

ORDINANCE NO. 2014-03

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2  
3 AN ORDINANCE OF THE TOWN OF WINDERMERE, FLORIDA  
4 PERTAINING TO PUBLIC HEALTH AND SAFETY; ADDING A NEW  
5 ARTICLE ENTITLED "UNSAFE STRUCTURES" TO CHAPTER 6 OF  
6 THE TOWN OF WINDERMERE'S CODE OF ORDINANCES TO  
7 PROVIDE FOR THE REPAIR, CONDEMNATION AND DEMOLITION  
8 OF UNSAFE STRUCTURES; PROVIDING DEFINITIONS; DECLARING  
9 UNSAFE STRUCTURES TO BE A NUISANCE; PROHIBITING THE  
10 MAINTENANCE OR EXISTENCE OF AN UNSAFE STRUCTURE IN  
11 THE TOWN; SETTING FORTH THE POWERS AND DUTIES OF THE  
12 TOWN'S CODE INSPECTOR; PROVIDING FOR THE ORDER OF  
13 CONDEMNATION, PLACARDING, AND THE NOTICE AND ORDER OF  
14 THE CODE INSPECTOR; PROVIDING THE METHODS OF SERVICE  
15 OF THE CONDEMNATION/DEMOLITION NOTICE AND ORDER;  
16 PROVIDING AN EXTENSION OF TIME TO COMPLY WITH THE  
17 CONDEMNATION/DEMOLITION ORDER; PROVIDING FOR THE  
18 TOWN'S ACTION WHEN AN OWNER OR INTERESTED PARTY FAILS  
19 TO COMPLY WITH THE CONDEMNATION/DEMOLITION NOTICE  
20 AND ORDER; PROVIDING FOR EMERGENCY CONDEMNATIONS;  
21 PROVIDING FOR APPEALS; REQUIRING UNSAFE STRUCTURES TO  
22 BE SECURED; PROVIDING STANDARDS FOR THE CONDITION OF A  
23 LOT AFTER DEMOLITION; AUTHORIZING THE IMPOSITION AND  
24 LEVY OF SPECIAL ASSESSMENTS IF COSTS ARE INCURRED BY  
25 THE TOWN AND NOT REIMBURSED BY THE PROPERTY OWNER  
26 AND, IF APPLICABLE, THE PROPERTY AGENT, CUSTODIAN,  
27 LESSEE, OR OCCUPANT; REQUIRING NOTICES OF ASSESSMENT;  
28 ESTABLISHING THE TOWN AS A SPECIAL ASSESSMENT DISTRICT;  
29 AUTHORIZING THE LEVY OF NON-AD VALOREM ASSESSMENTS  
30 AND PROVIDING FOR THE COLLECTION OF NON-AD VALOREM  
31 ASSESSMENTS; AUTHORIZING AN AGREEMENT WITH THE  
32 ORANGE COUNTY PROPERTY APPRAISER AND TAX COLLECTOR;  
33 AUTHORIZING AND REQUIRING THE ADOPTION OF A  
34 RESOLUTION REGARDING THE TOWN'S USE OF THE UNIFORM  
35 METHOD OF COLLECTING NON-AD VALOREM ASSESSMENTS;  
36 PROVIDING FOR ANNUAL NON-AD VALOREM ASSESSMENT  
37 ROLLS; PROVIDING TRANSITION PROVISIONS AND RATIFYING  
38 ASSESSMENTS TO RECOVER COSTS INCURRED BY THE TOWN TO  
39 REMEDY VIOLATIONS PRIOR TO THE ORDINANCE'S  
40 ENACTMENT; PROVIDING FOR SEVERABILITY, CODIFICATION  
41 AND AN EFFECTIVE DATE.

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43 BE IT ENACTED BY THE PEOPLE OF THE TOWN OF WINDERMERE:  
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45           **Section 1. Amendments to Chapter 6 of the Code of Ordinances.** A new article  
46 entitled “Unsafe Structures” is hereby added to Chapter 6 of the Town of Windermere’s code of  
47 ordinances to read as follows:

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49           **Sec. 6-10. Definitions.**

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

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54           *Code inspector* means the person officially designated by the town manager to perform  
55 the duties described in this article.

