



**SUBSTITUTE
ORDINANCE NO. 28902**

**BY REQUEST OF MAYOR WOODARDS AND COUNCIL MEMBERS
BUSHNELL AND USHKA**

AN ORDINANCE relating to land use regulations; amending Chapter 13.06 of the Tacoma Municipal Code, relating to Zoning, to expand the allowed use of electric fences in association with outdoor storage in various zoning districts, with associated development standards, as part of the 2023 Annual Amendment to the Comprehensive Plan and Land Use Regulatory Code.

WHEREAS the 2023 Annual Amendment to the One Tacoma Comprehensive Plan and Land Use Regulatory Code (“2023 Amendment”) includes the following six applications: (1) an amendment to the Future Land Use Map in the One Tacoma Comprehensive Plan (“Comprehensive Plan”) for the Mor Furniture site, (2) an amendment to the Land Use Regulatory Code (“Regulatory Code”) pertaining to electric fences, (3) an amendment to the Regulatory Code pertaining to shipping containers, (4) an amendment to the Regulatory Code pertaining to delivery-only retail businesses, (5) an amendment to the Regulatory Code pertaining to commercial zoning, and (6) minor amendments to the Comprehensive Plan and Regulatory Code, and

WHEREAS this ordinance pertains to the proposed amendments to the Regulatory Code pertaining to electric fences, and was initiated by resolutions adopted by the City Council, including Resolution No. 40881 and Substitute Resolution No. 40955, forwarded in response to community concerns about increasing theft and safety concerns faced by commercial businesses, and

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WHEREAS this proposed amendment would expand the allowed use of electric fences in association with outdoor storage in C-1 and C-2 Commercial Districts; WR Warehouse Residential Districts; DMU Downtown Mixed-Use Districts; and CIX, CCX, and UCX Mixed-Use Commercial Districts, and

WHEREAS, in addition, the amendment includes development standards for placement, setbacks, height, aesthetics, signage, and voltage/amperage limitations to avoid impacts to the public realm and public health and safety, and

WHEREAS the Planning Commission (“Commission”) completed its review of the 2023 Amendment through an extensive and inclusive public engagement process, including a public hearing on April 5, 2023, and the Commission forwarded to the City Council, and filed with the City Clerk’s Office, the Commission’s Findings of Fact and Recommendations Report for the 2023 Amendment along with a letter of recommendations, both dated May 17, 2023, and

WHEREAS the report documents the public review and community engagement process and the Commission’s deliberations and decision-making concerning the six applications, and

WHEREAS pursuant to TMC 13.02.070.I.1, the City Council shall hold a public hearing before enacting any proposed amendments to the Comprehensive Plan and the TMC, and the City Council has fulfilled said requirement by conducting a public hearing on June 27, 2023, concerning all six applications for the 2023 Amendment;



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WHEREAS community members and business representatives provided comment to the City Council pertaining to the security concerns of local businesses as well as the concerns over the health and safety of electric fences, and

WHEREAS the policies of the One Tacoma Comprehensive Plan provide guidance on the necessary balance between safety and security, aesthetics, and off-site impacts, including policies on the use of crime prevention through environmental design, and

WHEREAS the development standards drafted by the Planning Commission provide a balanced and effective approach to support the safety and security of local business while protecting the broader public health and safety; Now,

Therefore,



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BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That Chapter 13.06 of the Tacoma Municipal Code, relating to Zoning, is hereby revised by amending Sections 13.06.0960 entitled "~~Industrial Districts~~Site Development Standards", and 13.06.100 entitled "Building Design Standards", to consolidate and amend fencing regulations to read as set forth in the attached Exhibit "A."

Section 2. That the City Clerk, in consultation with the City Attorney, is authorized to make necessary corrections to this ordinance, including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any references thereto.

Passed _____

Mayor

Attest:

City Clerk

Approved as to form:

Deputy City Attorney



EXHIBIT "A"

CHAPTER 13.06
ZONING

13.06.090 Site Development Standards

13.06.090.K

K. Fences and Retaining Walls.

1. Applicability. These fence and retaining wall regulations apply to all zoning districts. Regulations within specific zones are set forth below.

2. Purpose. The purpose of fence and retaining wall regulations is to implement the Comprehensive Plan policies that seek to enhance the pedestrian experience while also reducing opportunity for crime.

3. The Director may attach any reasonable conditions found necessary to make proposed fencing or retaining walls compatible with its environment, to carry out the goals and policies of the City's Comprehensive Plan, and/or to provide compliance with other criteria or standards set forth in the City's Land Use Regulatory Codes.

