

ORDINANCE NO. C35384

AN ORDINANCE relating to fencing standards in industrial zones; amending Spokane Municipal Code Section 17C.130.310, allowing electric fences in Light Industrial (LI) and Heavy Industrial Zones (HI) zones as set forth in Amendment File No. Z1500056COMP.

WHEREAS, Planning & Development Services received an inquiry from Electric Guard Dog LLC about local fence rules and restrictions related to installing electric fences and the text amendment process in April of 2015; and

WHEREAS, in July of 2015, Electric Guard Dog LLC submitted application Z1500056COMP for a Regulatory Code Text Change per SMC 17G.025; and

WHEREAS, the application included supporting documentation including Met Laboratories Safety Certification, International Standard Commission (IEC) 60335-2-76 Safety Requirements, Safety Report from the University of Wisconsin Madison, draft text changes, and an Environmental Checklist (SEPA); and

WHEREAS, the Plan Commission held a workshop on the proposal on August 26, 2015; and

WHEREAS, after the first Plan Commission workshop, staff worked with Current Planning, Building, Fire, Police, and Legal Departments to incorporate their feedback; and

WHEREAS, the Plan Commission held a second workshop on October 28, 2015 and recommended several changes to the draft code; and

WHEREAS, the Plan Commission held a third workshop on December 9, 2015, reviewed the updated code draft and recommended the text changes move forward to a Plan Commission Hearing; and

WHEREAS, staff requested comments on the Environmental Checklist from City Departments and outside agencies on December 30, 2015; the consultation period ended on January 19, 2016 and no adverse comments were received; and

WHEREAS, On December 30, 2015, the Washington State Department of Commerce and appropriate state agencies were given the required 60-day notice before adoption of proposed changes to the Spokane Municipal Code; and

WHEREAS, a State Environmental Policy Act (SEPA) Checklist and non-project DNS (Determination of Non-Significance) were issued on January 20, 2016; and

WHEREAS, the appeal period for the SEPA determination ended on February 3, 2016 at 4pm; no comments were received from agencies or departments intended to alter the DNS; and

WHEREAS, appropriate notice of the Plan Commission hearing was published in the Spokesman Review on January 27, 2016 and February 3, 2016, posted at City Hall and the Downtown Public Library and advertised via press release and the City's social media channels; and

WHEREAS, the City Plan Commission held a public hearing on February 10, 2016 for Application Z1500056COMP to obtain public comments on the proposed amendment; and

WHEREAS, after public testimony and deliberation, the Plan Commission voted to modify the proposed amendment to exclude General Commercial (GC) from zones where electric fences would be permitted; this would allow electric fences in the Light Industrial (LI) and Heavy Industrial (HI) zones only; and

WHEREAS, at the conclusion of the hearing, the Plan Commission found that the proposed amendments meet the approved criteria for text amendments to the Unified Development Code as outlined by SMC 17G.025.010(F); and

WHEREAS, the Plan Commission voted 7 to 0 to recommend approval of proposed amendments of Application Z1500056COMP as they relate to Light Industrial (LI), and Heavy Industrial (HI) zones, but not as the proposed amendments relate to General Commercial (GC) zones; and

WHEREAS, the City Council adopts the recitals set forth herein as its findings and conclusions in support of its adoption of this ordinance and further adopts the findings, conclusions, and recommendations from the Planning & Development Services Staff Report and the City of Spokane Plan Commission for the same purposes; --

Now, Therefore, The City of Spokane does ordain:

Section1. That SMC section 17C.130.310 is amended to read as follows:

Section 17C.130.310 Fences

A. Purpose

The fence standards promote the positive benefits of fences without adversely impacting the community or endangering public or vehicle safety. Fences near streets are kept low in order to allow visibility into and out of the site and to ensure visibility for motorists. Fences in any required side or rear setback are limited in height so as to not conflict with the purpose for the setback.

B. Type of Fences

The standards apply to walls, fences, and screens of all types whether open, solid, wood, metal, wire, masonry, or other material.

C. Location, Height, and Design

1. Street Setbacks.

No fence or other structure is allowed within twelve feet from the back of the curb, consistent with the required sidewalk width of SMC 17C.130.230.

a. Measured from Front Lot Line.