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57           *Condemn* means to determine a structure or dwelling is unfit or unsafe for occupancy.

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59           *Dwelling* means any building or structure, including any room or group of rooms located  
60 within a dwelling and forming a single unit with facilities, which are intended to be used for  
61 living quarters by human occupants.

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63           *Dilapidated/dilapidation* means structures, dwellings, dwelling units, multiple dwellings,  
64 apartments, including garages, sheds, and similar accessory structures and fences which, by  
65 reason of inadequate maintenance or abandonment, are a threat to health and safety, or which  
66 constitute a fire hazard or are otherwise dangerous to human life or property.

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68           *Interested party* means a person or entity who has an interest in real estate which is  
69 subject to condemnation or demolition proceedings, including the owner of record title, lessees,  
70 tenants, or occupants, if any, and any persons of record interest, including mortgagee, contract  
71 purchaser, agent with power of attorney, or person claiming an interest under lis pendens or the  
72 like.

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74           *Lessee* means any person who has a possessory interest in any dwelling or structure.

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76           *Manmade body of water* means, but shall not be limited to, a swimming pool, fish pond,  
77 spa or hot tub, but excludes ponds created pursuant to the town, state, federal or regional  
78 regulations or by the town for stormwater retention and treatment purposes.

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80           *Occupant* means any person living, sleeping, cooking, or eating in or having actual  
81 possession of a dwelling.

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83           *Repair* means the replacement of existing work with the same kind of material used in the  
84 existing work, not including additional work that would change the structural safety of the  
85 building or that affect or change required exit facilities, a vital element or elevator, plumbing, gas  
86 piping, wiring or heating installations, or that would be in violation of a provision of law,  
87 provision of this code, or other town ordinance. The term “repair” or “repairs” shall not apply to  
88 any change of construction.

90           *Special magistrate* means the person or persons designated by the town council who is  
91 hereby also given authority to hear appeals as specified in this article.

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93           *Structure* means that which is built or constructed, an edifice or building of any kind,  
94 including garages, sheds, and similar accessory structures and fences, or any piece of work  
95 artificially built up or composed of parts joined together in some definite manner. The term  
96 “structure” shall be construed as if followed by the words “or part thereof”.

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98           *Tenant* means any person living, sleeping, cooking, or eating in or having actual  
99 possession of a dwelling.

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101           *Unfit* means unsanitary, unsuitable, or improper for the use or occupancy for which it is  
102 intended.

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104           *Unsafe* means structurally unsafe, unstable, inadequately provided with exit facilities, not  
105 provided with permanent means of adequately securing all openings against unauthorized entry  
106 and deterioration from weather, constituting a fire hazard, constituting a hazard to health or  
107 safety due to inadequate maintenance, dilapidation, abandonment, or otherwise dangerous to life  
108 or property or to the health, safety, or welfare of the occupants thereof or the surrounding areas.

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110           *Unsanitary* means, but is not limited to, inadequate or malfunctioning water or plumbing  
111 system(s), sanitary facilities, or waste disposal systems, and infestation within or around a  
112 structure of insects, rodents, or other pests.

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114 **Sec. 6-11. Declared nuisances.**

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116 Unsafe structures in the town are hereby declared to be a nuisance.

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118 **Sec. 6-12. Permitting or maintaining.**

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120 It shall be unlawful to maintain or permit the existence of any unsafe structure in the town; and it  
121 shall be unlawful for the owner, occupant or person in custody of any unsafe structure to permit  
122 the same to remain in an unsafe condition, or to occupy such building or permit it to be occupied  
123 while it is or remains in an unsafe condition.

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125 **Sec. 6-13. Scope, effect, and applicability.**

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127           (a)    The provisions of this article shall apply to the condition and maintenance,  
128 construction, alteration, repair, equipment, use and occupancy, removal and  
129 demolition of every building or structure used or intended for commercial or  
130 residential use or occupancy, in whole or in part, and shall fix certain  
131 responsibilities and duties on owners, operators and occupants of commercial and  
132 residential premises and occupancies, and shall authorize the inspection of such  
133 premises and occupancies and provide for penalties for violation of the provisions  
134 of this article.

