



## STAFF REPORT

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**MEETING DATE:** July 10, 2024

**PRESENTER:** Manuel Campos, Assistant Planner

**SUBJECT:** Consideration of a Code Text Amendment application to amend Section 17.24.030 of Chapter 17.24 of Title 17 of the Kerman Municipal Code relating to fence materials and add Section 17.40.080 to Chapter 17.40 of Title 17 of the Kerman Municipal Code relating to electrified security fences (MC)

**RECOMMENDATION:** City Council conduct a public hearing, waive full reading, and introduce a Code Text Amendment application (OTA 2024-03) amending Section 17.24.030 of Chapter 17.24 of Title 17 of the Kerman Municipal Code relating to fence materials and add Section 17.40.080 to Chapter 17.40 of Title 17 of the Kerman Municipal Code relating to electrified security fences.

### **EXECUTIVE SUMMARY:**

The Planning Commission held a public hearing on June 10, 2024, to consider and recommend approval of a code text amendment (OTA 2024-03). The recently adopted Zoning Code prohibits the installation of electrified fences. The recently repealed Zoning Code did not have provisions allowing or prohibiting electrified security fences. As a result, Amarak, LLC filed an application requesting a code text amendment to allow for the installation of electrified security fences. The Commission approved a resolution (Attachment 'B') recommending the adoption of an ordinance to amend subsection (C)(3) of 17.40.080 (Fence Materials) and add Section 17.40.080 to Chapter 17.40 relating to electrified security fences. Section 17.24.030 of chapter 17.24 would repeal subsection (C) prohibiting electrified fences. Conversely, Section 17.40.080 provides a permit process and development standards for electrified security fences. The proposed ordinance is consistent with other electrified security fence ordinances adopted by nearby municipalities.

### **APPLICABLE CODES AND PROCEDURES:**

KMC 17.112 – Amendments and Rezones

KMC 17.116 – Public Notices and Hearings

Public Resource Code – CEQA 15061((b)(3)) – Common Sense Rule

The Zoning Code, section 17.112.020 (Initiation of Code Text Amendment and Rezones) allows the Director to initiate a code text amendment when an application has been filed with the Planning Division. The Commission may recommend approval or denial of the code text amendment to the City Council. The City Council, upon receipt of the Commission's recommendation, may approve, modify, or deny the Commission's recommendation.

## DISCUSSION:

### Project Proposal

Amarok, LLC submitted a proposed Code Text Amendment (OTA) application on behalf of JS West and Companies requesting to amend the Zoning Code for the allowance of electrified security fences. If the ordinance is approved, there will be a planning permit process for JS West and Companies to apply for the allowance of an electrified security fence at 15287 West Commerce Way which is currently zoned Service Commercial (CS). The applicant's request has been included in this report as Attachment 'C'.

### Code Text Amendment

The Zoning Code, under Section 17.24.030 (C) prohibits the installation of electrified security fences. The code text amendment would modify said section by striking out subsection C, as described in the proposed ordinance (Attachment 'A').

The code text amendment would also add Section 17.40.080 (Electrified Security Fences) to Chapter 17.40 (Standards for Specific Land Uses) of the Zoning Code. Said section includes subsections as follows:

- A (**Applicability**); Determines the applicability of electrified security fences and under what circumstance they may be used for security purposes.
- B (**Definitions**); Defines the terms used for the purpose of the section.
- C (**Permitted Locations**); Lists the permitted zone districts where electrified security fences may be allowed and special distance requirements.
- D (**Conditional Use Permit Applicability**); Establishes the conditional use permit process for electrified security fences.
- E (**Compliance with State and Federal Regulations**); Establishes requirements to comply with applicable State and Federal regulations.
- F (**Electrification**); Establishes power and voltage requirements for electrified security fences.
- G (**Development Standards**); Establishes development standards such as setback, height, signage, materials, and emergency access requirements, etc.

