

TOLEDO - LUCAS COUNTY PLAN COMMISSIONS

One Government Center, Suite 1620, Toledo, OH 43604 P: 419 245-1200 F: 419 936-3730

DATE: November 3, 2023

REF: M-9-23

TO: President Matt Cherry and Members of Council, City of Toledo

FROM: Toledo City Plan Commission, Thomas C. Gibbons, Secretary

SUBJECT: Request for a Text Amendment modifying TMC§1105.0303 “Fences and Hedges – Barbed Wire Prohibited”.

The Toledo City Plan Commission considered the above-referenced request at its meeting on Thursday, November 2, 2023 at 2:00 P.M.

GENERAL INFORMATION

Subject

Request	-	Text amendment modifying TMC§1105.0303 “Fences and Hedges – Barbed Wire Prohibited”
Applicant	-	Toledo City Plan Commission One Government Center, Suite 1620 Toledo, OH 43604

STAFF ANALYSIS

The current Zoning Code does not define or provide regulations for the use of electric fences. This omission has led to uncertainty about where electric fences are allowed in certain zoning districts. The proposed text amendment provides clarity that electric fences are allowed in specific zoning districts, subject to certain regulations.

The current Zoning Code outlines fence regulations for barbed wire, razor wire, and concertina in TMC§1105.0303. It states that these types of fences are prohibited in all zoning districts except Industrial Districts and then only in the side and rear yards, when the location is not within fifty-feet (50') of a Residential District, and not in the front yard setback or anywhere along a street right-of-way. However, the current prohibition does not include or consider the use of electric fences. Due to this oversight, staff determined it would be in the best interest to complete a study of other Ohio city's Zoning Codes and summarize the standard requirement for electric fences in different zoning districts.

STAFF ANALYSIS (cont'd)

The Zoning Codes from other Ohio cities were all similar in their regulations on barbed wire and electrical fences. All jurisdictions reviewed prohibit the use of electrical fences in residential districts but allow them industrial districts, with certain conditions. In fact, the City of Toledo is one of a few cities reviewed without regulations on electric fences in the zoning code. Cities reviewed include Columbus, Cincinnati, Cleveland, Dayton, Maumee, and Perrysburg.

In addition to other Zoning Codes in Ohio, the Ohio Revised Code has building standards which outline the minimum state requirements for electric fences or "battery-charged fences" as defined in ORC 3781.1011.

"Battery-charged fence" means a fence connected to a battery-operated energizer that is intended periodically to deliver voltage impulses to the fence, a battery charging device used exclusively to charge the battery, and any other ancillary components or equipment attached to such a system.

Additionally, the Ohio Revised Code allows jurisdictions to adopt more restrictive regulations on "battery-charged fences" than listed below. As stated in ORC 3781.1011(B);

- (B) A battery-charged fence installed on private, nonresidential property within a county, township, or municipal corporation shall satisfy all of the following:*
- (1) Interface with a monitored alarm system;*
 - (2) Have a battery-operated energizer that is powered by a commercial storage battery that is not more than twelve volts of direct current, and that meets the standards set forth by the international electrotechnical commission 60335-02-76 current edition;*
 - (3) Be completely surrounded by a nonelectric perimeter fence or wall that is not less than five feet in height;*
 - (4) Be not more than the higher of ten feet in height, or two feet higher than the height of the nonelectric perimeter fence or wall; and*
 - (5) Be marked with conspicuous warning signs that are located on the battery-charged fence at not more than forty-foot intervals and that read: "WARNING-ELECTRIC FENCE."*

Staff recommends electric fences shall be regulated in the same manner as barbed wire, razor wire, concertina wire or the like, and only permitted in the industrial zoning districts, and when in conformance with ORC 3781.1011. Based on the review of fence regulations in Ohio cities and the Ohio Revised Code staff recommends TMC§1105.0303 be amended as shown in Exhibit "A".

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PLAN COMMISSION RECOMMENDATION

The Toledo City Plan Commission recommends approval of M-9-23, a text amendment modifying TMC§1105.0303, "Fences and Hedges – Barbed Wire Prohibited", to Toledo City Council for the following two (2) reasons:

1. The proposed text amendment conforms with the stated purpose of the Zoning Code and ensures safety of Toledo residents; and
2. The proposed text amendment provides clarity and regulations for the use of electric fences in certain zoning districts.

Respectfully Submitted,



Thomas C. Gibbons
Secretary

RS
Exhibit "A" follows

Exhibit "A"
Proposed Modifications
(Additions in italic highlight. Deletions in bold strikethrough.)

Fences and Hedges

Fences and hedges shall be permitted in any required setback.