- 135 (b) No provisions of this article shall be held to deprive any federal or state agency or  
136 any municipal authority having jurisdiction thereof, of any power or authority  
137 which it had on the effective date of this article, or of any remedy then existing  
138 for the enforcement of its orders, nor shall it deprive any individual or corporation  
139 of its legal rights as provided by law.
- 140 (c) Except as otherwise provided herein, the provisions of this article shall apply to  
141 any structure, irrespective of when the structure was constructed, altered or  
142 repaired.

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**Sec. 6-14. Penalties for violation of this article.**

146 The town may pursue any enforcement action or legal remedy available under controlling state  
147 law and any other legal remedy available to the town through its code of ordinances when any  
148 provision of this article has been violated, or if any person fails to comply herewith or with any  
149 of the requirements of any order of the code inspector, or who erects, constructs, alters,  
150 demolishes, or moves any structure, or has erected, constructed, altered, repaired, moved, or  
151 demolished a building or structure in violation of this article.

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**Sec. 6-15. Powers and duties of code inspector; determination of interested parties.**

- 155 (a) The code inspector shall be charged with the duty of administering the applicable  
156 standards and securing compliance therewith and in furtherance of this  
157 responsibility, the code inspector shall:
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- 159 (1) Make such inspections as may be necessary to effectuate the purposes and  
160 intent of this article.
- 161 (2) Investigate any complaints of alleged violation of this article regarding  
162 unfit or unsafe dwellings or structures and maintain a log reflecting the  
163 resolution thereof.
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- 165 (b) When the code inspector verifies the existence of an unfit or unsafe dwelling or  
166 structure, it shall be his/her duty to promptly prepare and submit to the town  
167 manager or his designee, the notice and order required by this article. The town  
168 manager or his designee, with the assistance of the town attorney, shall determine  
169 the interested parties in the real estate upon which the unfit or unsafe dwelling or  
170 structure is located and send a notice and order of condemnation to such parties.
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- 172 (c) Members of the police department, public works department, and any other town  
173 department may make written reports to the code inspector concerning dwellings  
174 or structures which appear to be unfit or unsafe within the terms of this article.  
175 The town manager may authorize that the code inspector utilize the services of  
176 private engineers, architects, or other professionals in order to determine the  
177 condition of the structure in question, and such costs shall be assessed in the same  
178 manner as provided for in section 6-25.
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180 (d) The code inspector is authorized to request an administrative search warrant  
181 whenever the code inspector is denied access to a property and has reason to  
182 believe that a violation may exist.  
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184 **Sec. 6-16. - Order of condemnation; placarding.**  
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186 (a) The code inspector shall cause to be posted a notice/placard stating “Condemned:  
187 This building unfit for human habitation.” Such posting shall be placed at the  
188 entrance to a dwelling or structure that is found to be unsafe or unfit. Such notice  
189 shall be protected from the weather and natural elements. The notice shall remain  
190 posted until the required repairs are made or until the building or structure is  
191 demolished.  
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193 (b) Unless otherwise prescribed by the code inspector, it shall be unlawful for any  
194 person to enter such a dwelling or structure except for the purpose of making  
195 required repairs or demolishing it.  
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197 (c) No person shall occupy or let to another for occupancy such a posted building or  
198 structure except as provided for in this article. If the dwelling or structure is  
199 occupied at the time of the posting, the dwelling or structure must be vacated  
200 within fourteen (14) days unless otherwise prescribed by the code inspector for  
201 good and sufficient reasons after the notice is posted. The owner shall  
202 immediately begin action to vacate the structure or to bring it into compliance  
203 within the time prescribed.  
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205 (d) It shall be unlawful for any person to remove or deface the placard which has  
206 been posted on an unsafe or unfit dwelling or structure, and the placard shall  
207 remain until such time as the code inspector requires the placard to be removed.  
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209 (e) If, after inspection, the code inspector determines that the dwelling or structure is  
210 uninhabited, the code inspector shall cause to be posted a “No Trespassing” sign  
211 to prevent entry into the premises by third parties who might be exposed to the  
212 risk of danger created by the unsafe structure. It shall be unlawful for any person  
213 to remove or deface the “No Trespassing” sign, and it shall remain until such time  
214 as the code inspector requires it to be removed.  
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216 **Sec. 6-17. - Notice and order of code inspector.**  
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218 (a) The notice of condemnation/demolition and order of the code inspector may  
219 require the securing of, vacation, demolition, or removal of any unfit or unsafe  
220 dwelling or structure, or may order the repair of any part of same; provided,  
221 however, that no dwelling or structure shall be subject to repair where the cost of  
222 repairing or restoring any part or parts thereof would exceed fifty (50) percent of  
223 the value of such structure after repair or restoration.  
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225 (b) The notice shall include:

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- (1) The description of the location of the dwelling or structures and/or land involved either by street address or by legal description.
  - (2) Specification of the sections of this article upon which the violation is based.
  - (3) A statement of the nature and extent of any repairs necessary to comply with this article and/or the nature and extent of any measures which must be taken to secure the premises, if applicable.
  - (4) If the unfit or unsafe dwelling or structure is of such a character that repairs cannot bring the building into compliance, a statement to this effect and an order of demolition of the building indicating fully the reason therefore.
  - (5) If demolition of a structure is necessary for compliance, a specification of time for performing such demolition shall be stated in the notice, which shall not be less than ten (10) days or more than ninety (90) days.
  - (6) The code inspector may order such repairs or demolition to be completed within such time as he determines to be reasonable considering the nature of the unfit or unsafe dwelling or structure, the danger to the public, and the amount of work involved to repair or demolish.
  - (7) The names of the person upon whom the notice is served.
  - (8) A statement advising that upon the owner's failure to comply with the notice: (i) the town may secure, vacate, demolish, remove, or otherwise abate the unfit or structure in accordance with the order stated in the notice; (ii) the expense of such performance by the town shall be charged against the real property; and (iii) if the town is not timely reimbursed for the expense, a non-ad valorem special assessment will be imposed on the property.
  - (9) A statement advising of the procedures for appeal of the action of the code inspector as set out in section 6-21 herein.
- (c) The notice and order shall require the owner and other interested parties within a stated number of days, not to exceed thirty (30) days after service, to obtain a permit and begin specified repairs, or begin to demolish and remove the dwelling or structure or portion thereof. This work shall be completed at a specified date as set forth in subsection (b)(5) above. Any demolition permit necessary as a result of any condemnation under this article shall not require a fee.

**Sec. 6-18. - Service of notice and order.**

- (a) It shall be the duty of the town manager or his designee, to see to it that a copy of the required notice and order is delivered to the interested parties by:
  - (1) Certified mail, return receipt requested and a copy sent by first-class mailing, provided if such notice is sent under this section to interested parties, and the certified mail is returned as unclaimed or refused, notice may be provided by publishing as described in subsection (5) herein, and

- 272 by first-class mail directed to the interested parties, with a properly  
273 executed proof of mailing or affidavit confirming the first-class mailing;  
274 (2) Hand-delivery by the police chief or other law enforcement officer;  
275 (3) Leaving the notice at the interested party's usual place of residence with  
276 any person residing therein who is above fifteen (15) years of age and  
277 informing such person of the contents of the notice;  
278 (4) In the case of commercial premises, leaving the notice with the manager  
279 or other person in charge; or  
280 (5) If the name of any interested persons or his or her place of residence or his  
281 or her post office address cannot be ascertained after diligent search, or if  
282 a notice sent by registered or certified mail shall be returned undelivered,  
283 by publishing a copy thereof once in a newspaper of general circulation  
284 within the town. A copy of such notice and order shall be posted in a  
285 conspicuous place in town hall and upon such dwelling or structure.

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287 (b) Failure to effect personal service shall not prevent the town from performing the  
288 demolition or from levying a non-ad valorem assessment on the property.  
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290 **Sec. 6-19. - Extension of time to comply.**

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292 If the interested parties shall have timely obtained a building or demolition permit within the  
293 time required in the code inspector's notice and order, and in good faith and in due time have  
294 begun work to comply with the order, but it appears that they will not be able to complete the  
295 work by the date ordered because of extenuating circumstances, they may file a written request  
296 stating the reasons they have been unable to complete compliance. If reasonable grounds and  
297 extenuating circumstances are shown therefore, the code inspector is authorized to issue an  
298 amended order authorizing an extension of time, not to exceed sixty (60) days, in which to  
299 complete compliance with the original order.  
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301 **Sec. 6-20. - Town action on failure to comply.**