Fences up to three and one-half feet high are allowed in a required street setback that is measured from a front lot line.

b. Measured from a Side Lot Line.

Fences up to six feet high are allowed in required setback that is measured from a side lot line.

c. Fences shall not reduce the required setback width of SMC 17C.130.210.

2. Side or Rear Structure Setbacks.

Fences up to six feet high are allowed in required side or rear setbacks except when the side or rear setback abuts a pedestrian connection.

When the side or rear setback abuts a pedestrian connection, fences are limited to three and one-half feet in height.

3. Not in Setbacks.

The height for fences that are not in required setbacks is the same as the regular height limits of the zone.

4. Sight-obscuring Fences and Walls.

Any required or non-required sight-obscuring fences, walls, and other structures over three and one-half feet high, and within fifteen feet of a street lot line shall be placed on the interior side of a L2 see-through buffer landscaping area at least five feet in depth (See chapter 17C.200 SMC, Landscaping and Screening).

D. Prohibited Fences

1. No person may erect or maintain a fence or barrier consisting of or containing barbed, razor, concertina, or similar wire except that up to three strands of barbed wire may be placed atop a lawful fence exceeding six feet in height above grade.

~~((2.———No person may maintain a fence or barrier charged with electricity.))~~

~~((3.))~~ 2. A fence, wall or other structure shall not be placed within a public right-of-way without an approved covenant as provided in SMC

17G.010.160 and any such structure is subject to the height requirement for the adjoining setback.

((4-)) 3. No fence may be closer than twelve feet to the curb.

E. Electric Fences.

The construction and use of electric fences shall be allowed in the Light Industrial (LI) and Heavy Industrial (HI) zones only as provided in this section, subject to the following standards:

1. Permit.

Prior to the installation or use of any electrified fence, the property owner or tenants of the property upon which such fencing will be installed or used shall submit a completed application for review of such fencing as a building permit review to receive approval for the fence and electrical permits for the project. The application shall include:

- a. Site plan showing the location of the protective barrier and the electrified fence on the property in relation to the property lines, walkways, existing buildings, and curb;
- b. Fence details showing both the electrified fence and protective barrier, including all gates;
- c. All supporting documentation from the electric fence manufacturer, equipment to be used, and certification of service from the monitoring provider.

2. IEC Standard 60335-2-76.

Unless otherwise specified herein, electric fences shall be constructed or installed in a conformance with the specifications set forth in International Electro technical Commission (IEC) Standard No. 60335-2-76.

3. Electrification.

- a. The energizer for electric fences must be driven by a commercial storage battery not to exceed 12 volts DC. The storage battery is charged primarily by a solar panel. However the solar panel may be augmented by a commercial trickle charger.
- b. The electric charge produced by the fence upon contact shall not exceed energizer characteristics set forth in paragraph 22.108 and depicted in Figure 102 of IEC Standard No. 60335-2-76.

4. Perimeter fence or wall.

No electric fence shall be installed or used unless it is completely surrounded by a non-electrical fence or wall that is not less than six feet tall.

- a. There shall be a space of four (4) to twelve (12) inches between the electric fence and the perimeter fence or wall.
- b. Electric fences shall be subject to the screening requirements of SMC 17C.200.070.

5. Location.

- a. Electric fences shall be permitted on any non-residential outdoor storage areas.
- b. Electric fences shall not be installed within one hundred fifty (150) feet of a property line for a residence, or from a school, or day care facility, unless the exterior perimeter non-electrified fence is covered with a solid covering (e.g. solid mesh, slats, etc.) to further prevent contact with the electric fence.

6. Height.

Electric fences shall have a minimum height of 8 feet and a maximum of 10 feet.

7. Warning signs.

Electric fences shall be clearly identified with warning signs that read: "Warning-Electric Fence" at intervals of not less than sixty feet.

8. Electric fence burglar alarms shall be governed and permitted under Title 10 Regulation of Activities, Chapter 10.48 False Alarms.

9. Hours of activation.

Electric fences shall not be activated between the hours of 8am and 5pm, except:

- a. On days when the business is closed, such as weekends or holidays; or
- b. When security personnel is available on-site to deactivate the electric fence.

10. Key Box.

- a. Electric fences shall have installed a key box system in accordance with the Spokane Fire Department standards.
- b. The electric fence controller and emergency key safe for the electric fence must be located in a single accessible location for the entire fence.

