

**City of Titusville**  
"Gateway to Nature and Space"

**REPORT**

**To:** Members of the City Council  
**From:** Tom Abbate, Interim City Manager  
**Subject:** **Ordinance No. 25-2025 - Fence Permit Ordinance**  
**Department/Office:** Community Development

**Recommended Action:**

Conduct the First Reading of Ordinance No. 25-2025 amending the Code of Ordinances to clarify requirements for the repair and replacement of permitted fences to be consistent with florida building code requirements by amending Sections 6-56 "Construction Permit Required; Inspection, Approval Prior To Use Or Occupancy" and 34-346 "Nonconforming Structures – Rebuild and Repair", providing for severability, repeal of conflicting ordinances, incorporation into the code and an effective date.

**Summary Explanation & Background:**

As the code is currently written, applicants are compelled to demonstrate or prove the proposed fence work is below 50% in order to avoid permitting. The 50% rule has proven to be difficult to administer as it is often subjective and misleading. On April 22, 2025, the City Council approved advisability to amend the fence permit regulations. A proposed ordinance allowing for the replacement of permitted fences without requiring a new permit is presented for review and approval.

**Alternatives:**

1. Recommend approval of the ordinance as written.
2. Recommend approval of the ordinance with changes.
3. Do not recommend approval of the ordinance.

**Item Budgeted:**

**Source/Use of Funds/Budget Book Page:**

**Strategic Plan:**

Goal 5: Effective Governance.

**Strategic Plan Impact:**

**ATTACHMENTS:**

1. Fence Memo Ver2
2. Fence Ord For Adoption



## Gateway to Nature & Space

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**To: Mayor and City Council**

**From: Brad Parrish, Community Development Department Director**

**Subj: Fence Permit Advisability**

**Date: April 22, 2025**

### City of Titusville Fence Permit

As the code is currently written, applicants are compelled to demonstrate or prove the proposed fence work is below 50% in order to avoid permitting. The 50% rule has proven to be difficult to administer as it is often subjective and misleading. Furthermore, applicants often deploy this rule to make fence repairs/replacements where the existing configuration may not necessarily be consistent with regulations. As in other cases of existing non-conformity, the City would prefer to avoid encouraging improvements that prolong or increase non-conformities. The proposed new language would allow Staff the opportunity to identify whether the existing improvements have been permitted and are still consistent with regulations.

Current Code Section 6-56(c): It shall be unlawful to construct or perform any major repair on any fence without first obtaining a construction permit. All alterations and major repairs to fences where more than fifty (50) percent of the fence will be repaired, replaced or altered, shall be considered new construction and shall meet the requirements of this article. In the event of a declared state of emergency, the permitting requirements for the repairs to fences may be waived by the City Manager or designee.

Proposed change to Section 6-56(c), Construction permit required; inspection approval required prior to use or occupancy: It shall be unlawful to construct or erect any new fence or wall without first obtaining a permit from the Building Department. Any repair or replacement of an existing fence shall not require a permit from the Building Department if a record of permit exists for the original construction. Any repair or replacement of an existing, permitted fence shall maintain consistency with the originally approved permit on record which is consistent with current code, with the exception of side corner lot setbacks. Any alteration to an existing fence, whether a permit record exists or not, shall require a permit from the Building Department. Alterations shall include, but are not limited to; change in fence material, increase in linear feet, change in fence height or change in fence location.

## Fence Permit

Proposed change to Section 34-346, Nonconforming structures—rebuild and repair.

