

City of Titusville
"Gateway to Nature and Space"

REPORT TO COUNCIL

To: The Honorable Mayor and City Council
From: William S. Larese, City Manager
Subject: **Ordinance No. 38-2017 Relating to High Security Fences**
Department/Office: Planning

Recommended Action:

Conduct the first reading of the proposed Ordinance No. 38-2017 amending the Code of Ordinances relating to fences; by amending Chapter 6 "Buildings and Building Regulations", specifically amending Section 6-56 "Required; Inspection, approval prior to use or Occupancy" relating to permits for fences; amending Chapter 30 "Development Standards" related to fences in non-residential development, specifically amending Section 30-182 "Height and Location Requirements", and Section 30-183 "Interior High Security Fences"; providing for severability, repeal of conflicting ordinances, an effective date and incorporation into the code.

Summary Explanation & Background:

The City's current regulations relating to fences and walls is difficult to interpret and enforce, therefore staff has developed an ordinance that is consistent with the current utilization of high security fences. Specifically the proposed ordinance sets forth the following:

- 1 Clarifies that construction or major repair of a fence requires a building permit;
- 1 Provides that the City Manager or designee may waive permits for fence repairs in the event of a declared state of emergency;
- 1 Makes security fence requirements consistent in planned industrial development and industrial zoning districts;
- 1 Permits use of high security fencing where required by Federal or State regulation or program; and
- 1 Clarifies the placement of barbed wire on high security fences.

Alternatives:

1. Conduct the first reading of the ordinance.
2. Do not conduct the first reading of the ordinance.

Item Budgeted:

NA

Source/use of funds/Budget Book Page:

Strategic Plan:

No. 1 - Quality of Life No. 2 - Economic Growth

Strategic Plan Impact:

Land development regulations further both quality of life and expanding economic development opportunities.

ATTACHMENTS:

Description	Upload Date	Type
<input type="checkbox"/> Ordinance No. 38-2017	10/17/2017	Backup Material

ORDINANCE NO. ~~38XX~~-2017

AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING THE CODE OF ORDINANCES RELATING TO FENCES; BY AMENDING CHAPTER 6 "BUILDINGS AND BUILDING REGULATIONS", SPECIFICALLY AMENDING SECTION 6-56 "REQUIRED; INSPECTION, APPROVAL PRIOR TO USE OR OCCUPANCY" RELATING TO PERMITS FOR FENCES; AMENDING CHAPTER 30 "DEVELOPMENT STANDARDS" RELATED TO FENCES IN NON-RESIDENTIAL DEVELOPMENT, SPECIFICALLY AMENDING SECTION 30-182 "HEIGHT AND LOCATION REQUIREMENTS", AND SECTION 30-183 "INTERIOR HIGH SECURITY FENCES"; PROVIDING FOR SEVERABILITY, REPEAL OF CONFLICTING ORDINANCES, AN EFFECTIVE DATE AND INCORPORATION INTO THE CODE.

WHEREAS, fences and walls are utilized to provide security and privacy for property owners; and

WHEREAS, the Titusville City Council desires to clarify the permitting requirements for fences and walls; and

WHEREAS, the Titusville City Council further desires to permit high security fences and walls in non-residential developments where security requirements are determined to exceed security provided by other types of security measures, and

WHEREAS, high security fences and walls are currently in place in non-residential districts throughout the City, with few, if any, complaints about visual blight or safety concerns; and

WHEREAS, it is the intent of this ordinance to amend the existing Code in such a way as to enhance the applicability of the Code

BE IT ENACTED BY THE CITY OF TITUSVILLE, FLORIDA:

SECTION 1: That Chapter 6 "Buildings and Building Regulations", Article III "Building Permits and Inspections Generally", Section 6-56 "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 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 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.
- a-c. It shall be unlawful to construct or perform any major repair on any fence or wall without first obtaining a construction permit. 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.

SECTION 2: That Chapter 30, "Development Standards" Article III. "Improvements", Section 30-182 "Height and Location Requirements" of the Code of Ordinances of the City of Titusville is hereby amended to read as follows:

Sec. 30-182 - Height and Location Requirements

(a) Single-family Residential Uses.

- (1) *Front Yard* – The maximum height of a fence or wall in any required front yard setback shall be four (4) feet.
- (2) *Side or Rear Yard* – The maximum height of a fence or wall in any required side or rear yard setback shall be six (6) feet.
- (3) *Side Corner Yard* – The maximum height of a fence or wall in any required side corner yard setback shall be six (6) feet. Any side corner yard setback abutting a collector or arterial roadway shall be limited to a maximum of four (4) feet within the minimum side corner yard setback established by the zoning district.
- (4) No high security fence or wall may be permitted with a single-family residential use.

