

## ORDINANCE NO. C35635

AN ORDINANCE relating to the electric fence security systems amending SMC 17C.130.310.

WHEREAS, on May 9, 2016 Spokane City Council passed Ordinance C35384 permitting the construction and use of electric fences in areas of the City zoned Heavy Industrial; and

WHEREAS, in mid-2017, the City received a request for approval of an electric fence in an area of the City zoned Light Industrial, a use that is currently prohibited outside areas zoned Heavy Industrial; and

WHEREAS, in response to this request, the City Council sought a recommendation from the Plan Commission regarding expanding the use of electric fence security systems within Light Industrial zones (the "Proposal"); and

WHEREAS, the Plan Commission held workshops, open to the public, on February 28, 2018 and March 14, 2018 to study the existing code and the Proposal, which would amend the City's development regulations to establish the conditions for permitting electric fences in Light Industrial Zones; and

WHEREAS, City staff conducted significant public outreach efforts regarding the Proposal in addition to statutory noticing requirements.

WHEREAS, on May 9, 2018, the Plan Commission held a public hearing during which the public had an opportunity to provide written and verbal testimony regarding the Proposal; 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, after public testimony and deliberation the Plan Commission voted 10 to 0 to recommend approval of the Proposal including the use of electric fence security systems in Light Industrial Zones; and

WHEREAS, electric fence security systems are intended to deter crime; and

WHEREAS, the City should explore and pursue opportunities to create an environment where new businesses can start and existing businesses can grow; and

WHEREAS, electric fence security systems provide businesses in Heavy and Light Industrial Zones with outdoor storage an option for protecting their property, and

WHEREAS, Industrial zones share zoning boundaries with a variety of non-industrial zones including Residential zones; and

WHEREAS, non-industrial uses are frequently found in Industrial zones; and

WHEREAS, new industrial development requires landscape, screening and other design features to promote industrial development that is attractive, complementary, and compatible with other land uses; and,

WHEREAS, the Proposal intends to reduce conflicts, create more attractive transitions, and improves the appearance and compatibility of industrial property by requiring non-conforming industrial development to come into closer conformance with street frontage and screening standards as conditions to permitting electric fence use when installed in close proximity to non-industrial zones; and,

WHEREAS, a solid surface covering on the required non-electrified perimeter fence is intended to prevent accidental contact with the electrified portion of the fence when electric fence security systems are installed and operated in close proximity to sidewalks, trails, pedestrian connections, residential units, schools and daycare facilities; 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 Plan Commission's findings, conclusions, and recommendations 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. 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.

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 Heavy Industrial (HI) and Light Industrial (LI) 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 or batteries 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 when installed adjacent to, across a street or alley from a non-industrial zone.
  - c. Electric Fences are subject to Street Frontage requirements prescribed in 17C.200.040 when installed along street frontage that is adjacent to or across the street from a non-industrial zone.
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.
  - c. Electric fences shall not be installed within five (5) feet of a sidewalk, trail or other pedestrian connection unless the exterior perimeter non-electrified fence is covered with a solid covering.
- 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" and contain icons that are universally understood at intervals of not less than thirty 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 must only be energized during hours when the public does not have legal access to the protected property (~~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 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.

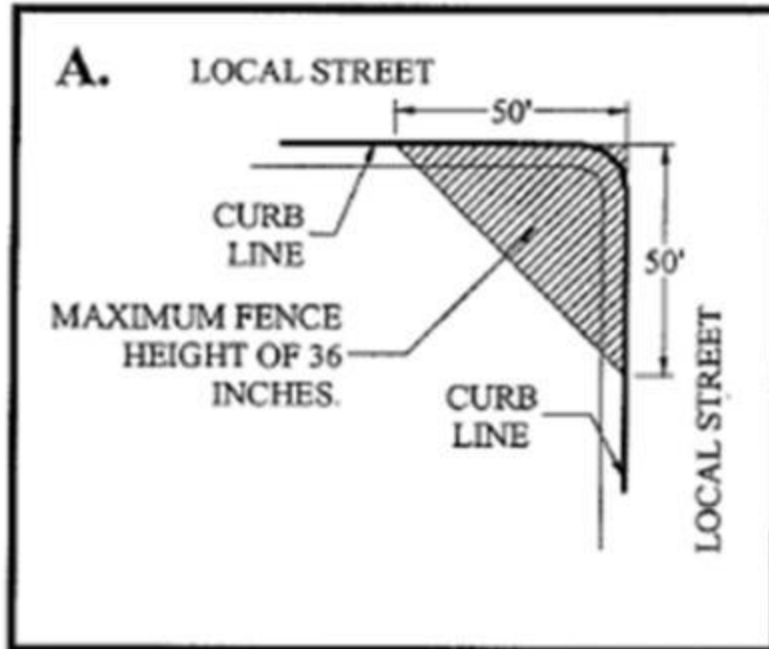
13. Emergency Access.