### Code Text Amendment Analysis

The draft ordinance was prepared consistently with electrified security fence ordinances from other California cities and with the applicants' submitted model ordinance. As proposed, the ordinance would only allow for the installation and operation of electrified security fences when it is in the public's and private's best and mutual interest to protect and secure; stored combustible, hazardous, or harmful matter or materials from those working or residing in proximity to said matter or materials, subject to a conditional use permit. As delegated by the Zoning Code, the Planning Commission will review each conditional use permit on a case-by-case basis and determine if an electrified fence meets said criteria. Traditionally these types of fences are allowed in the industrial zone district, since

uses that create, store, or distribute the type of materials listed above are normally located in industrial zones. As proposed, electrified security fences could potentially be permitted on properties south of the railroad and north of the railroad, along California Avenue and A Street, between Vineland Avenue and Del Norte Avenue. Sites that could potentially need electrified security fences are primarily located south of the railroad and occupied by industrial uses. The proposed ordinance would also allow electrified security fences in the O – Open Space, Recreation, & Public Facilities, and UR – Urban Reserve District that could potentially be owned or controlled by the City or other government agencies and require a similar type of security system. Given the wide variety of zone districts that allow electrified security fences, Staff recommends that electrified security fences be considered through the CUP process. The proposed ordinance would not allow electrified security fences in residential zones, professional office, general and neighborhood commercial, and mixed-use zone districts.

### Comparable Cities Analysis

As previously mentioned Staff has prepared the draft electrified security fence ordinance consistent with the cities of Colton, Fresno, Turlock, and Tulare. The electrified fence ordinances adopted by the aforementioned cities are substantially similar regarding permitted locations and zones, compliance with State and Federal regulations, and electrification requirements. There are some minor differences between cities when it comes to specific development standards for electrified security fences. Of note the applicant's suggested model ordinance is very similar to the City of Tulare's electrified security fence ordinance. Staff has incorporated some of Tulare's ordinance language into the proposed draft ordinance to ensure its consistency with the applicant's request. However, the draft ordinance better aligns with the City of Fresno's ordinance. Similar to the City of Fresno, the draft ordinance provides for flexibility in several zone districts, with the exception of residential, mixed-use, and several commercial zones.

### Planning Commission Discussion

The draft ordinance submitted for review by the Commission included a buffer requirement for electrified security fences from schools and daycares. During the public hearing, the applicant shared their disapproval of the 200-foot radius requirement from school facilities and daycare centers and the CUP requirement. The applicant stated that the radius requirement was arbitrary and that the CUP requirement was excessive and would prolong the process of installing a fence. The applicant also noted that the City of Kerman has been the only jurisdiction they have encountered with such requirements. Staff recommended a 200-foot radius requirement to protect schools and daycare centers that could be potentially developed in proximity to zone districts that would allow for electrified security fences in properties north of the railroad. Furthermore, the CUP requirement was recommended because electrified security fences have special attributes that may be concerning to surrounding uses and properties. The Commission ultimately decided to remove the 200-foot radius requirement and keep the CUP requirement. The Commission concurred that all fence applications should be reviewed on a case-by-case basis to ensure that any proposed fence is compatible with its surrounding land uses.

### Police Department Comments

The Chief of Police generally did not take an issue with the proposed ordinance but recommended that there be a setback requirement between electrified and non-electrified fences to prevent any passersby from making intentional contact with electrified fences. The Chief also recommended that

the Police Department have authorization to disable fence systems in the event of a confirmed trespassing. All incoming CUP applications for electrified security fences will be routed to the Police Department for comments.

Conclusion

The electrified security fence ordinance will assist with deterring criminal activity and reducing response involvement from the Police Department, as well as provide an additional layer of security for those working or residing in proximity to potentially hazardous or dangerous uses. As presented, including Section 17.40.080 to the Zoning Code will be consistent with the goals, objectives, and policies of the Kerman General Plan. The conditional use permit requirement will assist when determining the compatibility of an electrified security fence with surrounding land uses, and assess its environmental impacts on a project-specific basis.

**ENVIRONMENTAL REVIEW:**

The adoption of this ordinance is exempt from further CEQA review under the Common Sense Rule Section 15061(b)(3)) because there is no possibility that this project may have a significant, adverse, impact on the environment. This is because this project involves purely procedural policies with no impact on the environment. Therefore, this project is not subject to CEQA.

**ATTACHMENTS:**

- A. Ordinance Text Amendment
- B. Planning Commission Resolution
- C. Applicant's Application Material