



## MEMORANDUM

### TOWN OF PONCE INLET, PLANNING AND DEVELOPMENT DEPARTMENT

*The Town of Ponce Inlet staff shall be professional, caring and fair in delivering community excellence while ensuring Ponce Inlet citizens obtain the greatest value for their tax dollar.*

To: Planning Board  
Through: Aref Joulani, Director of Planning & Development   
Date: January 16, 2017  
Subject: Discussion of the proposed fence regulations

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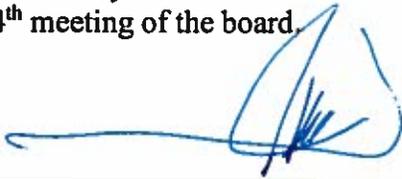
**Meeting Date:** January 24, 2017

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#### Introduction

The Town Council previously adopted Land Use and Development Code regulations establishing rules regarding fences, walls, and hedges. Due to Hurricane Matthew in October 2016, many fences within the town received substantial damage and had to be replaced. In the course of reviewing the fence applications, staff recognized that further changes to the fence regulation is warranted in order to protect the community character and the rights of the adjacent property owners.

The attached draft ordinance is for your review. The changes are underlined and highlighted. Staff welcomes your comments and looks forward to further discussion of the ordinance at the January 24<sup>th</sup> meeting of the board.



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Aref Joulani, Planning & Development Director

January 16, 2017  
Date

#### Exhibit:

A. Draft Fence Ordinance

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**ORDINANCE NO. 2017-XX**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PONCE INLET, FLORIDA, AMENDING SECTION 4.4 OF THE LAND USE AND DEVELOPMENT CODE REGARDING FENCES AND WALLS; PROVIDING FOR CODIFICATION AND SEVERABILITY; PROVIDING FOR CONFLICTS AND AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Ponce Inlet, a coastal community located on what is known as the Halifax Peninsula, is bounded on the east by the Atlantic Ocean, on the south by Ponce de Leon Inlet, and on the west by the Halifax River, with associated canals and varied topography in between; and

**WHEREAS**, the Town Council previously adopted Land Use and Development Code regulations establishing rules regarding fences, walls, and hedges; and

**WHEREAS**, due to Hurricane Matthew in October 2016, many fences within the town received substantial damage and had to be replaced; and

**WHEREAS**, in the course of reviewing the fence applications, staff recognized that further changes to the fence regulation is needed to protect the community character and the rights of the adjacent property owners; and

**WHEREAS**, in the course of its review, the Town Council also determined that the existing fence and wall regulations in the Land Use and Development Code do not adequately address fence materials, height, maintenance, privacy, and community character; and

**WHEREAS** the Town Council now wishes to adopt regulations to allow certain additional changes to the fence regulations; and

**WHEREAS**, the Planning Board, in its capacity as the Local Planning Agency, determined that this Ordinance is consistent with the Comprehensive Plan; and

**WHEREAS**, the Town Council hereby affirms that this Ordinance is consistent with the Comprehensive Plan and is in the best interests of the public welfare of the Town;

**WHEREAS**, the Town of Ponce Inlet has complied with all requirements and procedures of the Land Use and Development Code and Florida law in processing, noticing, and advertising this Ordinance; and

**WHEREAS**, this Ordinance is enacted under the general home rule, police powers, and land regulatory powers of the Town of Ponce Inlet.

**NOTE:** Underlined words constitute additions to the Town of Ponce Inlet Code of Ordinances, ~~strike through~~ constitutes deletions from the original Code of Ordinances, and any asterisks (\*\*\*) indicate an omission from the existing text which is intended to remain unchanged.

48           **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF**  
49 **THE TOWN OF PONCE INLET FLORIDA:**

50  
51 **Section 1.** Legislative Findings and Intent. The findings set forth in the recitals above are hereby  
52 adopted as legislative findings pertaining to this Ordinance.

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54 **SECTION 4.4. - FENCES AND Walls**

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56 **4.4.1 - General Fence Requirements.**

57 The following shall govern with regard to the construction, maintenance, repair, replacement and  
58 relocation of fences and walls within the Town of Ponce Inlet. Walls and fences referred to in this  
59 section are those that do not support other structures.