1105.0303 Barbed Wire & Electric Fences Prohibited

The use of barbed wire, razor wire, concertina wire, *electric fences as defined in Sec. 1116.0100*, or the like shall not be permitted in any zoning district except the Industrial districts and then only in the side and rear yards when not within 50 feet of a Residential district, not in the front yard setback and not anywhere along a street right-of-way.

1116.0132.1	<i>Electric fences</i>	<i>A fence that is within conformance to ORC 3781.1011(B) and any fence connected to an electrical circuit that is intended periodically to deliver voltage impulses to the fence.</i>
1116.0132.24	Electric Vehicle (EV)	EV includes BEV Battery Electric Vehicles, which are vehicles that utilize an externally charged battery as the primary fuel source and PHEV Plug in Hybrid Vehicles which are vehicles that utilize a combination of an externally charged battery and an internal combustion engine.
1116.0132.32	EV Charging Equipment	An electrical dispenser designed specifically to charge batteries within electric vehicles.
1116.0132.43	EV Charging Infrastructure	Electrical and other components designed to enable charging operations but not necessarily directly used to charge batteries such as generators, transformers, mini-substations, and other similar structures.

Sundvold, Ryne

From: Chris Heaton <cheaton@amarok.com>
Sent: Tuesday, October 31, 2023 10:42 AM
To: Sundvold, Ryne
Subject: Electric Fence Prohibition
Attachments: EGD photos.pdf; Dr Kroll Summary and Report.pdf

Ryne,

Thanks for giving me a call yesterday to discuss the proposed text amendment regarding electric fencing. As I mentioned, we would like to work with Toledo to allow our security solution where appropriate in the city. To answer your question about cities where our product is installed in commercial zones, my compliance manager for that region advises we have them located in commercial zones in Columbus, Franklin County, Brook Park, Cincinnati, Springfield and Huber Heights. The city of Akron follows ORC guidance on this technology and allows the security solution in any nonresidential zone. We have several permit requests in other cities that are processing.

While it appears that industrial zones would capture a large percentage of our potential customers, our concern would be limiting language in code to industrial zone only. We have encountered jurisdictions in other states that interpret that language to mean no deviation is possible without a code amendment, meaning a variance is not possible.

I would propose a modification in the language of TMC 1105.0303 that would also allow our security solution in nonresidential zones, where permitted by the current variance process to review the application to ensure the security solution is appropriate for that location.

Our security solution provides the most effective deterrent to recurring theft and vandalism for businesses that must store valuable assets outdoors. Some reasons our solution is so effective include:

- It is a monitored alarm system that has the added benefit of providing a deterrent effect. If a would-be criminal attempts to cut through or climb over the security solution, an alarm signal would be sent to a monitoring station and an audible alarm would be activated (along with video activation if present).
- It is medically safe, incapable of causing physical harm. While the electric pulse is unpleasant and repels any intruder, it cannot cause injury to anyone including animals, children or people with known or unknown heart conditions. The attached summary and detailed review provides data on this point.
- It is built according to national and international standards for electric security fencing and the energizer is listed through a nationally recognized testing laboratory (NRTL). It is constructed behind an existing perimeter fence and therefore does not alter land use or setback requirements.
- It is powered by a 12-volt DC battery that is recharged through a solar panel. It is not connected to building power or AC current and therefore is not impacted by power outages to the property it protects.
- A deactivation switch (Knox box) can be installed for use by emergency personnel as required by the city. This would be distinct from a (Knox) key or switch to gain access to the property.

Attached are some documents that will be helpful for the Plan Commission and your consideration. A one-page Q&A by Dr. Mark Kroll, a leading expert on biomedical engineering along with a more detailed paper on the scientific data behind this technology. Also attached are some street view photos of the fence that highlight its relative transparency.



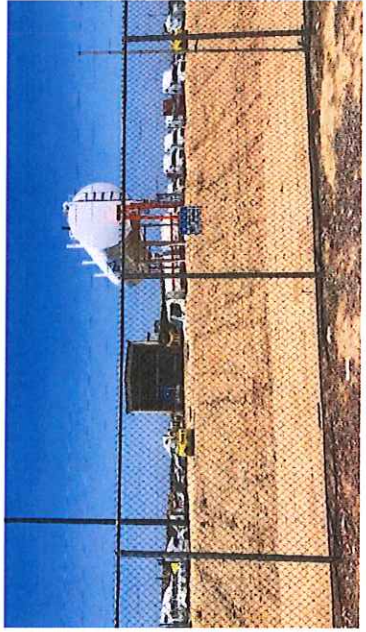
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