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ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF MAITLAND, FLORIDA  
AMENDING THE CODE OF ORDINANCES, CHAPTER 21-5.  
SUPPLEMENTAL DISTRICT REGULATIONS, (I) (d)  
NONCONFORMING STRUCTURES AND (III) (a) FENCES  
WALLS AND HEDGES TO ALLOW PRE-EXISTING FENCES IN  
AREAS ANNEXED BY THE CITY TO BE REPAIRED OR  
REPLACED SUBJECT TO CONDITIONS; PROVIDING FOR  
CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING  
AN EFFECTIVE DATE.**

**WHEREAS**, the Maitland City Council (Council) recognizes that fence requirements vary for areas annexed from Orange County to the City of Maitland; and

**WHEREAS**, the Council recognizes the number of variance requests has increased in the annexed areas involving repair and replacement of pre-existing fences; and

**WHEREAS**, the Council recognizes the undue burden placed on property owners to seek variances to replace pre-existing fences in an effort to adapt to current City of Maitland Code requirements for fence placement; and

**WHEREAS**, the Council finds it necessary and appropriate and a more efficient use of staff resources to amend provisions within the Code of Ordinances regarding nonconforming structures and fences walls and hedges to allow replacement subject to parameters without the need for variance; and

**WHEREAS**, the Planning and Zoning Commission (P&Z), which also sits as the Local Planning Agency and the Land Development Regulation Commission, duly scheduled, advertised and held a public hearing to consider the proposed amendment on August 17, 2017; and

**WHEREAS**, the DRC, at their regularly scheduled meeting of August 17, 2017 provided a recommendation for approval of the proposed amendment; and

**WHEREAS**, at the P&Z meeting of August 17, 2017, the P&Z provided a recommendation of approval of the proposed amendment; and

**WHEREAS**, the P&Z and DRC found the proposed amendment to be in substantial compliance with the 2030 City of Maitland Comprehensive Development Plan; and

**WHEREAS**, the City Council has duly considered the recommendations of the P&Z and DRC and reviewed all comments, both written and verbal, regarding the proposed amendment considers that said amendment will be in the best interest of the residents of the City of Maitland, Florida; and

**WHEREAS**, the City Council finds that the proposed amendment is in compliance with the 2030 Comprehensive Development Plan; and

**WHEREAS**, Additions to the Code are identified herein by underline, deletions from the Code are identified by ~~striketrough~~ and portions of the Code remaining unchanged that are not reprinted herein are identified by ellipses (\*\*\*)

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MAITLAND, FLORIDA, AS FOLLOWS:**

43           **SECTION 1.** The findings set forth in the recitals above are hereby adopted as legislative findings  
44 of the City Council pertaining to this Ordinance.

45           **SECTION 2.** The City of Maitland Code of Ordinances is hereby amended as follows:  
46 Sec. 21-5. I.

47                   \*       \*       \*

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50           (d) *Nonconforming structures.* Where a lawful structure exists at the effective date of adoption  
51 or amendment of this zoning code that could not be built under the terms of this code by reason  
52 of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements  
53 concerning the structure, such structure may be continued so long as it remains otherwise  
54 lawful, subject to the following provisions:

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56                   (1) No such nonconforming structure may be enlarged or altered in a way which increases  
57 its nonconformity, but any structure or portion thereof may be altered to decrease its  
58 nonconformity;

59  
60                   (2) Should such nonconforming structure or nonconforming portion of structure be  
61 destroyed by any means to an extent of more than fifty (50) percent of the assessed value  
62 of the structure or nonconforming portion of the structure at time of destruction, the  
63 nonconforming structure or nonconforming portion of structure shall not be reconstructed  
64 except in conformity with the provisions of this zoning code.

65  
66                   (3) Should such structure or portion of such structure be destroyed by any means to an  
67 extent less than fifty (50) percent of its assessed value, it may be restored only upon  
68 application to the board of zoning adjustment.

69  
70                   (4) Should such structure be moved for any reason for any distance whatever, it shall  
71 thereafter conform to the regulations for the district in which it is located after it is moved.

72  
73                   (5) Pre-existing fences made non-conforming due to annexation by the City shall be  
74 permitted to be repaired or replaced, in part or in whole, provided the repair or replacement  
75 does not increase the nonconformity with respect to height or setback, and subject to  
76 Section 21-6. II. Visibility at Intersections.

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79                   \*       \*       \*

80           **SECTION 3.** The City of Maitland Code of Ordinances is hereby amended as follows:

81 Section 21-5.

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83           (III) Fences and walls. On any residentially zoned district, fences, walls, and hedges erected or placed  
84 on all lots shall be in accordance with the following criteria.

85  
86           (a) Fences and walls may be erected, placed, and maintained at a height not exceeding eight feet  
87 (8') above the established grade level in any required side or rear yard. Fences and walls  
88 within a required front yard shall not exceed two and one-half feet (2½') in height above the  
89 established lot grade.

90 Except for pre-existing fences listed in Section 21-5.(1)(5), For Winfield Units 1 and 2 (Single  
91 Family Residential Subdivisions) annexed by Ordinance No. 970, fences and walls are limited  
92 to a maximum height of four feet (4') within a required front yard and a maximum height of  
93 eight feet (8') within any required side or rear yard. On any corner lot abutting the side of another  
94 lot, no part of any fence located within twenty-five feet (25') of the common lot line shall be  
95 nearer the side street lot line than the required front yard of such abutting lot unless adjacent  
96 property owner sharing the common lot line provides notarized letter of approval and there are  
97 no site visibility concerns.

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

102 **SECTION 5. CONFLICTS.** In any case where a provision of this Ordinance is found to be in  
103 conflict with a provision of any other ordinance of this City, the provision which establishes the higher  
104 standards for the promotion and protection of the health and safety of the people shall prevail.

105 **SECTION 6. CODIFICATION.** It is the intent of the City Council of the City of Maitland that  
106 the provisions of this Ordinance shall be codified. The codifier is granted broad and liberal authority in  
107 codifying the provisions of this Ordinance.

108 **SECTION 7. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon adoption  
109 as provided by the Charter of the City of Maitland.

110

111 PASSED ON FIRST READING THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2017.

112 PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2017.

113

114 CITY OF MAITLAND, FLORIDA

115 CITY COUNCIL

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118 A. Dale McDonald, Mayor

119

120 ATTEST:

121 \_\_\_\_\_

122 Maria Waldrop, City Clerk