60 **A. Permit Required**

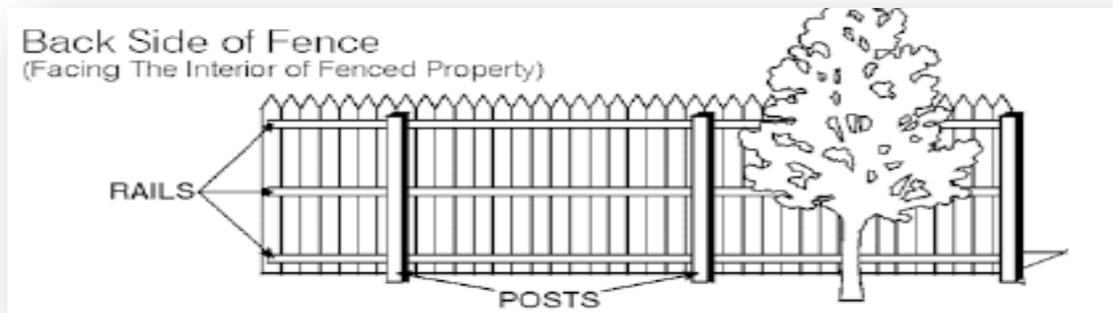
61 No fence or retaining wall shall be constructed, erected, repaired, or relocated unless a per-  
62 mit for same has been approved by the director or designee. A plot plan of the lot on which  
63 the fence or retaining wall is to be built, showing the existing buildings and structures, pro-  
64 posed location, height, construction and material of the fence or retaining wall, shall be sub-  
65 mitted prior to the issuance of the permit.

66 **B. Primary Use Exists**

- 67 1. Fences, except silt or erosion-controlling types, shall not be constructed, erected, or in-  
68 stalled on a lot unless the primary use/facility have been constructed.
- 69 2. Temporary construction fences shall not be allowed on residentially zoned properties  
70 longer than fifteen (15) calendar days after issuance of a Certificate of Occupancy.

71 **C. Material**

- 72 1. Fences shall be constructed of plastic or vinyl, masonry, metal or wood fencing materials.  
73 However, no fence may be constructed of scrap materials. Walls may be constructed of  
74 concrete, concrete block, stone, brick or any suitable masonry material. Concrete and  
75 concrete block walls shall be finished with a painted stucco finish on both sides.
- 76 2. The posts of each fence must be resistant to decay, corrosion and termite infestation.  
77 Wood fence posts shall be pressure treated or otherwise preserved.
- 78 3. Barbed wire, chicken wire, razor wire, spire tips, sharp objects, or electrically charged  
79 fences shall be prohibited.
- 80 4. Walls and fences shall be constructed so that the exposed framing, stringers and posts  
81 which support each section shall face the interior yard of the lot on which the fence or  
82 wall is placed, regardless of whether or not another fence already exists.



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85 **4.4.12 - Location.**

86 A. Fences, walls and hedges are permitted in any required yard or along the edge of any required  
87 yard.

88 B. If a fence is offset from the property line, provisions shall be made to prevent vegetation from  
89 growing between any existing fence and the new fence.

90 B.C. Permanent fences or walls shall not encroach:

- 91 1. Into or over any public utility, drainage, and conservation easements where it would  
92 interfere with the intended purpose and function of the easement or with any utilities.
- 93 2. Onto adjacent private property under separate ownership; or
- 94 3. Into the public right-of-way without approval of a right-of-way use permit by the director;  
95 or
- 96 4. Into natural water bodies, wetlands and wetland buffers, artificially created waterways  
97 (i.e., canals), and submerged portions of TIF-deeded properties, except for permitted  
98 seawalls.  
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100 D. A retaining wall not exceeding two feet in height may be constructed anywhere within the  
101 confines of an owner's property.  
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103 **4.4.23 - Height.**

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105 A. Fences and walls, other than those for courtyards per section 3.16 and for screening per section  
106 4.4.3, are subject to the height limits below:

107 Table 4-8 Height Limits for Fences/Walls and Hedges

|                  | Location    | Maximum Height |
|------------------|-------------|----------------|
| Fences and walls | Front yards | 4 feet         |
|                  | Side yards  | 6 feet         |
|                  | Rear yards  | 6 feet         |

|               |  |               |
|---------------|--|---------------|
|               | <b>Waterfront yards, including the upland portion of TIF-deeded properties</b> | <b>4 feet</b> |
|               | <b>Visual clearance triangle on corner lots</b>                                | <b>3 feet</b> |
| <b>Hedges</b> | <b>Visual clearance triangle on corner lots only</b>                           | <b>3 feet</b> |

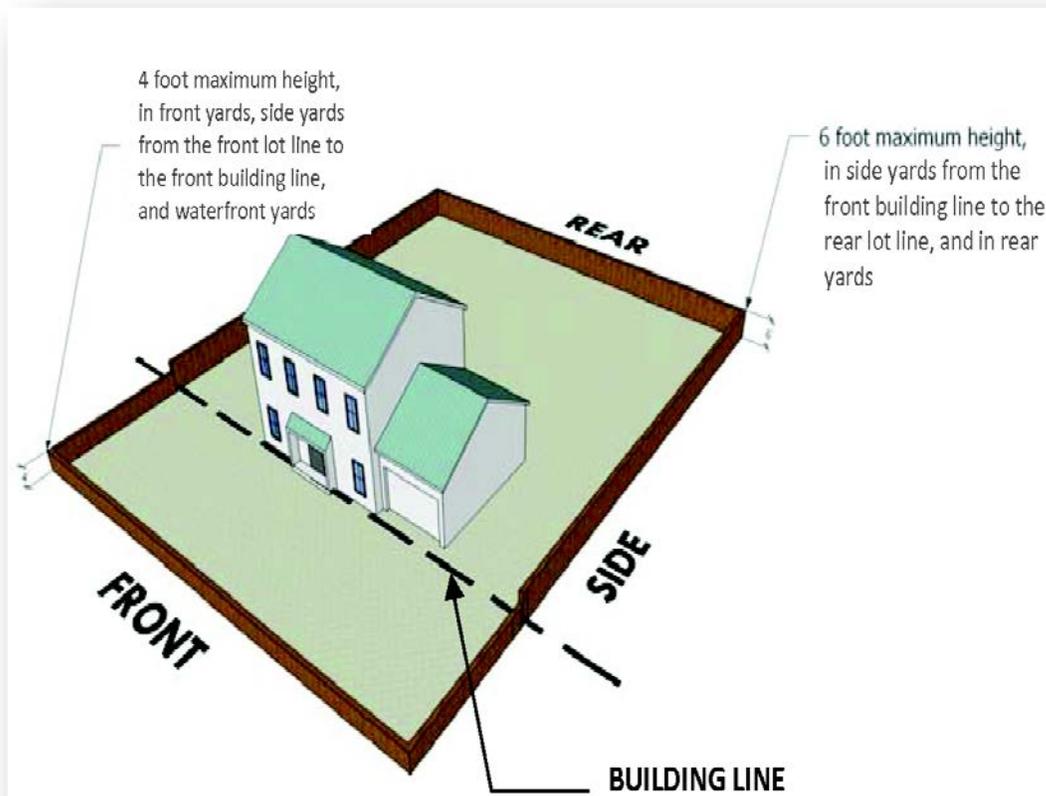
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109 B. Height limits apply within the yard regardless of physical connection to the principal  
110 structure.

111 C. The height of fences, walls and hedges is measured from the adjacent finished grade. **Berms**  
112 **used in conjunction with fences or walls, shall be considered as included in the height re-**  
113 **striction for such fences or walls.** Where significant elevation differences exist between two  
114 adjacent properties, the height may be increased by the average difference in elevation be-  
115 tween the two sides, measured from the finished grade up to five feet away on either side. The  
116 height may be similarly increased where significant elevation differences exist along a given  
117 property line. The additional height increase in both situations shall be limited to a maximum  
118 of two feet.

