

PLANNING COMMISSION  
RESOLUTION NO. 2017-25

RESOLUTION RECOMMENDING TO THE CITY COUNCIL AN AMENDMENT TO TITLE 4, "PUBLIC WELFARE, SAFETY AND HEALTH" CHAPTER 2, "MISDEMEANORS," SECTION 4-2.06, "ELECTRIFIED FENCES PROHIBITED" AND AMENDMENT TO TITLE 10 "ZONING REGULATIONS," CHAPTER 4, "DEVELOPMENT STANDARDS," ARTICLE 4 "GENERAL DEVELOPMENT STANDARDS," SECTION 10-4.406, "WALLS AND FENCES," SUBSECTION G, "SECURITY FENCING"

WHEREAS, a security business, Electric Guard Dog, has requested an amendment to the Modesto Municipal Code to allow electric fences electrified fences would deter vandalism and break-ins for businesses with outdoor assets, and

WHEREAS, **electrified fences are intended to deter vandalism and break-ins for businesses with outdoor assets, and**

WHEREAS, the current Zoning Code does not allow electrified fences, and

WHEREAS, City staff has drafted an amendment to Modesto Municipal Code Sections 4-2.06 and 10-4.406 that would allow electrified fences, and

WHEREAS, the draft amendment to the Modesto Municipal Code has been prepared consistent with California Civil Code Section 835, and

WHEREAS, a public hearing was held by the Planning Commission on October 16, 2017 in the Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission that it hereby finds and determines as follows:

1. The proposed change will not be detrimental to the public health, safety or welfare because there are development standards that will make the electrified fences safe.
2. The proposed change will result in an orderly planned use of land because electrified fences do not affect the planned land use and how land is developed.
3. The proposed change is in accordance with the community's objectives as set forth in the General Plan because it addresses the compatibility issue by limiting electrified fences to the industrial zones.
4. The proposed amendment is exempt from CEQA pursuant to CEQA Guidelines section 15061(b) (3) of the State CEQA Guidelines. Specifically, this amendment will not result in a direct or reasonably foreseeable indirect physical change in the

environment because it does not authorize the construction of any new structures or other physical changes to the environment.

BE IT FURTHER RESOLVED by the Planning Commission that it hereby recommends to the Council an amendment to Title 4, "Public Welfare, Safety and Health" Chapter 2, "Misdemeanors," Section 4-2.06, "Electrified Fences Prohibited" and amendment to Title 10 "Zoning Regulations," Chapter 4, "Development Standards," Article 4 "General Development Standards," Section 10-4.406, "Walls and Fences," Subsection G, "Security Fencing" as follows:

SECTION 1. AMENDMENTS:

A. Title 4, "Public Welfare, Safety and Health," Chapter 2, "Misdemeanors," Section 4-2.06 shall be amended to read as follows:

4-2.06 - Electrified Fences.

Electrified Fences shall comply with all of the requirements set forth in Section 10-4.406(g) of the Modesto Municipal Code.

B. Title 10, "Zoning Regulations," Chapter 4, "Development Standards," Article 4, "General Development Standards," Section 10-4.406, "Walls and Fences," Subsection (g), "Security Fencing" shall be amended to read as follows:

(g) Security Fencing. Concertina wire, serpentine wire, barbed wire, razor wire, and other similar fencing materials capable of inflicting significant physical injury or discomfort and shall only be permitted for non-residential uses subject to all of the following requirements:

- (1) These materials, excluding electric fences, may be used only at heights of six (6) feet or more. In no event shall these fencing materials protrude into or over the public right-of-way.
- (2) In the C-1 and C-2 and C-3 zones, these fence materials are prohibited along the front and street-side property lines and within the front and street-side yard setback areas, but may be located along the rear or interior side property lines or within the rear or interior side setback areas.
- (3) Electric Fences shall only be permitted in the M-1 and M-2 zones subject to a building permit and the following standards:
  - i. Electric fences are only allowed around industrial outdoor storage areas or contractor's equipment or storage yard. No electric fence shall be permitted, installed, or used unless it is completely surrounded by a nonelectric fence or wall that is at least six feet in height.
  - ii. Electric fences may have a maximum height of 10 feet and shall not exceed two (2) feet higher than surrounding nonelectric fence or wall.
  - iii. The space between an electric fence and perimeter wall or fence may not

exceed 12 inches and shall be kept clean and free of litter, debris, and vegetation.

- iv. Electric fences shall be installed as to be as minimally intrusive as possible. Fences should utilize horizontal electrified wires and minimal vertical support beams.
- v. The energizer for electric fences must be driven by a commercial storage battery not to exceed 12 volts DC. The electric charge produced by the fence upon contact shall not exceed the energizer characteristics set forth in paragraph 22.108 and depicted in Figure of International Electrotechnical Commission (IEC) Standard 60335-2-76.
- vi. The electric fence must also comply with all applicable local and state regulations including California Civil Code Section 835 and the California Building Code, as amended from time to time.
- vii. Electric fences shall be clearly identified with warning signs that read, at minimum, "Danger – Electric Fence" at an interval of not less than 30 feet and at least one sign per side of the area to be fenced. Warning signs shall be placed at each gate and access point, and adjacent to other signs relating to chemical, radiological, or biological hazards.
- viii. Electric fences equipped with monitored alarm systems may require an alarm use permit.
- ix. All applicants issued permits to install or use an electric fence or the property owner who owns the land upon which an electric fence shall be installed shall agree, as a condition of permit issuance, to defend, indemnify and hold harmless the City of Modesto and its agents, officers, volunteers and employees from any and all claims, judgments, actions or proceedings arising out of any personal injury, including death, or property damage caused by the electric fence or the installation or maintenance of the electric fence. This indemnification language will be included in the permit application.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on October 16, 2017, by Commissioner Pollard, who moved its adoption, which motion was seconded by Commissioner Smith, and carried by the following vote:

Ayes:           Birring, Lucas, Morad, Pollard, Smith, Vohra, Escutia-Braaton  
Noes:           None  
Absent:         None  
Recused:       None

BY ORDER OF THE PLANNING COMMISSION OF THE CITY OF MODESTO.

Original, signed copy on file in CEDD  
Patrick Kelly, Secretary