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303 (a) If the owner or other parties in interest fail to repair the dwelling or structure  
304 within the time prescribed by the notice and order of the code inspector, and in the  
305 absence of reasonable grounds and extenuating circumstances as would justify an  
306 extension of time therefore, the town manager or his designee may order a  
307 vacation of the premises until compliance or a demolition of the structure is  
308 completed.  
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310 (b) If the owner or other parties in interest shall fail to comply with an order made  
311 pursuant to the provisions of this article within the time therein fixed, the town,  
312 acting through the town manager or his designee, is authorized to vacate,  
313 demolish or remove or otherwise provide temporary safeguards in accordance  
314 with such order, either with town forces or by independent contractors submitting  
315 the lowest and best bid.  
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317 **Sec. 6-21. - Appeal procedure.**

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- (a) Appeals may be taken of a notice and order of condemnation/demolition issued pursuant to this section by any interested party who has been aggrieved, except in emergency cases as set forth in section 6-22 herein. Such party is afforded a right of hearing upon payment of any appeal fee set by resolution of town council, and a written request for such hearing shall be sent by the aggrieved party to the town manager or his designee, within ten (10) days of service of notice and order of condemnation/demolition, or within ten (10) days of posting or publication of the notice required in section 6-18.
- (b) Upon receipt of the notice of appeal, the town manager or his designee, shall set a hearing before the special magistrate. The notice of the appeal hearing shall be sent by first-class mail to the interested party requesting the appeal and to any other interested parties. Said notice shall be sent at least ten (10) days prior to the appeal hearing. The hearing before the special magistrate shall be set as soon as practicable, but under no circumstances shall the hearing date be established beyond thirty (30) days of the filing of the notice of appeal.
- (c) All appeal proceedings shall be public. In any hearing before the special magistrate, formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. Each hearing shall be electronically recorded.
- (d) The burden of proof by a preponderance of the evidence is upon the town to show that the subject dwelling or structure is unfit or unsafe as defined in this article. At the hearing, the special magistrate shall affirm, modify, or reverse the findings of the code inspector that the subject dwelling or structure is unfit or unsafe as defined in this article. If the special magistrate agrees with the determination of the code inspector, he shall enter a final order approving the repair or demolition.
- (e) When the findings of the special magistrate sustain the code inspector, the special magistrate may set a new deadline for compliance or authorize the code inspector to proceed to repair or demolish and remove the dwelling or structure, including accessory buildings and manmade bodies of water if necessary, and report the cost to the town council as provided herein.
- (f) All orders of the special magistrate shall be issued in writing and shall contain findings of fact and conclusions of law supporting the decision. Any person aggrieved by the decision of the special magistrate may seek judicial review in accordance with applicable law.

**Sec. 6-22. - Emergency condemnations; assessment of costs; appeals.**

- (a) Emergency condemnation.



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- (1) 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 weather conditions, fire, other natural disasters or the particular location of the subject property, unless an unfit or unsafe dwelling or structure, including an accessory building or manmade body of water, is immediately repaired, demolished, or removed, the code inspector shall promptly cause such building, structure or portion thereof, including an accessory building or manmade body of water, to be made safe or removed. For this purpose the code inspector may at once enter such a structure or land on which it stands, or abutting land or structures, to perform an inspection with such assistance and at such cost as may be deemed necessary.
  - (2) Upon inspection, the code inspector, shall determine whether the dwelling or structure or portion thereof, including any accessory building or manmade body of water requires immediate emergency demolition in order to maintain the safety and welfare of the owner, tenants, or public. A written report will document results of these inspections. Exterior and interior photographs of the dwelling, structure, or portion thereof including any accessory building or manmade body of water will be taken when feasible.
  - (3) The code inspector may order the vacation of adjacent structures and may require the protection of the public by appropriate fence or such other means as may be necessary, and for this purpose may close a public or private way.
  - (4) If the code inspector determines there is sufficient time prior to demolition, a notice and order will be provided via priority mail, courier delivery or by other reasonable means to the owner and interested parties informing him/her/them of the emergency demolition. This written notification must state the findings of the code inspector, documenting cause for demolition or removal. Where the owner or other interested party fails to take immediate corrective action as ordered by the code inspector, the code inspector shall have the authority to promptly proceed with the abatement of the unsafe structure in accordance with this section. Failure to effect personal notice upon the individual owner or interested parties shall not prevent the town from performing the emergency demolition or removal and levying a non-ad valorem assessment on the property. All costs incurred in the evaluation, vacation, security and emergency demolition are the responsibility of the property owner, shall be reported to town council, and the town shall impose a non-ad valorem special assessment on the property if the town is not timely reimbursed for the costs.
- (b) Appeal and hearing of notice of emergency condemnation/order to demolish.