- (a) A structure, except fences as described in (c) below, not in conformance with these [Land Development] Regulations shall not be rebuilt or repaired after damage exceeding fifty (50) percent of the assessed value of the structure on the date of the damage, as determined and maintained by the Brevard County Property Appraiser's Office.
- (b) Notwithstanding the above, a single-family or multifamily residential structure which is nonconforming in that said structure does not meet the necessary minimum square footage requirements or lot and building or setback requirements may be rebuilt or repaired in the same configuration as before damaged even if the damage is in excess of fifty (50) percent of the assessed value of the single-family or multifamily residential structure. A single-family or multifamily residential structure which is a nonconforming use which is destroyed by more than fifty (50) percent of the assessed value of the structure may not be rebuilt or repaired.
- (c) It shall be unlawful to construct or erect any new fence or wall without first obtaining a permit from the Building Department. Any repair or replacement of an existing fence shall not require a permit from the Building Department if a record of permit exists for the original construction. Any repair or replacement of an existing, permitted fence shall maintain consistency with the originally approved permit on record consistent with current code, except for that portion of a fence which does not meet the current side lot setbacks. Any alteration to an existing fence, whether a permit record exists or not, shall require a permit from the Building Department. Alterations shall include, but are not limited to; change in fence material, increase in linear feet, change in fence height or change in fence location.

**Florida Building Code 105.1**Required: **Any owner or owner's authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure**, or to erect, install, enlarge, alter, repair, remove, convert or replace any impact-resistant coverings, electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed, shall first make application to the *building official* and obtain the required *permit*. **Structure is defined as "that which is built or constructed"**

## Fence Permit

Jurisdiction	Fence Permit Requirement
Cocoa	Permit required for construction for any accessory structure
Clermont	Permit required for repair or replacement
Dania Beach	Permit required to construct, enlarge, alter, repair, move, remove, or demolish any building, structure, or any part thereof including fences
Daytona Beach	Permit required for fencing
Fort Myers Beach	Permit required for all work in relation to erection/repair of all fences
Melbourne	Permit required for construction, alterations, repairs and relocations
Melbourne Beach	Permit required for construction, erection, alteration, modification, repairs, changes of structures, including fence
Miami-Dade County	Permit required to construct, repair or replace a fence
Orange County	Structures of 120 square feet or less may be exempt from the building code but still need to apply for a building permit
Winter Park	Permit required for construction, erection, alteration, modification, repairs, changes of structures, including fence

## ORDINANCE NO. XX-2025

**AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA AMENDING THE CODE OF ORDINANCES TO CLARIFY REQUIREMENTS FOR THE REPAIR AND REPLACEMENT OF PERMITTED FENCES TO BE CONSISTENT WITH FLORIDA BUILDING CODE REQUIREMENTS BY AMENDING SECTIONS 6-56 “CONSTRUCTION PERMIT REQUIRED; INSPECTION, APPROVAL PRIOR TO USE OR OCCUPANCY” AND 34-346 “NONCONFORMING STRUCTURES – REBUILD AND REPAIR”, PROVIDING FOR SEVERABILITY, REPEAL OF CONFLICTING ORDINANCES, INCORPORATION INTO THE CODE AND AN EFFECTIVE DATE.**

**WHEREAS**, the current City of Titusville Code of Ordinances compels applicants who desire to modify or replace a fence to demonstrate or prove the proposed fence work is less than fifty (50) percent of the existing fence, which has proven difficult to administer as the information provided by the applicant is often subjective and misleading; and

**WHEREAS**, the Florida Building Code Section 105 states that “Any owner or owner’s authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure” shall obtain a permit; and

**WHEREAS**, the Florida Building Code further defines structure as “that which is built or constructed”; and

**WHEREAS**, the difficulty in enforcing the current code can result in fence repairs and replacements which are inconsistent with both the Florida Building Code and the City Code of Ordinances; and

**WHEREAS**, the Titusville City Council desires to amend the Code to better identify whether existing improvements have been permitted and are consistent with the current code, and whether a building permit is required in order to reduce confusion for applicants and staff.

**BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF TITUSVILLE, FLORIDA** as follows:

**SECTION 1: Recitals.** The foregoing recitals are deemed true and correct and are hereby adopted and incorporated herein by this reference.