4. ~~(2)~~ General Fencing and Wall Height Standards.

~~(a) Unless otherwise allowed, except as set forth in 4.b.1(c) above,~~ the maximum height of free-standing walls, fences, or hedges between any public street and building shall be 3 feet.

(b) Decorative fences up to 8 feet in height may be allowed between a public street and any residential use provided such fence is at least 50 percent transparent and features a planting strip at least 5 feet wide with landscaping pursuant to the requirements of TMC 13.05.502 to soften the view of the fence and contribute to the pedestrian environment.

(c) Fences required by the Washington State Liquor Control Board shall also be exempt from the maximum height limitation, provided any portion of the fence between 3 and 7 feet above grade is at least 50 percent transparent.

(d) Fences shall not exceed 5 feet in height in required Street Level Residential Transition Areas.

(e) Fences along alleys are allowed provided fences greater than 3 feet in height are at least 20 percent transparent between 3 and 7 feet above grade. If no transparency is provided, the maximum height of such fence shall be 3 feet.

(f) Exception. In Downtown Districts, fences greater than 3 feet in height are allowed if the portion of the fence between 3 and 7 feet above grade is at least 20 percent transparent.

~~Fencing.~~

5a. Residential District Fence and Wall Standards

~~(1)~~a. Fencing Type Limitations

~~(1a)~~ Barbed or razor wire. The use of barbed or razor wire is prohibited.

~~(2b)~~ Electrified fences are prohibited.



(3e) Chain link. Chain link is permitted; except

(a) In the case of a 4-plex, multi-family, or single-family attached (townhouse) development, chain link or similar wire fencing is prohibited between the front of a building and a public street, except for wetland preservation and recreation uses; and

(b) chain link, with or without slats, is prohibited for required screening.

b.(2) Fence and Wall Height

(1) Except as specifically set forth below, fences in residential districts for residential development are exempt from height and transparency set forth below.

(1a) In the case of single-family attached (townhouse), the maximum height of free-standing walls, fences, or hedges between any public street and building shall be 3 feet. Exception: Decorative fences up to 8 feet in height may be allowed between a public street and any residential use provided such fence is at least 50 percent transparent and features a planting strip at least 5 feet wide with Type C or D landscaping to soften the view of the fence and contribute to the pedestrian environment.

(2b) See TMC 13.06.090.M for fence limitation specific to Building Transition. In the case of conflicts, the most restrictive section will apply.

6b. Commercial Districts, MUCs, and Downtown

(1)a. Fencing Type Limitations.

(1a) Barbed or razor wire. The use of barbed or razor wire is limited to those areas not visible to a public street or to an adjacent residential use.

(2b) Chain link. Chain link or similar wire fencing is prohibited between the front of a building and a public street, except for wetland preservation and recreation uses.

(3e) Electrified. Electric fences are allowed around outdoor storage areas, where permitted, in C-1 and C-2 Commercial Districts, CCX Community Commercial Mixed-Use District, UCX Urban Center Mixed-Use District, CIX Commercial industrial Mixed-Use District, DMC Downtown Mixed Use and WR Warehouse Residential District, subject to the following standards. Electric Fences are not subject to the height standards in subsection (2) below. These standards shall not apply to underground or invisible pet fences that are used to contain small domestic animals.

(i)b. Location Electrified Fence Standards

(1a) Electric fences shall be prohibited between the front of a building and the adjacent public street, except when as provided below:

(i) Outdoor storage located between the building and the front property line, which was in existence at the time of the passing of this Ordinance may be protected by an electric fence. In the case of a corner site, this applies to the side adjacent to right-of-way.

~~— Electric fences will not be permitted adjacent to designated Core Pedestrian Streets or designated Pedestrian Streets.~~

~~— See below for standards related to electric fence and perimeter fence when adjacent to right-of-way.~~

(ii) Except for the South Tacoma Groundwater Protection District, electric fences shall not be closer than shall be set back a minimum of 15 feet from to the buffer of any critical area as defined in TMC 13.01.110.C and the fence shall not surround said critical area.

(ii) Standards

(2a) Electric fences shall be limited to a height of 10 feet 8 feet.

(3)iii) Electrification



1 (ia) The energy source (energizer) for electric fences must be provided by a storage battery not to exceed 12 volts DC. The storage battery may be charged by a solar panel. The solar panel may not be augmented by a trickle charger.