119 D. Decorative appurtenant elements shall be allowed to exceed the maximum fence/wall height  
120 as follows:

- 121 1. Column or post caps: up to an additional six inches. Caps may include masonry capitals,  
122 sculpture, finials, and the like.
- 123 2. Caps on corner columns or posts and those supporting an entry gate to the property: up  
124 to an additional ¼ of the maximum fence/wall height. Caps may include masonry capitals,  
125 sculpture, finials, and the like, as well as decorative lamps provided they do not create  
126 glare and shine onto adjacent properties or public rights-of-way.
- 127 3. Entry gates to the property: up to an additional ¼ of the maximum fence/wall height.
- 128 4. Archways, arbors, and trellises physically attached to the fence/wall to create a pedestrian  
129 entry to the property from the street: up to a total maximum height of eight feet above the  
130 adjacent finished grade, and a maximum depth of five feet into the property from the  
131 property line.



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E. Chain-link fencing around tennis courts and other approved recreational amenities shall be allowed up to 12 feet in height.

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**4.4.34 - Screening and security.**

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Additional height may be allowed for fences and walls for specific purposes, as follows:

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A. For all multi-family and non-residential uses, opaque fences or walls shall be allowed up to eight feet in height to screen from view exterior dumpsters, mechanical equipment used for heating, cooling, ventilation, refrigeration, utility service and monitoring, and other similar purposes. The eight-foot height allowance shall apply in the building area and all required yards, including waterfront yards, except within the waterfront yards and visual clearance triangle on corner lots.

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B. For public uses, opaque fences or walls shall be allowed up to six feet height within all required yards if necessary to secure property, except within the visual clearance triangle on corner lots. When public uses and parks and recreation facilities are adjoining single-family, the height of the fence may increase to eight feet on that side only for the privacy of the single-family residents. In front yards of public facilities, fences over four feet in height shall be set back a minimum of five feet from the front property line.

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C. See section 4.10.3, Table 4-17 for required vegetative screening of vehicular use areas and between different land uses.

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**4.4.45. - Maintenance.**

- 153 A. All fences, walls, gates, and appurtenant decorative elements shall be maintained in their
- 154 original upright condition; and in good repair with no loose sections such that they will
- 155 not constitute a danger to pedestrians or users of the adjoining property or public right-
- 156 of-way.
- 157 B. Missing boards, pickets, posts, and other components shall be replaced in a timely man-
- 158 ner with material of the same type and quality.

159 **Section 2.** Codification. It is the intent of the Town Council of the Town of Ponce Inlet that the

160 provisions of this Ordinance shall be codified.

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162 **Section 3.** Severability. If any section, sentence, phrase, word or portion of this Ordinance is

163 determined to be invalid, unlawful or unconstitutional, said determination shall not be held to in-

164 validate or impair the validity, force or effect of any other section, sentence, phrase, word or por-

165 tion of this Ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

166

167 **Section 4.** Conflicts. In any case where a provision of this Ordinance is found to be in conflict

168 with a provision of any other ordinance of this Town, the provision which establishes the higher

169 standards for the promotion and protection of the health and safety of the people shall prevail.

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171 **Section 5.** Effective Date. This Ordinance shall become effective immediately upon its passage

172 and adoption.

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175 It was moved by \_\_\_\_\_ and seconded by \_\_\_\_\_

176 that said Ordinance be passed upon first reading. A roll call vote of the Town Council on said

177 motion resulted as follows:

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- 179 Mayor Smith, Seat #1 \_\_\_\_\_
- 180 Councilmember Milano Seat #2 \_\_\_\_\_
- 181 Vice-Mayor Hoss, Seat #3 \_\_\_\_\_
- 182 Councilmember Perrone, Seat #4 \_\_\_\_\_
- 183 Councilmember Paritsky, Seat #5 \_\_\_\_\_

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185 Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

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188 Town of Ponce Inlet, Florida

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190 \_\_\_\_\_

191 Gary L. Smith, Mayor

192 ATTEST:

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194 \_\_\_\_\_

195 Jeaneen P. Witt, CMC

196 Town Manager/Town Clerk