11. Fire Department Registration.

Prior to the installation or use of any electrified fence, the property owner or tenants of the property upon which such fencing will be installed or used shall submit a completed registration for such fencing to the Fire Department using forms provided by the Fire Chief.

12. Indemnification.

All applicants issued a permit to install or use an electric fence as provided in this chapter shall agree, as a condition of permit issuance, to defend, indemnify and hold harmless the City of Spokane and its agents, officers,

consultants, independent contractors and employees from any and all claims, actions or proceedings, including but not limited to those arising out of any personal injury, including death, or property damage caused by the electric fence.

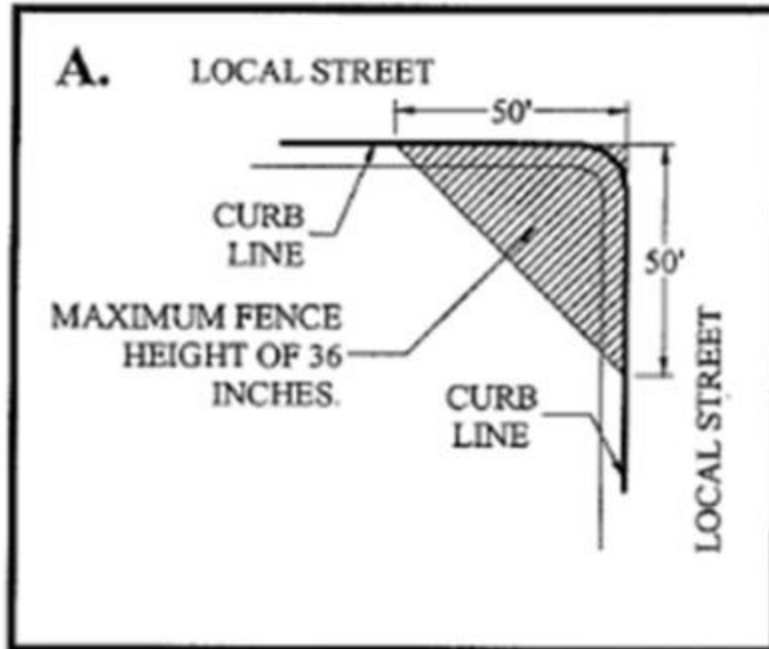
13. Emergency Access.

In the event that access by the City of Spokane Fire Department and/or Police Department personnel to a property where a permitted electric fence has been installed and is operating, is required due to an emergency or urgent circumstances, and the Knox Box or other similar approved device referred to in this section is absent or non-functional, and an owner, manager, employee, custodian or any other person with control over the property is not present to disable the electric fence, the fire or police personnel shall be authorized to disable the electric fence in order to gain access to the property. As a condition of permit issuance, all applicants issued permits to install or use an electric fence as provided in this section shall agree in writing to waive any and all claims for damages to the electric fence against the City of Spokane and/or its personnel under such circumstances.

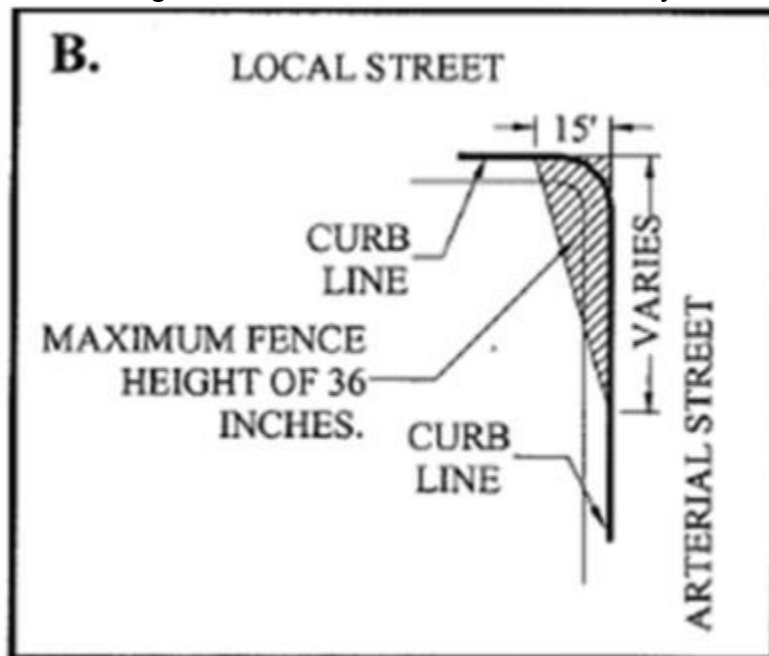
14. It shall be unlawful for any person to install, maintain or operate an electric fence in violation of this section.