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- (1) Appeals before the special magistrate may be taken by any interested party of a notice of emergency condemnation/order to demolish only in cases where the structure has not been secured or demolished. Such interested party is afforded a right of hearing upon payment of any appeal fee set by resolution of town council and submission of a written request for such hearing to the town manager or designee within five (5) days of receipt of actual or constructive notice of the emergency condemnation/order to demolish.
  - (2) The hearing will be scheduled as soon as possible after receipt of the appeal and shall be a public hearing. Notice will be mailed to the interested party requesting the appeal and other interested parties. Said notice shall be sent at least five (5) days prior to the appeal hearing. Each hearing shall be electronically recorded.
  - (3) Failure to effect personal notice upon an interested party shall not prevent the town from performing the emergency demolition or removal and placing a non-ad valorem assessment on the property as set forth in section 6-25 after performing the emergency demolition or removal.
- (c) Notification of special magistrate's determination. The code inspector shall advise the owner or record title holder of the special magistrate's action by the most expeditious means available.

434 **Sec. 6-23. - Securing unsafe structures.**

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- (a) When a structure is required to be secured, open windows and doors shall be secured with exterior plywood and suitably coated with an appropriate neutral color blending with or harmonizing with the exterior colors of the building so as to be as inconspicuous as possible.
  - (b) When securing with exterior plywood is not possible because existing structural damage or design features will not support a sound, secure application of plywood or for any other reason, the code inspector shall order securing against access and shall specify the industrial standard method and materials to be installed. Manmade bodies of water must be secured in a manner so as to eliminate any drowning or infection hazard, or must be filled completely with clean fill dirt or sand and adequate drainage provided so that water is not retained, does not accumulate and does not pond.
  - (c) In default of the owners or other parties of interest repairing or demolishing, removing, or securing of such dwelling or structure, including an accessory building or manmade body of water, within the specified time or such other reasonable time fixed in the notice and order of the code inspector, the code inspector may order vacation of the premises.

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- (d) All unfit or unsafe structures or manmade bodies of water which have been secured as a result of a notice and order under section 6-17 herein shall be subject to inspection, and the owner of the dwelling or structure shall be assessed a fee for each and every such inspection. Inspection fees shall be set by resolution of the town council.

**Sec. 6-24. - Condition of lot after demolition.**

A lot from which a dwelling, structure or manmade body of water is demolished shall be completely cleaned of all demolition material and shall be properly filled, graded, and seeded with grass seed or sodded within five (5) days of the date of completion of the demolition.

**Sec. 6-25. - Assessment of cost of repair or demolition; Notice of assessment.**

- (a) After thirty (30) days from the notice and order of demolition, if no appeal has been taken, or upon expiration of a thirty-day period following the denial of an appeal, or following an emergency demolition authorized and conducted in accordance with section 6-22, the code inspector, after proceeding under this article, shall report the abatement of the unfit or unsafe dwelling or structure to the town council. The town council shall assess the entire cost of such vacation, repair, demolition, removal, or securing against the real property upon which cost was incurred, which assessment, including all administrative costs (which shall include all costs relating to any hearing before the special magistrate), postal expense, ownership and encumbrance report costs, advertising costs, newspaper publications, and the like, when made, shall be assessed against the property.
- (b) In those instances where the owner or interested party has repaired, secured, and/or demolished the structure or caused the same to be done as the result of having received notice from the town ordering such demolition and/or securing, all actual administrative costs (which shall include all costs related to any hearing before the special magistrate), postal expenses, ownership and encumbrance report costs, advertising costs, newspaper publication, and the like shall be assessed against the property.
- (c) All assessments shall be paid in full no later than the close of town business on the twentieth (20th) business day after the property owner has received notice of the assessment. Thereafter, the unpaid amount of the assessment will accrue interest at the rate of 12% per annum or at the maximum rate allowed by law, whichever is less.
- (d) Upon the completion of the abatement of the unfit or unsafe dwelling or structure by the town or by the owner or interested party, the town manager shall notify in writing the owner and, if applicable, the agent, custodian, lessee, or occupant that a special assessment has been imposed on the property. The notice shall be

