

ORDINANCE 2019-025

AN ORDINANCE OF THE TOWN OF MONTVERDE, FLORIDA, AMENDING CHAPTER 5 OF THE TOWN OF MONTVERDE CODE OF ORDINANCES TO CREATE ARTICLE II, ADOPT THE FLORIDA BUILDING CODE AND PROVIDE FOR ADMINISTRATION OF THE FLORIDA BUILDING CODE; PROVIDING FOR PENALTIES; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION AND SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Montverde desires to provide, through a third-party contractor, enforcement of the building code; and

WHEREAS, the Town of Montverde has determined that it is necessary to amend the Town's Code of Ordinances; and

WHEREAS, the Town of Montverde is authorized pursuant to Ch. 166, Florida Statutes and Ch. 553, Florida Statutes to adopt the Florida Building Code and provide for administration thereof in the Town of Montverde.

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. That Article II, in Chapter 5, of the Montverde Code of Ordinances is created to read as follows:

ARTICLE II. - BUILDING CODE

Sec. 5-40 - Florida Building Code adopted.

The Florida Building Code, 2017, or as amended, as promulgated and established by the State of Florida Chapter 553, Florida Statutes, is hereby adopted and shall be known as the building code of Montverde, Florida.

Sec. 5-41. - Schedule of fees and charges.

- (a) *Establishment of fees.* The town council hereby establishes a list of matters, tasks, or services pertaining to the building code for which the town shall levy a fee or charge. It is the intent of these regulations that Montverde shall not be required to bear any part of the cost of applications or petitions made under the Florida Building Code and that the fees and

other costs involved in the processing of applications or petitions shall be borne by the applicant. Fees may be charged for, but not limited to, the following:

- (1) Permits;
- (2) Plans examination;
- (3) Administrative fees;
- (4) Re-inspection fees;
- (5) Failure to call for an inspection;
- (6) Work started without a permit; and
- (7) Other fees as established under the schedule of fees adopted by resolution of the town council.

The council may also adopt by resolution provisions for the waiving or reduction in fees.

- (b) *Schedule of fees.* The schedule of fees and charges shall be available at town hall and posted on the town website. The charges shall be authorized and adopted from time to time by resolution of the town council.
- (c) *Valuation for purposes of calculation of permit fee.* If, in the opinion of the building official, the valuation of building, alteration, structure, electrical, gas, mechanical or plumbing systems appears to be underestimated on the application, a permit shall not be issued, unless the applicant can show detailed estimates to meet the approval of the building official. Permit valuations shall include total cost, such as electrical, gas, mechanical, plumbing equipment and other systems, including materials and labor. The permit valuation may be calculated using the latest building valuation data published by the International Code Council or other applicable model code organization, at the option of the building official.

Sec. 5-42. - Administration.

- (a) *Building department.* The Florida Building Code shall be administered and enforced through the building department and the person in charge shall be known as the building official.
 - (1) *Building official qualifications.* The building official shall be licensed as a building code administrator by the State of Florida. The building official shall be hired or contracted by the town council.
 - (2) *Qualifications.* The building official may hire or contract such number of inspectors, plans examiners, and other employees or firms as shall be required from time to time. A person or firm shall not be appointed or hired or contracted as inspector or plans examiner unless the person performing the work as inspector or plans examiner meets the qualifications for licensure as an inspector or plans examiner in the appropriate trade as established by the State of Florida.
 - (3) *Records.* The building official shall keep, or cause to be kept, a record of the business of the building department. The records of the building department shall be open to public inspection.
- (b) *Powers and duties of the building department and building official.*

- (1) *General.* The building official is hereby authorized and directed to enforce the provisions of this code. The building official shall have the authority to render interpretations of the adopted codes and to adopt policies and procedures in order to clarify the application of their provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of the adopted codes, and shall not have the effect of waiving requirements specifically provided for in the codes.
- (2) *Right of entry.* Whenever necessary to make an inspection to enforce any of the provisions of this or the adopted codes, or whenever the building official has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building, structure, premises, electrical, gas, mechanical or plumbing systems unsafe, dangerous or hazardous, the building official may enter such building, structure or premises at all reasonable times to inspect the same or to perform any duty imposed upon the building official by this or the adopted codes. If such building or premises are occupied, he shall first present proper credentials and request entry. If such building, structure, or premises are unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of such and request entry. If entry is refused, the building official shall have recourse to every remedy provided by law to secure entry.

When the building official shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the building official for the purpose of inspection and examination pursuant to this or the adopted codes.