2 (ib) The electric charge produced by the fence upon contact shall not exceed energizer characteristics set forth in the International Electrotechnical Commission (IEC) Standard 60335-2-76.

3 (iie) Fence system shall be tested and labeled to the Electrotechnical Commission IEC Standards 60335-2-76.

4 (4iv) Warning Signs and Insurance

5 (ia) Electric fences shall be clearly identified with warning signs that read "Warning - Electric Fence" at intervals of 50 feet or less. Signs shall also contain imagery or symbols of, or similar to, the International Organization for Standardization (ISO) warning symbol for electric hazard to alert individuals that the fence is electrically charged (e.g. lightning bolts).

7 (ib) Warning signs shall be posted in English, Russian, Spanish, and Vietnamese

8 (iiv) Owner of the electric fence shall provide to the City a certificate of commercial general liability insurance covering third party liability risks in a minimum amount of \$1,000,000.00 combined single limit per occurrence for bodily injury and personal injury.

10 (5) Perimeter Fence

11 (b) When adjacent to a dwelling or dwellings, a playground, a school, or a park, recreation, and open space, as defined in TMC 13.01, or adjacent to street right of way, the electric fences shall be setback a minimum of 5 feet from property line and no taller than 8 feet.

12 (ibe) An electric fence shall be surrounded by a decorative, non-electric, perimeter fence, with a smaller aperture designed to limit the passthrough of hands. This perimeter fence shall be a minimum of 6 feet in height and a maximum of 7 feet in height. This fence may be located on the property line. ~~When the fence is between a public street and the property the fence shall be at least 50 percent transparent.~~

14 (iied) The required perimeter fence shall be setback a minimum of 1 foot from the electric fence.

15 (iiide) The perimeter fence located between the building and front property shall not be chain link and must meet subsection 2(b) below.

17 (iv) When the perimeter fence is between a public street and the property, the fence must be designed to allow pedestrians and drivers to see onto the property shall be at least 50 percent transparent and a planting strip at least 5 feet wide with landscaping pursuant to the requirements of TMC 13.05.502 will be provided to soften the view of the fence and contribute to the pedestrian environment.

19 (v) Electric fences adjacent to designated Core Pedestrian Streets or designated Pedestrian Streets shall be required to have a planting strip at least 5 feet wide between the public right-of-way and the perimeter fence, with landscaping pursuant to the requirements of TMC 13.05.502 in order to soften the view of the fence and contribute to the pedestrian environment.

21 c. Industrial Districts

22 (1) Barbed or razor wire. The use of barbed or razor wire is limited to those areas not adjacent to residential use.

23 (2) Chain link. Chain link or similar wire fencing is permitted.

24 (3) Electrified. Electric fences are allowed in all Industrial Districts subject to the following standards. These standards shall not apply to underground or invisible pet fences that are used to contain small domestic animals.

25 (a) Location

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- (i) Electric fences shall be setback 5 feet to any dwelling or dwellings.
- (ii) Electric fences shall not be around or adjacent to a critical area as defined in TMC 13.01.110.C.
- (b) Standards
 - (i) Electric fences shall be limited to a height of 10 feet.
 - (ii) An electric fence shall be separated from property line by a non-electric fence a minimum of 6 feet tall.
- (c) Electrification
 - (i) The energy source (energizer) for electric fences must be provided by a storage battery not to exceed 12 volts DC. The storage battery may be charged by a solar panel. The solar panel may not be augmented by a trickle charger.
 - (ii) The electric charge produced by the fence upon contact shall not exceed energizer characteristics set forth in the International Electrotechnical Commission (IEC) Standards 60335-2-76.
 - (iii) Fence system shall be tested and labeled to the Electrotechnical Commission IEC Standards 60335-2-76.
- (d) Warning Signs and Insurance
 - (i) Electric fences shall be clearly identified with warning signs that read "Warning - Electric Fence" at intervals of 50 feet or less. Signs shall also contain imagery or symbols of, or similar to, the International Organization for Standardization (ISO) warning symbol for electric hazard to alert individuals that the fence is electrically charged (e.g. lightning bolts).
 - (ii) Warning signs shall be posted in English, Russian, Spanish, and Vietnamese
 - (iii) Owner of the electric fence shall provide to the City a certificate of commercial general liability insurance covering third party liability risks in a minimum amount of \$1,000,000.00 combined single limit per occurrence for bodily injury and personal injury.

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