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

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

WHEREAS, the City 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 City 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, 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 Development Review Committee, at their regularly scheduled meeting of August 17, 2017 provided a recommendation for approval of the proposed amendment; and

WHEREAS, at the Planning and Zoning Commission meeting of August 17, 2017 provided a recommendation of denial of the proposed amendment; and

WHEREAS, the Planning and Zoning Commission and Development Review Committee 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 Planning and Zoning Commission and Development Review Committee and reviewed all comments, both written and verbal, regarding the proposed amendment and 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 (***)).

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

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

47 **SECTION 2.** The City of Maitland Code of Ordinances is hereby amended as follows:

48 **Sec. 21-5. I.**

49 * * *

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

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

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

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

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

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

79
80 * * *

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

82 **Section 21-5.**

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

86
87 (a) Fences and walls may be erected, placed, and maintained at a height not exceeding eight feet
88 (8') above the established grade level in any required side or rear yard. Fences and walls

89 within a required front yard shall not exceed two and one-half feet (2½') in height above the
90 established lot grade.

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

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

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

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

109 **SECTION 7. Effective date.** This Ordinance shall take effect immediately upon adoption as
110 provided by the Charter of the City of Maitland.

111
112 PASSED ON FIRST READING THIS _____ DAY OF _____, 2017.

113 PASSED AND ADOPTED THIS _____ DAY OF _____, 2017.

114
115 CITY OF MAITLAND, FLORIDA
116 CITY COUNCIL

117
118 _____

119 A. Dale McDonald, Mayor

120
121 ATTEST:
122 _____

123 Maria Waldrop, City Clerk