~~(E.)~~ F. Visibility at Intersections

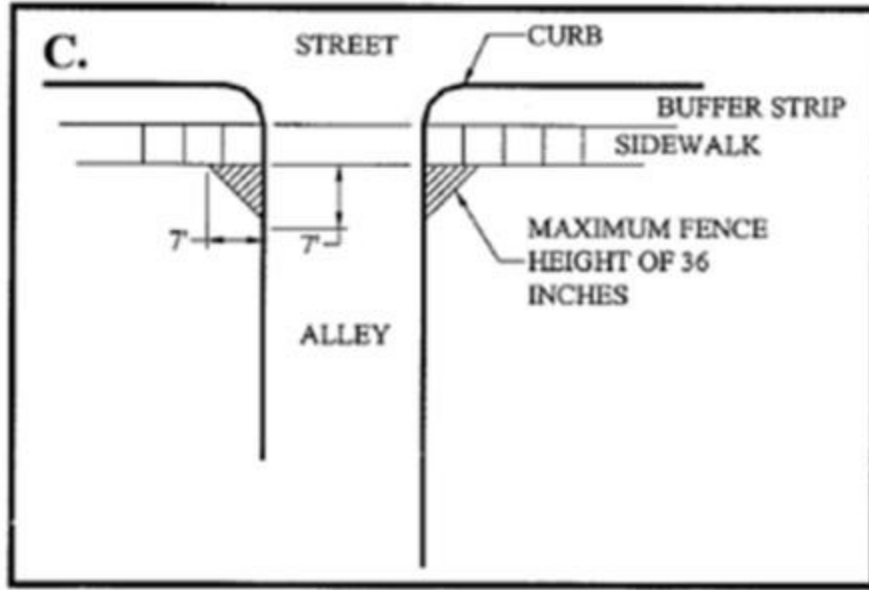
1. A fence, wall, hedge or other improvement may not be erected or maintained at the corner of a lot so as to obstruct the view of travelers upon the streets.
2. Subject to the authority of the traffic engineer to make adjustments and special requirements in particular cases, no fence exceeding a height of thirty-six inches above the curb may be inside the:
 - a. right isosceles triangle having sides of fifty feet measured along the curb line of each intersecting residential street; or



- b. right triangle having a fifteen-foot side measured along the curb line of the residential street and a seventy-five foot side along the curb line of the intersecting arterial street, except that when the arterial street has a speed limit of thirty-five miles per hour, the triangle has a side along such arterial of one hundred twenty-two feet; or



- c. right isosceles triangle having sides of seven feet measured along the right-of-way line of an alley and:
- i. the inside line of the sidewalk; or
 - ii. if there is no sidewalk, a line seven feet inside the curb line.



((F.)) G. Enclosures for Pools, Hot Tubs, or Ponds

1. A person maintaining a swimming pool, hot tub, pond, or other impoundment of water exceeding five thousand gallons and eighteen inches or more in depth and located on private property is required to construct and maintain an approved fence by which the pool or other water feature is enclosed and inaccessible by small children.
2. The required pool enclosure must be at least fifty-four inches high and may be a fence, wall, building or other structure approved by the building services department.
3. If the enclosure is a woven wire fence, it is required to be built to discourage climbing.
4. No opening, except a door or gate may exceed four inches in any dimension.
5. Any door or gate in the pool enclosure, except when part of the occupied dwelling unit, must have self-closing and self-locking equipment by which the door or gate is kept secure when not in use. A latch or lock release on the outside of the door or gate must be at least fifty-four inches above the ground.

((G.)) H. Reference to Other Standards

Building permits are required by the building services department for all fences including the replacement of existing fences. A permit is not required to repair an existing fence.

PASSED by the City Council on _____.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date