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.

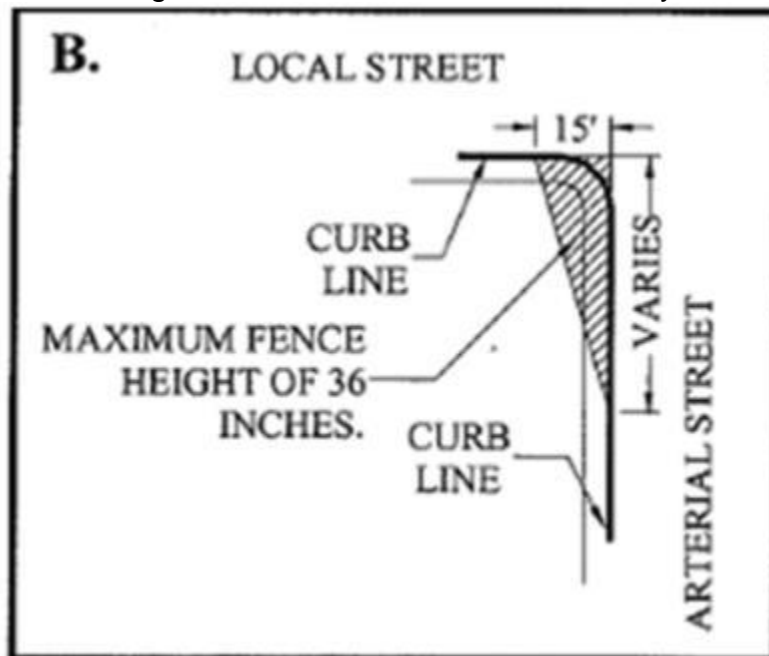
14. It shall be unlawful for any person to install, maintain or operate an electric fence in violation of this section.

F. Visibility at Intersections

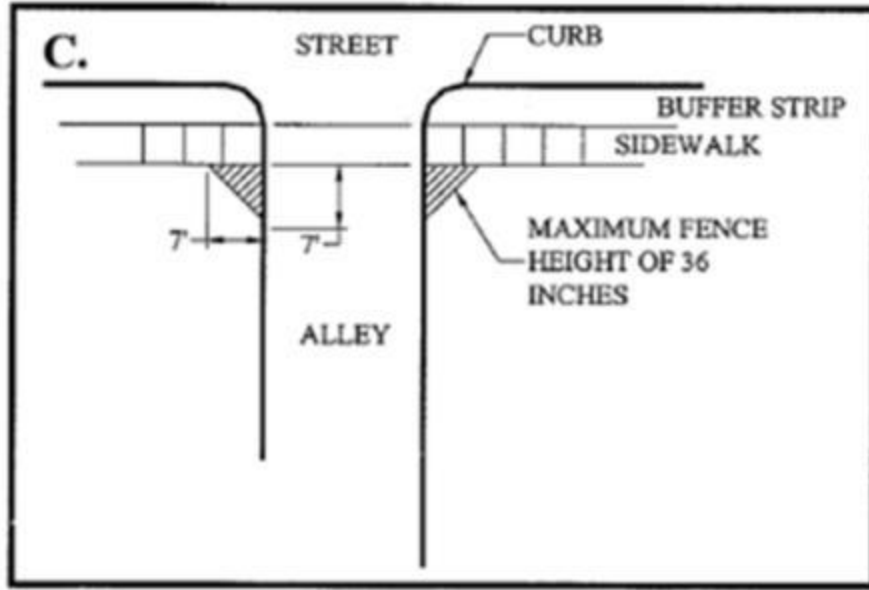
1. A fence, wall, hedge or other improvement may not be erected or maintained at the corner of a lot so as to obstruct the view of travelers upon the streets.
2. Subject to the authority of the traffic engineer to make adjustments and special requirements in particular cases, no fence exceeding a height 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.



#### 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.

#### 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