500 delivered to the owner and, if applicable, the agent, custodian, lessee, or occupant  
501 in the manner set forth for delivery of the notice in section 6-18.

502  
503 The notice of assessment shall set forth the following:

504  
505 (1) A description of the violation, a description of the actions taken by  
506 the town to remedy the violation, and the fact that the property has  
507 been assessed for the costs incurred by the town to remedy the  
508 violation.

509 (2) The aggregate amount of such costs and an itemized list of such  
510 costs.

511 (3) The intent of the town to record the assessment as a lien against  
512 the property if not paid timely, within the period of twenty  
513 business days as set forth in subsection (c).

514 (4) The intent of the town to place the assessment on the tax roll as a  
515 non-ad valorem assessment if not paid by the following December  
516 1.

517 (5) The potential for the property to be subject to the sale of a tax  
518 certificate, bearing interest by law at a rate as high as 18% per  
519 annum, if the non-ad valorem assessment is not paid as part of the  
520 tax bill on the property.

521 (6) The potential for the property to be sold and conveyed by tax deed  
522 if the tax certificate is not redeemed by payment of the non-ad  
523 valorem assessment in full, plus interest, as required by Florida  
524 law.

525 **Sec. 6-26. Non-ad valorem assessments.**

526 (a) Establishment of special assessment district. The Town of Windermere  
527 in its entirety, as its town boundaries exist on the date of enactment of  
528 this section and as they may be expanded or contracted from time to  
529 time, is hereby declared a special-assessment district for the purposes  
530 of abating and remedying violations of this article. Individual  
531 properties within the town's boundaries, as they may exist from time to  
532 time, may be assessed for the costs incurred by the town in abating and  
533 remedying violations of this article.

534 (b) Levy of non-ad valorem assessments. There is hereby levied, and the  
535 town council is authorized to levy from time to time, a non-ad valorem  
536 assessment against each and every property in the town (i) on which  
537 there occurs or has occurred a violation of this article, (ii) the town  
538 undertakes or has undertaken action pursuant this article to abate and/or  
539 remedy the violation and, thereby, incurs or has incurred costs, and (iii)

540 the property owner and, if applicable, the agent, custodian, lessee, or  
541 occupant of the property fails or refuses or has failed or refused, for  
542 whatever reason, to pay timely the amount owed to the town under this  
543 article for the costs incurred by the town in carrying out such abatement  
544 and remedy.

545 (c) Collection of non-ad valorem assessments. The town council elects to  
546 use the uniform method to impose and collect non-ad valorem  
547 assessments against properties on which violations of this article occur  
548 or have occurred. The non-ad valorem assessments collected pursuant  
549 to this section will be included in the combined notice for ad-valorem  
550 taxes and non-ad valorem assessments as provided in section 197.3635  
551 of Florida Statutes. Non-ad valorem assessments collected pursuant to  
552 this section are subject to all collection provisions in section 197.3632  
553 of Florida Statutes, including provisions relating to discount for early  
554 payment, prepayment by installment method, deferred payment,  
555 penalty for delinquent payment, and issuance and sale of tax certificates  
556 and tax deeds for nonpayment.

557 (d) Agreement to reimburse the Orange County Property Appraiser and the  
558 Orange County Tax Collector. In order to use the uniform method for  
559 the levy, collection, and enforcement of the non-ad valorem  
560 assessments, the town is authorized to enter into a written agreement  
561 with the Orange County Property Appraiser and the Orange County  
562 Tax Collector providing for the reimbursement of their costs incurred  
563 in the administration and collection of the non-ad valorem assessments  
564 levied under this section.