(b) Multi-family Residential Uses.

- (1) *Front Yard* – The maximum height of a fence or wall in any required front yard setback shall be six (6) feet.
- (2) *Side or Rear Yard* – The maximum height of a fence or wall in any required side or rear yard setback shall be six (6) feet.
- (3) *Side Corner Yard* – The maximum height of a fence or wall in any required side corner yard setback shall be six (6) feet.
- (4) No high security fence or wall may be permitted with a multi-family residential use.

(c) Commercial Uses.

- (1) *Front Yard* – No fence or wall shall be permitted in any required front yard setback, except as noted in this section.
- (2) *Side or Rear Yard* – The maximum height of a fence or wall in any required side or rear yard setback shall be six (6) feet.
- (3) *Side Corner Yard* – No fence or wall shall be permitted in any required side corner yard setback, except as noted in this section.
- (4) Where security requirements of a commercial development are determined to exceed the aforementioned provisions of this section, and a interior high security fence or wall may be permitted by the Administrator pursuant to the requirements of Section 30-183 of this Article. Allowance of these types of barriers shall be on a case-by-case basis and allowance of a high security fence or wall at one location shall not be considered as precedence for the allowance of such a barrier at any other location. High security fence may be permitted in the front or side corner yard of commercial properties through the site plan process.

- (5) The following type of fence or wall shall be exempt from ~~thisese~~the placement requirements:
- a. Fences that are placed a distance greater than ten (10) feet from a property line.
 - b. Fences that are replacing an existing or part of an existing fence.
 - c. Fences that are installed interior parallel to an existing fence.
 - d. Fences installed to meet screening requirements, when abutting the property line of residential zoning would be installed "good side facing the residential zoning." When a screening fence would be highly visible to a major roadway or street, the Building Official may waive the "good side out" requirement, when there would not be any adverse effect to the residential area.
 - e. Fences facing the Indian River, a lake or pond, or enclosing a retention pond may be installed with the structural supports towards the water.
- (d) Industrial Uses (applicable to the M-1, M-2, and M-3 zoning districts).
- In the Highway Industrial Infill (M-3) zoning district, the site should be planned to accomplish a smooth transition from adjacent properties that differ in land use and/or design philosophy by the use of site breaks such as screens, berms, fences and walls for aesthetic appearance.
- (1) *Front Yard* – The maximum height of a fence or wall in any required front yard setback shall be six (6) feet.
 - (2) *Side or Rear Yard* – The maximum height of a fence or wall in any required side or rear yard setback shall be six (6) feet.
 - (3) *Side Corner Yard* – The maximum height of a fence or wall in any required side corner yard setback shall be six (6) feet.
 - (4) Where security requirements of industrial development are determined to exceed the provisions of this section, an interior a high security fence may be permitted by the Administrator pursuant to the requirements of Section 30-183 of this Article. ~~Allowance of these types of fences/walls shall be on a case-by-case basis and allowance of a high security fence/wall at one location shall not be considered as precedence for the allowance of such a fence/wall at any other location.~~
 - (5) The following type of fence or wall shall be exempt from these placement requirements:
 - a. Fences that are placed a distance greater than ten (10) feet from a property line.
 - b. Fences that are replacing an existing or part of an existing fence.
 - c. Fences that are installed parallel interior to an existing fence.
 - d. Fences installed to meet screening requirements, when abutting the property line of residential zoning would be installed "good side facing the residential zoning." When a screening fence would be highly visible to a major roadway or street, the Building Official may waive the "good side out" requirement, when there would not be any adverse effect to the residential area.
 - e. Fences facing the Indian River, a lake or pond, or enclosing a retention pond may be installed with the structural supports towards the water.
- (e) Planned Industrial Development (applicable to the PID zoning district).