- (3) *Stop work orders.* Upon notice from the building official, work on any building, structure, electrical, gas, mechanical or plumbing system that is being done contrary to the provisions of this or the adopted codes or in a dangerous or unsafe manner, shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, the building official shall not be required to give a written notice prior to stopping the work.
- (4) *Revocation of permits.* The building official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any provisions of this code.
- (5) *Misrepresentation of application.* The building official may revoke a permit or approval, issued under the provisions of this or the adopted codes, in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
- (6) *Violation of code provisions.* The building official may revoke a permit upon determination by the building official that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the building, structure, electrical, gas, mechanical or plumbing systems for which the permit was issued is in violation of, or not in conformity with, the provisions of this or adopted codes.

- (7) *Unsafe buildings or systems.* All buildings, structures, electrical, gas, mechanical or plumbing systems which are unsafe, unsanitary, or do not provide adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use, constitute a hazard to safety or health, are considered unsafe buildings or service systems. All such unsafe buildings, structures or service systems are hereby declared illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the code.
- (8) *Requirements not covered by code.* Any requirements necessary for the strength, stability or proper operation of an existing or proposed building, structure, electrical, gas, mechanical or plumbing system, or for the public safety, health and general welfare, not specifically covered by this or the other technical codes, shall be determined by the building official.

(c) *Permits.*

- (1) *Permit and permit fee required.* It shall be unlawful for any person, firm or corporation to construct, erect, alter, repair, enlarge, move, or demolish any building or structure; or to erect, install, enlarge, alter, repair, remove, correct, or replace any electrical, gas, mechanical or plumbing system, or cause any such work to be done within the Town of Montverde without first making application and obtaining a permit therefore from the building department, and upon payment of fees as adopted herein.
- (2) *Drawings and specifications additional data.* In addition to the submittals required by the Florida Building Code, the building official shall be allowed to require details, computations, stress diagrams, and other data necessary to describe the construction or installation and the basis of calculations.
- (3) *Additional information required prior to issuance of permit.* Prior to issuance of any building permit, the building official shall be allowed to require information to ensure conformance with other town or other agency regulations, including but not limited to:
 - (i) Zoning review and approval.
 - (ii) Submittal of a sealed boundary survey noting property boundaries and the location of any improvements on the land.
 - (iii) Right of way utilization permits, driveway permits or approval from the town engineer verifying that public improvements to support proposed development on the land.
 - (iv) Site development plan approval.
 - (v) Subdivision approval.

(d) *Conditions of the permit.*

- (1) *Permit intent.* A permit issued shall be construed to be a license to proceed with the work and not as authority to violate, cancel, alter or set aside any of the provisions of the technical codes, nor shall issuance of a permit prevent the building official from thereafter requiring a correction of errors in plans, construction, or violations of this code.

(2) *Work commencing before permit issuance.* Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the building official's approval or the necessary permits shall be subject to a penalty or additional permit fee as adopted herein. This provision shall not apply to emergency work when said work is authorized by the building official. In all such emergency cases the required permit(s) must be obtained within three (3) business days and any unreasonable delay in obtaining those permit(s) shall result in a penalty or additional permit fee as adopted herein. The payment of additional permit fee for commencing work without a permit shall not preclude or be deemed a substitute for prosecution for commencing work without first obtaining a permit. The building official may grant extensions of time when justifiable cause has been demonstrated in writing,

(e) *Inspections.*

(1) *Existing building inspections.* Before issuing a permit, the building official may examine or cause to be examined any building, electrical, gas, mechanical, or plumbing systems for which an application has been received for a permit to enlarge, alter, repair, move, demolish, install, or change the occupancy. He shall inspect all buildings, structures, electrical, gas, mechanical and plumbing systems, from time to time, during and upon completion of the work for which a permit was issued. He shall make a record of every such examination and inspection and of all violations of the technical codes.

(2) *Additional inspections as required.* When deemed necessary by the building official, he shall make, or cause to be made, additional inspections, technical reports, or certifications beyond those required by the adopted building code.

(3) *Final inspection required.* No building, use, or improvement is deemed complete or authorized for use until receiving final inspection approval by the building official.

(4) *Responsibility for notice of inspections.* It shall be the responsibility of the permit holder to request any and all minimum inspections required by the building code. All issued permits require at a minimum a final inspection.

(f) *Certificates.*

(1) *Certificates of occupancy required.* No building presently under construction, or hereinafter erected, altered or enlarged, shall be used or occupied in whole or in part until a certificate of occupancy shall have been issued by the building official, certifying that the building and occupancy are in accordance with the provisions of the adopted building code and all other ordinances and laws applicable thereto.

(2) *Site improvement acceptance.* When deemed necessary to ensure compliance with other town codes or regulations, the building official shall require a statement under the seal of professional engineer, licensed by the State of Florida, of record for the project certifying that, based on a final inspection made by such engineer, the site construction has been done in accordance with the approved site plan on file with the town and that all site construction has been in compliance with applicable town codes and regulations. The building official may also require statements of acceptance of any site improvement from other town departments or agencies having jurisdiction.