565 (e) Adoption of a resolution. The town council will adopt a resolution at a  
566 public hearing prior to January 1, 2015 in accordance with subsection  
567 197.3632(3) of the Florida Statutes which resolution shall state the  
568 following:

569 (1) The town's intent to use the uniform method of collecting non-ad  
570 valorem assessments.

571 (2) The town's need for the imposition of the non-ad valorem  
572 assessments.

573 (3) The entire town is declared a special-assessment district, with  
574 individual properties being subject to the non-ad valorem  
575 assessment from time to time if and when violations of this article  
576 occur.

577 The town will comply with all statutory notice prerequisites set  
578 forth in Section 197.3632 of Florida Statutes.

579 (f) Annual non-ad valorem assessment roll. Each year, the town council  
580 will approve a non-ad valorem assessment roll at a public hearing  
581 between January 1 and September 15. The non-ad valorem assessment  
582 roll will be comprised of properties that have had levied against them  
583 non-ad valorem assessments under this section, and such assessments  
584 have not otherwise been paid in full prior to approval of the roll.

585 The town manager and the town attorney are authorized and directed  
586 each year (i) to prepare the notice that must be sent by first-class United  
587 States mail, as required by subsection 197.3632(4)(b) of Florida  
588 Statutes, and (ii) to prepare and publish the newspaper notice required  
589 by subsection 197.3632(4)(b) of Florida Statutes.

590 The notice to be sent by first-class mail will be sent to each person  
591 owning property that will be on the non-ad valorem assessment roll and  
592 will include the following:

- 593 (1) The purpose of the assessment;
- 594 (2) The total amount to be levied against the parcel, which includes the  
595 actual cost incurred by the town;
- 596 (3) A statement that failure to pay the assessment will cause a tax  
597 certificate to be issued against the property, which may result in a  
598 loss of title;
- 599 (4) A statement that all affected property owners have a right to appear  
600 at the hearing and to file written objections with the local  
601 governing board within 20 days of the notice; and
- 602 (5) The date, time, and place of the hearing.

603 Upon its approval by town council, the non-ad valorem assessment roll  
604 will be certified to the tax collector as required by law.

605 **Sec. 6-27. - Article supplemental.**

606  
607 The provisions of this article shall be supplemental to all other housing codes and other  
608 ordinances of the town.

609  
610 **Section 2. Transition Provision.** Non-ad valorem assessments to recover actual costs  
611 incurred by the town in remedying violations of the new article created by this ordinance in the  
612 Town's Code of Ordinances prior to the effective date of this ordinance may be levied against  
613 the affected properties and, if not timely paid in full, may be placed on a non-ad valorem  
614 assessment roll at the next available opportunity. All actions taken by town officials and  
615 employees to that end are ratified and confirmed herewith.

616

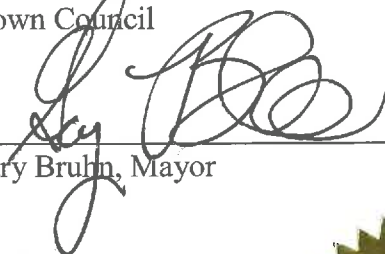
617           **Section 3. Severability.** If any provision or portion of this ordinance is declared by a  
618 court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining  
619 provisions and portions of this ordinance shall remain in full effect.

620  
621           **Section 4. Codification.** The amendments in Section 1 of this Ordinance shall be  
622 codified and made part of the official Code of Ordinances of the Town of Windermere.

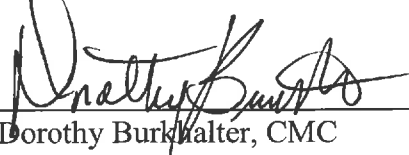
623  
624           **Section 5. Effective Date.** This Ordinance takes effect immediately upon its enactment.

625  
626           **ENACTED** this 22<sup>nd</sup> day of April, 2014, at a regular meeting of the Town Council of  
627 the Town of Windermere, Florida.

630           Town of Windermere, Florida  
631           by: Town Council

632  
633  
634           by:   
635           Gary Bruhn, Mayor

636           Attest:

637  
638             
639           Dorothy Burkhalter, CMC  
640           Town Clerk



642  
643           First reading: March 25, 2014  
644           Second reading: April 22, 2014