- (1) *Front Yard* – No fence or wall shall be permitted in any required front yard setback.
- (2) *Side or Rear Yard* – The maximum height of a fence or wall in any required side or rear yard setback shall be eight (8) feet.
- (3) *Side Corner Yard* – No fence or wall shall be permitted in any required side corner setback.
- ~~(4) Barbed wire shall be allowed as an accessory to a permitted fence or wall provided that the barbed wire is attached to standoffs permanently affixed to the permitted fence or wall. Barbed wire should not exceed three (3) strands and shall not be coiled or twisted or otherwise project a concertina effect.~~
- (4) Where security requirements of planned industrial developments are determined to exceed the provisions of this section, an interior high security fence may be permitted by the Administrator pursuant to the requirements of Section 30-183 of this Article. There shall be a minimum clear zone of fifteen (15) feet between ~~the~~ an required exterior fence and any interior high security fence. The use of barbed wire, razor wire, or electric wire is permitted on any interior high security fence; however, if electric wire [is] used, an "electrified fence" sign of at least two (2) square feet shall be posted at least every fifty (50) feet within the clear zone. The interior high security fence shall be illuminated during darkness and over low light hours. The interior high security fence shall not exceed twelve (12) feet in height, including any barbed wire, razor wire, or other fencing material.
- (5) The following type of fence or wall shall be exempt from these placement requirements:
 - a. Fences that are placed a distance greater than ten (10) feet from a property line.
 - b. Fences that are replacing an existing or part of an existing fence.
 - c. Fences that are installed interior to an existing fence.
 - d. Fences installed to meet screening requirements, when abutting the property line of residential zoning would be installed "good side facing the residential zoning." When a screening fence would be highly visible to a major roadway or street, the Building Official may waive the "good side out" requirement, when there would not be any adverse effect to the residential area.
 - e. Fences facing the Indian River, a lake or pond, or enclosing a retention pond may be installed with the structural supports towards the water.

SECTION 3: That Chapter 30, "Development Standards" Article III. "Improvements", Section 30-183 "Interior High Security Fences" of the Code of Ordinances of the City of Titusville is hereby amended to read as follows:

Sec. 30-183 - ~~Interior~~ High Security Fences

- (a) Where security requirements are determined to exceed the provisions of other sections of this Article, a ~~an interior~~ high security fence may be permitted by the Administrator. Allowance of these types of fences/walls shall be on a case-by-case basis and allowance of a high security fence/wall at one location shall not be considered as precedence for the allowance of such a fence/wall at any other location.

- (1) All high security fences/walls shall be subject to review by the City's Site Plan Review Committee and the Community Redevelopment Agency within the Downtown Mixed Use (DMU) zoning district to ensure compatibility with the surrounding buildings and/or walls.
- (2) Use of high security fences/walls shall only be considered at locations where the City's Land Development Regulations permit the outdoor storage and display of goods and materials, or as required by a Federal or State regulation or program. Where high security fences/walls are used around outdoor display areas, said fence/wall does not have to be 100% opaque. High Security fences/walls used around outdoor storage areas must be 100% opaque.
- (3) High Security Fences/Walls shall be defined as follows:
 - a. High Security Fences: A substantially built fence (including any gates in said fence) not less than six (6') feet nor more than eight (8) feet in height above grade. Such fence may be chain-link or woven wire fencing materials, with or without slats. There may be three (3) strands of barbed wire on barbed wire arms on top of these fences as long as the barbed wire arms are angled 45-degrees ~~to the inside (property side)~~ of the fence, and do not extend beyond the property line.
 - b. High Security Walls: A constructed barrier of concrete, stone, brick, tile, wood, or similar type of material, not less than six (6) nor more than eight (8) feet in height above grade. Barbed wire may be used in conjunction with a high security wall as long as the barbed wire meets the requirements detailed in Section 30-183(a)(3)a above. The barbed wire arms must be installed on the property side of the wall. Said walls do not have to be 100% opaque as long as physical access to the attendant property is prevented.
- (4) Wherever a high security fence/wall is used, the following landscape elements are required. Exceptions to this Section may be granted, on a case-by-case basis, by the Administrator, for those properties that do not front on roadways classified by Article III. Improvements, Division 7 Streets of this Article as either a Principal or Minor Arterial roadway.
 - a. All High Security Fences shall be located in a landscape strip that is ten (10') feet in width. A continuous hedge shall run along the entire length of the fence. Said hedge shall be maintained at a height of at least 36 inches. One tree shall be planted every forty (40') feet along the entire length of the fence. Said hedge and trees shall meet the requirements of Division 10 Landscaping, Subdivision 3 Landscape Yard of this Article of these regulations. These landscape requirements should be placed along the exterior of the fence but can be located along the interior of fences that are not required to be 100% opaque pursuant to Section 30-183(a) (2) above.
 - b. All High Security Walls shall be located in a landscape strip that is ten (10') feet in width. A continuous hedge shall run along the entire length of the wall. One tree shall be planted every forty (40) feet along the entire length of the wall. Said hedge and trees shall meet the requirements of Division 10 Landscaping, Subdivision 3 Landscape Yard of this Article of these regulations. These landscape requirements must be placed along the exterior of the wall.

SECTION 4: SEVERABILITY. If any provisions of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5: 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 6: EFFECTIVE DATE. This Ordinance shall be become in full force and effect upon adoption by the City Council in accordance with the Charter of the City of Titusville, Florida.

SECTION 7: INCORPORATION INTO 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.

PASSED AND ADOPTED this day _____ of _____, 2017.

Walt Johnson, Mayor

ATTEST:

Wanda F. Wells, City Clerk