## RESOLUTION BY THE COMMISSIONERS OF THE TOWN OF HENLOPEN ACRES PROPOSING THAT A PUBLIC HEARING BE HELD ON THE SUBJECT OF AMENDING CHAPTER 130, ZONING, SECTION 130-12, OF THE MUNICIPAL CODE OF THE TOWN OF HENLOPEN ACRES, DELAWARE, RELATING TO THE REPAIR AND REPLACEMENT OF LEGALLY NONCONFORMING FENCES

WHEREAS, the Commissioners of The Town of Henlopen Acres have deemed it desirable to consider the question of whether to amend Section 130-12 of the Municipal Code of the Town of Henlopen Acres by permitting the repair and replacement of legally nonconforming fences;

WHEREAS, Title 22, Chapter 3, Section 301 of the Delaware Code provides that "[f]or the purpose of promoting health, safety, morals or the general welfare of the community, the legislative body of cities and incorporated towns may regulate and restrict the height, number of stories and size of buildings and other structures, percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes";

WHEREAS, Section C-4(C) of the Town's Charter provides that "[a]ll Powers of The Town of Henlopen Acres, whether express or implied, shall be exercised as prescribed by [the Town] Charter or; if not prescribed herein, by ordinance or resolution of the Commissioners";

WHEREAS, Article X, Chapter 130, Section 130-56 of the Municipal Code of the Town of Henlopen Acres provides the following procedure to be followed by the Commissioners of Henlopen Acres before exercising the aforesaid authority granted by statute and the Town Charter:

- 1. Hold a public hearing at which hearing parties in interest and citizens shall have an opportunity to be heard;
- 2. Provide at least 15 days' notice of such hearing by publishing notice of the time and place of such hearing in an official paper or paper of general circulation in the Town.

NOW THEREFORE, BE IT RESOLVED, by the Commissioners of The Town of Henlopen Acres, in session met, this 6<sup>th</sup> day of April, 2018, that a public hearing shall be held pursuant to Article X, Chapter 130, Section 130-56 of the Municipal Code of the Town of Henlopen Acres on the 8<sup>th</sup> day of June, A.D. 2018, at 10:00 a.m., in Town Hall, 104 Tidewaters, Henlopen Acres, Delaware, 19971, Sussex County, Delaware, to consider the question of whether it is in the public interest to amend Section 130-12 of the Municipal Code of the Town of Henlopen Acres by permitting the repair and replacement of legally nonconforming fences, as follows:

SEE EXHIBIT 1

@ S

AN ORDINANCE TO AMEND CHAPTER 130 OF THE MUNICIPALCODE OF THE TOWN OF HENLOPEN ACRES, BY AMENDING SECTIONS 130-12 RELATING TO THE REPAIR AND REPLACEMENT OF LEGALLY NONCONFORMING FENCES.

æ ∞

**BE IT FURTHER RESOLVED**, that parties in interest and citizens shall have an opportunity to be heard at said public hearing.

BE IT FURTHER RESOLVED, that this resolution to hold a public hearing

shall be printed at least 15 days prior to said public hearing in an official paper or paper of general circulation in the Town.

Adopted by the Commissioners of the Town of Henlopen Acres

Assistant Secretary of the Commissioners of

the Town of Henlopen Acres

Version: May 9, 2018

41

AN ORDINANCE TO AMEND CHAPTER 130 OF THE 1 MUNICIPAL CODE OF THE TOWN OF HENLOPEN ACRES, 2 **BY AMENDING SECTIONS 130-12** 3 RELATING TO THE REPAIR AND REPLACEMENT OF 4 LEGALLY NONCONFORMING FENCES. 5 6 7 WHEREAS, Title 22, Chapter 3, Section 301 of the Delaware Code provides that "[f] or the 8 purpose of promoting health, safety, morals or the general welfare of the community, the legislative 9 body of cities and incorporated towns may regulate and restrict the height, number of stories and size 10 of buildings and other structures, percentage of lot that may be occupied, the size of yards, courts and 11 other open spaces, the density of population, and the location and use of buildings, structures and 12 land for trade, industry, residence or other purposes." 13 14 WHEREAS, Article X, Chapter 130, Section 130-56 of the Municipal Code of the Town of 15 Henlopen Acres provides that any amendment to any Zoning Ordinance shall be after a public 16 hearing following fifteen (15) days' notice by publication in an official paper or a paper of general 17 circulation with the municipality. 18 19 BE IT ORDAINED, by the Commissioners of the Town of Henlopen Acres, in session met, 20 in the manner following to wit: 21 22 Section 1. Chapter 130, Section 130-12, of the Municipal Code of Henlopen Acres, as 23 amended, be and the same is hereby further amended by inserting a new Subsection 130-12(F), as 24 follows: 25 26 F. Nonconforming fences may be repaired or replaced. 27 28 A replacement fence shall be erected in the same location as the previously (1) 29 existing fence. 30 Any change in fence material shall be approved by the Environmental 31 (2) Approval Committee. 32 A fence nonconforming in height shall be replaced in compliance with the (3) 33 provisions of this Chapter. 34 (4) Any fence replacing a nonconforming fence shall remain nonconforming. 35 36 If any provision of this Ordinance shall be deemed or held to be invalid or 37 Section 2. unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not affect any 38 other provision of this Ordinance which may be given effect without such invalid or unenforceable 39 provision, and to this end, the provisions of this Ordinance are hereby declared to be severable. 40

Version: May 9, 2018

4.0	Costion 2 This Ordinance shall take affect immediately upon its adoption by the
42	Section 3. This Ordinance shall take effect immediately upon its adoption by the
43	Commissioners of the Town of Henlopen Acres.
44	
45	
46	I, Beatrix Richards, Secretary of the Commissioners of the Town of Henlopen Acres, do hereby
47	certify that the foregoing is a true and correct copy of the ordinance passed by the Commissioners at
48	their meeting held on, 2018, at which a quorum was present and voting
49	throughout and that the same is still in full force and effect.
50	
51	
52	
53	
54	Secretary
55	
56	Synopsis: This Ordinance amends Chapter 130 such that legally nonconforming fences may be
57	repaired or replaced.