- (3) *Other certificates.* The building official is authorized to issue other certificates as specified in the adopted building code or as may be required by other town codes or regulations.
- (4) *Grounds for revocation; effect.* The building official shall have the authority to revoke a certificate of occupancy for any building which is occupied, in whole, or in part, for any use not authorized or which is changed in occupancy to a classification where such occupancy does not comply with the building code and all other ordinances and law applicable thereto, or for any building where the live loads imposed on any floor or the number of persons permitted to assemble therein or thereon exceed those authorized in said certificate.

Sec. 5-43. - Penalty for violation.

It shall be unlawful for any person, firm, corporation, or agent to violate or fail to comply with any provisions of this article "Building Code" and regardless of any provision of law to the contrary the violation of any provision of this article shall be enforced as follows:

- (a) Enforcement by other means including, but not limited to: county or circuit court; an action before the special magistrate/code enforcement board; or a civil action for injunctive relief; or,
- (b) Punished in accordance with general penalty set forth in section 1-12 of this Code.

Each such person, firm, corporation, or agent shall be considered guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this code is committed or continued.

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 ____ day of _____, 2019.

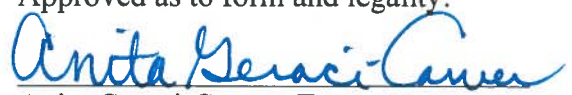



Joe Wynkoop, Mayor


Judy Smith, Council President

Attest:


Brenda Brasher, Town Clerk

Approved as to form and legality:


Anita Geraci-Carver, Town Attorney

First Reading held September 10, 2019
Second Reading held October 8, 2019
Advertised September 19, 2019

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

	YEA	NAY
Bill Bates	X	
Allan Hartle	absent	
Jim Ley	X	
Jim Peacock	X	
Judy Smith	X	

Affidavit of Publication

DAILY COMMERCIAL

Leesburg, Lake County Florida
STATE OF FLORIDA, COUNTY OF LAKE

Before the undersigned authority personally appeared
Lisa Clay

Lisa Clay

who on oath says that she is an authorized employee of the Daily Commercial, a daily newspaper published at Leesburg, in Lake County, Florida; that the attached copy of advertisement, being a notice in the matter of

Public Hearing

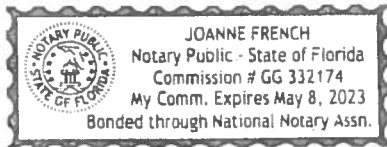
was published in said newspaper in the issues of:

Sept 19, 2019

Affiant further says that the said Daily Commercial is published at Leesburg, in said Lake County, Florida, and that the said newspaper has heretofore been continuously published in said Lake County, Florida, daily, and has been entered as second class mail matter at the post office in Leesburg, in said Lake County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and subscribed before me this 19 day of Sept A.D., 2019.

Joanne French
Notary Public



Joanne French
(Print, Type or Stamp Name of Notary Public)

AD#

1009 0793

NOTICE OF PUBLIC HEARING TOWN OF MONTERVERDE

Notice is hereby given that the Town of Montverde, Florida is proposing to adopt an Ordinance as follows:

ORDINANCE 2019-025

AN ORDINANCE OF THE TOWN OF MONTERVERDE, FLORIDA, AMENDING CHAPTER 5 OF THE TOWN OF MONTERVERDE CODE OF ORDINANCES TO CREATE ARTICLE II, ADOPT THE FLORIDA BUILDING CODE AND PROVIDE FOR ADMINISTRATION OF THE FLORIDA BUILDING CODE; PROVIDING FOR PENALTIES; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION AND SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

The public may inspect the proposed Ordinance at Montverde Town Hall, 17404 Sixth St, Montverde, Florida, between 7:00 a.m. to 6:00 p.m. Monday through Thursday.

The Montverde Town Council will hold a public hearing on the proposed Ordinance on Tuesday, October 8, 2019, at 7:00 p.m. or soon thereafter at Montverde Town Hall, 17404 Sixth St. Montverde, Florida. If necessary, this public hearing may be continued to a time and date certain by announcement at this scheduled hearing without any further published notice.

ALL PARTIES ARE INVITED to appear and submit oral or written objections or comments regarding the proposed Ordinance. Persons needing special accommodation to participate in this proceeding should contact Town Hall at (407) 469-2681 within 48 hours of the scheduled hearing.

Pursuant to section 286.0105, Florida Statutes, if any person decides to appeal any decision made by the City Council with respect to any matter considered at this public meeting, such person will need a record of the proceedings and for such purpose, such person may need to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which the appeal is to be based.

Ad No: 10090793
September 19, 2019