**SECTION 2:** That Chapter 6 “Buildings and Building Regulations”, Article III “Building Permits and Inspections Generally”, Section 6-56 “Construction permit required; inspection, approval prior to use or occupancy” of the Code of Ordinances of the City of Titusville is hereby amended to read as follows:

**Sec. 6-56.** Construction permit required; inspection, approval prior to use or occupancy.

(a) It shall be unlawful for any person to construct, alter, repair, remove or demolish or to commence the construction, alteration, repair, removal or demolition of a building, swimming pool or structure in the city without first obtaining a formal permit from the building official.

(b) It shall be unlawful for any person to occupy or use any addition, alteration, building or structure for which a building permit was issued until it has been inspected and approved by the building official.

(c) It shall be unlawful to construct ~~or perform any major repair on any~~ new fence or wall without first obtaining a ~~construction~~ permit ~~from the Building Department.~~ Any repair or replacement of a permitted fence structure shall not require a new permit from the Building Department if a record of an approved permit exists for the original fence with no changes to linear feet, materials, height or placement of the fence. Any alteration to a permitted fence structure, whether a permit record exists or not, shall require a permit from the Building Department. Alterations shall include but are not limited to; change in fence material, change in linear feet, change in fence height or change in placement of the fence. All alterations and major repairs to fences or walls where more than fifty (50) percent of the fence will be repaired, replaced or altered within a two (2) year period, shall be considered new construction and shall meet the requirements of this article. In the event of a declared state of emergency, the permitting requirements for the repairs to fences may be waived by the City Manager or designee.

(d) It shall be unlawful for any person to install a mobile/manufactured home or alter or expand any existing mobile/manufactured home within the limits of the city without first obtaining from the building official a permit for said installation, alteration or expansion.

**SECTION 3:** That Chapter 34 “Procedures”, Article VII “Nonconforming Uses, Structures/Vested Rights Generally”, Division 1 “Nonconforming Uses and Structures”, Section 34-346 “Nonconforming structures – Rebuild and repair” of the Code of Ordinances of the City of Titusville is hereby amended to read as follows:

**Sec. 34-346. Nonconforming structures—Rebuild and repair.**

(a) A structure not in conformance with these [Land Development] Regulations shall not be rebuilt or repaired after damage exceeding fifty (50) percent of the assessed value of the structure on the date of the damage, as determined and maintained by the Brevard County Property Appraiser's Office.

(b) Notwithstanding the above, a single-family or multifamily residential structure which is nonconforming in that said structure does not meet the necessary minimum square footage requirements or lot and building or setback requirements may be rebuilt or repaired in the same configuration as before damaged even if the damage is in excess of fifty (50) percent of the assessed value of the single-family or multifamily residential structure. A single-family or multifamily residential structure which is a nonconforming use which is destroyed by more than fifty (50) percent of the assessed value of the structure may not be rebuilt or repaired.

(c) Notwithstanding the above, any repair or replacement of a permitted fence structure shall not require a permit from the Building Department if a record of an approved permit exists for the original fence, with no changes to linear feet, materials, height or placement of the fence. Any alteration to a permitted fence structure, whether a permit record exists or not, shall require a permit from the Building Department. Alterations shall include but are not limited to; change in fence material, change in linear feet, change in fence height or change in placement of the fence.

**SECTION 4. REPEAL OF CONFLICTING ORDINANCES.** All ordinances or parts of ordinances, and all resolutions and parts of resolutions, in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 5. INCORPORATION INTO THE CODE.** This ordinance shall be incorporated into the City of Titusville Code of Ordinances and any section or paragraph, number or letter, and any heading may be changed or modified as necessary to effectuate the foregoing: Grammatical,

typographical, and like errors may be corrected and additions, alterations, and omissions, not affecting the construction or meaning of this ordinance and the Code may be made.

**SECTION 6. EFFECTIVE DATE.** This Ordinance shall become in full force and effect upon adoption by the City Council in accordance with the Charter of the City of Titusville, Florida.

**PASSED AND ADOPTED**, this \_\_\_\_th day of \_\_\_\_\_, 2025.

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**Andrew Connors, Mayor**

**ATTEST:**

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Wanda F. Wells, City Clerk