

ORDINANCE 2016 - 01

**AN ORDINANCE OF THE TOWN OF MONTVERDE,
LAKE COUNTY, FLORIDA INCLUDING
INVOCATION IN THE OPENING CEREMONY FOR
TOWN COUNCIL MEETINGS; CODIFYING A
POLICY REGARDING INVOCATIONS IN CHAPTER
2 OF THE CODE OF ORDINANCES; PROVIDING
FOR REPEAL OF ALL CONFLICTING
ORDINANCES; PROVIDING FOR SEVERABILITY
AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the Town Council of the Town of Montverde (the “Town Council”) is an elected legislative and deliberative public body, serving the citizens of Montverde; and

WHEREAS, the Town Council desires to maintain a tradition practiced by Congress and dozens of state legislatures by opening its legislative meetings with prayer to place the Town Council in a solemn and deliberative frame of mind and invoke divine guidance in Town affairs for the benefit and blessing of the Town Council; and

WHEREAS, the Town Council now desires to adopt this formal, written policy to clarify and codify its invocation practices; and

WHEREAS, our country’s Founders recognized that we possess certain rights that cannot be awarded, surrendered, nor corrupted by human power, and the Founders explicitly attributed the origin of these, our inalienable rights, to a Creator. These rights ultimately ensure the self-government manifest in our Town Council, upon which we desire to invoke divine guidance and blessing; and

WHEREAS, such invocation before deliberative public bodies has been consistently upheld as constitutional by American courtS, including the United StateS Supreme Court; and

WHEREAS, in *Marsh v. Chambers*, 463 U.S. 783 (1983), the United States Supreme Court rejected a challenge to the Nebraska Legislature’s practice of opening each day of its sessions with a prayer by a chaplain paid with taxpayer dollars, and specifically concluded, “The opening of seasons of legislative and other deliberative public bodies with prayer is deeply embedded in the history and tradition of this country. From colonial times through the founding of the Republic and ever since, the practice of legislative prayer has coexisted with the principles of disestablishment and religious freedom.” *Id.*, at 786; and

WHEREAS, the Town Council desires to avail itself of the Supreme Court’s recognition that it is constitutionally permissible for a public body to “invoke divine guidance” on its work. *Id.*, at 792. Such invocation “is not, in these circumstances, an

‘establishment’ of religion or a step toward establishment; it is simply a tolerable acknowledgement of beliefs widely held among the people of this country.” *Id.*; and

WHEREAS, in *Town of Greece v. Galloway*, 134 S.Ct. 1811 (May 5, 2014), the United States Supreme Court validated opening prayers at meetings of the Town Council finding that “legislative prayer lends gravity to public business, reminds lawmakers to transcend petty differences in pursuit of a higher purpose, and expresses a common aspiration to a just and peaceful society.” *Id.* at 6; and

WHEREAS, the Supreme Court has counseled against the efforts of government officials to affirmatively screen, censor, prescribe and/or proscribe the specific content of public prayers offered by private speakers; and

WHEREAS, the Town Council intends to adopt a policy that does not proselytize or advance any faith, or show any purposeful preference of one religious view to the exclusion of others; and

WHEREAS, the Town Council desires and intends to establish a policy that is consistent with the guidance provided by several courts that have considered the validity of public invocations; and

WHEREAS, numerous courts have approved an invocation practice that incorporated a neutral system to invite religious leaders from the local community and/or volunteers to provide an invocation before public meetings. *Town of Greece, Id.*; and

WHEREAS, the Town Council of the Town of Montverde, Lake County, Florida accepts as binding the applicability of general principals of law and all the rights and obligations afforded under the United States and Florida Constitutions and statutes, and hereby finds and declares that the adoption of this ordinance is necessary, appropriate, and in the public interest of the citizens of this community.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MONTVERDE, LAKE COUNTY, FLORIDA AS FOLLOWS:

Section 1. Recitals.

The above recitals are true and correct and, by this reference, are hereby incorporated into and made an integral part of this ordinance.

Section 2. Invocation.

That Section 2-35 in Chapter 2, of the Montverde Code of Ordinances is hereby created to read as follows:

Sec. 2-35. Invocation.

