-8-2023

Council Member Ley moved the passage and adoption of the above and foregoing Ordinance. Motion was seconded by Council Member Hartle and upon roll call on the motion the vote was as follows:   
Vice Mayor

	YEA	NAY
Billy Bates, Councilmember	✓	
Allan Hartle, Vice Mayor	✓	
Jim Ley, Councilmember	✓	
Jim Peacock, Councilmember	✓	
Joe Wynkoop, Mayor	✓	