- (a) In order to solemnize proceedings of the Town Council, it is the policy of the Town Council to allow for an invocation to be offered before its meetings for the benefit of the Town Council.
- (b) No member or employee of the Town Council or any other person in attendance at the meeting shall be required to participate in any invocation that is offered and such decision shall have no impact on the ability of the person to actively participate in the business of the Town Council.
- (c) No member or employee of the Town Council will direct the public to stand, bow or in any way participate in the invocation, although the official overseeing the meeting may invite only those who wish to do so to stand for the observation of the Pledge of Allegiance and invocation.
- (d) The invocation shall be voluntarily delivered by an eligible representative of a Congregations List for the Town of Montverde. To ensure that such person (the "invocation speaker") is selected from among a wide pool of representatives, on a first-come, first serve and rotating basis, the invocation speaker shall be selected according to the following procedure:
 - 1. The Town Clerk shall compile and maintain a database (the "Congregations List") of the religious congregations with an established presence in the Town of Montverde that regularly meet for the primary purpose of sharing a religious perspective.
 - 2. The Congregations List shall be compiled by using reasonable efforts, including research from the Internet, to identify all congregations, places of worship, churches, synagogues, temples, mosques or other religious congregations in the Town of Montverde. All religious congregations with an established presence in the Town of Montverde are eligible to be, included in the Congregations List, and any such religious assembly can confirm its inclusion by specific written request to the Town Clerk.
 - 3. The Congregations List shall also include any religious assembly located outside the Town of Montverde if such congregation is attended by at least one resident of the Town of Montverde and such resident requests including of the congregation by specific written request to the Town Clerk.
 - 4. The policy is intended to be and shall be applied in a way that is all-inclusive of every diverse religious congregation serving the citizens of the Town of Montverde. The Congregations List is compiled and used for purposes of logistics, efficiency, and equal opportunity for all of the community's religious leaders, who may themselves choose whether to respond to the Town's invocation and participate. Should a question arise as to the authenticity of a religious assembly, the Clerk shall refer to criteria used by the Internal Revenue Service in its determination of those organizations that would legitimately qualify for Section 501(c)(3) tax-exempt status.
 - 5. The Congregations List shall be updated, by reasonable efforts of the Town Clerk, on or about the month of November of each calendar year.

6. Within thirty (30) days of the effective date of this policy, and on or about December 1 of each calendar year thereafter, the Town Clerk shall mail an invitation addressed to the “religious leader” of each congregation listed on the Congregations List.
7. The invitation shall be dated at the top of the page, signed by the Town Clerk at the conclusion of the invitation, and read as follows:

Dear Religious Leader,

The Town Council of the Town of Montverde makes it a policy to invite members of the clergy or religious representatives in the Town of Montverde to voluntarily offer an invocation before the beginning of its council meetings, for the benefit and blessing of the Town Council. As a representative of one of the religious congregations with an established presence serving in the Town of Montverde, or as the religious leader of one or more Town of Montverde residents, you are eligible to offer this important service at an upcoming meeting of the Town Council.

If you are willing to assist the Town Council in this regard, please send a written reply at your earliest convenience to the Town Clerk at the address included on this letterhead. Clergy are scheduled on a first-come, first-serve basis and thereafter, on a rotating basis. The dates of the Town Council’s scheduled meetings for the upcoming year are listed on the following, attached page. If you have a preference among the dates, please state that request in your written reply.

This opportunity is voluntary, and you are free to offer the invocation according to the dictates of your own conscience. To maintain a spirit of respect, the Town Council requests only that the opportunity not be exploited as an effort to convert others to the particular faith of the invocation speaker or to disparage any faith or belief different than that of the invocation speaker.

On behalf of the Town Council of the Town of Montverde, I thank you in advance your considering this invitation.

Sincerely,

Town Clerk

Attachment: Date of Council meetings

- (e) The respondents to the invitation shall be scheduled on a first-come, first-serve basis to deliver the invocation, and thereafter on a rotating basis.

- (f) In the event an eligible representative of a congregation believes the Town Clerk has not complied with the terms of this policy, the representative has the right to have the matter reviewed by the Town Council.
- (g) No invocation speaker shall receive compensation for his or her service.
- (h) Neither the Commission nor the Town Clerk shall engage in any prior inquiry, review of, or involvement in, the content of any invocation to be offered by an invocation speaker.
- (i) The Town Clerk shall make every reasonable effort to ensure that a variety of eligible invocation speakers are scheduled for the Town Council's meetings.
- (j) This policy is not intended, and shall not be implemented or construed in any way, to affiliate the Town Council with, nor express the Town Council's preference for, any faith or religious denomination. Rather, this policy is intended to acknowledge and express the Town Council's respect for the diversity of religious denominations and faiths represented and practiced among the citizens of the Town of Montverde.

Section 3. Conflicts And Ordinances Repealed.

All ordinances or parts of ordinances in conflict are hereby repealed.

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. Codification.


It is the intent of the Town Council of the Town of Montverde that the provisions of this chapter shall become and made a part of the Town of Montverde Code of Ordinances; and grants authority to the codifier to renumber or re-letter sections, and change the words in this ordinance to section, article, chapter or such other appropriate word or phrase in order to accomplish such intentions.


Section 6. Effective Date.

This Ordinance shall become effective immediately upon adoption.

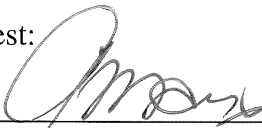
PASSED AND DULY ADOPTED by the Town of Montverde, Lake County, Florida
this

9 day of February, 2016

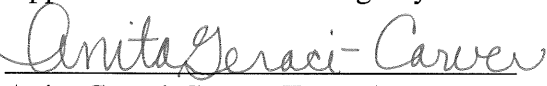


Joe Wynkoop, Mayor


Billy Bates, Council President

Attest: 

Graham Wells, Town Clerk

Approved as to form and legality:


Anita Geraci-Carver, Town Attorney

First Reading 12 January 2016

Second Reading 9 February 2016

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

	YEA	NAY
Billy Bates	✓	
Glenn Burns	✓	
Jim Ley	✓	
Jim Peacock	✓	
Judy Smith	✓	