



**AGENDA ITEM#: 6**

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## **MEMORANDUM**

TO: Metropolitan Planning Commission

FROM: Mark Donaldson, Executive Director

DATE: December 8, 2011

SUBJECT: Request by Knoxville City Council to review an ordinance regarding electric security fences with regard to its impact on land use  
12-B-11-OA

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### **REQUEST**

To comply with the decision of the Tennessee Supreme Court in its decision in the *Cherokee Country Club vs. City of Knoxville* case, Knoxville City Council has requested that MPC review a recently adopted ordinance permitting the use of electric security fences constructed in an outdoor storage area located in compliance with the City of Knoxville zoning ordinance and offer its recommendations relating to its effect on land use.

### **BACKGROUND**

Knoxville City Council on November 29<sup>th</sup> approved an ordinance permitting an electric fence constructed in an outdoor storage area located in compliance with the City of Knoxville zoning regulations, along with regulations for the construction of such fences. See Exhibit B.

Council has requested that MPC review the ordinance and offer its recommendations relating to its effect on land use.

Outdoor storage is listed as a permitted use in the I-3 (General Industrial) and PC-2 (Retail and Distribution Park) zone districts. A similar use, called open storage, is listed as a permitted use in the C-3 (General Commercial), C-4 (Highway and Arterial Commercial), and I-3 (General Industrial) zone districts. Sales yards and storage yards are listed as permitted uses in the A-1 (General Agriculture and F-1 (Floodway) zone districts. See Exhibit A.

- In the C-3 district, open storage is required to provide screening and meet the minimum setbacks for a principal structure in the district.
  - In the C-4 district, open storage is required to provide screening at the side and rear of the lot.
  - In the PC-2 district, outdoor storage is allowed only in the side or rear yards and must provide screening.
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- In the I-3 district, there are no requirements for outdoor storage, but open storage of contractor's equipment and supplies must provide screening.
- In the A-1 district, there are no requirements for commercial livestock and feed sales yards.
- In the F-1 district, there are no requirements for storage yards for equipment as an accessory use to a permitted use in an adjacent industrial zone district.

## **ANALYSIS**

Within the Knoxville zoning ordinance there are numerous mentions of outdoor and open storage, as well as sales and storage yards, as permitted uses, but no comprehensive, unified set of requirements. There are also numerous mentions of fences of all kinds, but no comprehensive, unified set of requirements, and no central location within the code that addresses all of the requirements.

The permitted outdoor and open storage and sales and storage yards established in each of these districts seem to be appropriate.

An electric security fence would fit within the definition of a structure and could be a component of permitted principal uses such as outdoor storage, open storage, sales yard, and storage yard. These uses, when a structure such as an electric security fence is added, would become a permitted principal structure or facility and should be considered as a principal use on any property within a zone district that permits such uses.

As a principal permitted use including a structure such as an electric security fence, these facilities should be subject to the minimum required setbacks of each zone district.

The multiple terms used to describe essentially the same land use, plus the myriad of requirements for fences of all kinds that are found within the zoning ordinance makes it difficult to understand the regulations that would apply to each instance of the use of all of these terms. There should be a comprehensive review of the ordinance with respect to outdoor storage (and its comparable terms) and fences of all kinds in an effort to provide a unified and easy-to-find set of regulations that apply to these uses and structures.

## **STAFF RECOMMENDATION**

Staff recommends that the Planning Commission recommend to City Council that no immediate amendment to the zoning ordinance is needed with regard to its recent approval of an ordinance establishing requirements for electric security fences. Rather, an electric security fence that is a component of a permitted outdoor storage, open storage, sales yard or storage yard should be treated as part of a principal permitted use in the appropriate zone districts and be subject to the required minimum setbacks established for each district.

In addition, MPC could be directed to review the issue of outdoor storage in all its forms and fences with all their different requirements and make recommendations for a comprehensive, unified treatment of these uses and structures.

## **EXHIBITS**

- Exhibit A, Summary of zone districts allowing outdoor and open storage, and sales and storage yards
- Exhibit B, City of Knoxville Ordinance

CITY OF KNOXVILLE ZONING ORDINANCE  
OUTDOOR AND OPEN STORAGE, STORAGE AND SALES YARDS

Current mentions of Outdoor Storage and Open Storage as permitted uses in the City of Knoxville Zoning Ordinance.

### C-3 (General Commercial) District

B. Uses Permitted:

21. **Open storage** of material and equipment incidental to a permitted use, provided that all such open storage shall:
- a. Conform to the setback required for principal buildings in the C-3 district.
  - b. Be screened from all adjoining properties and public rights-of-way to a minimum height of six (6) feet with one (1) of the following:
    - (1) A chain link fence with inserted lattice which blocks the vision.
    - (2) An evergreen hedge which blocks the vision.
    - (3) A masonry wall.
    - (4) Any other proposed screen which is approved by the metropolitan planning commission, as a "use permitted on review."
  - c. The above screening requirements do not apply to materials and equipment stored on a construction site where such materials or equipment are to be used, or to the storage of commercial vehicles.

### C-4 (Highway and Arterial Commercial) District

B. Uses Permitted:

21. **Open storage** uses shall comply with the following provisions:
- a. All open storage and display of merchandise, material and equipment shall be screened by adequate ornamental fencing or evergreen planting at the side and rear of the lot on which said open storage or display occurs; provided, however, that screening shall not be required in excess of seven (7) feet in height.

### I-3 (General Industrial) District

B. Uses Permitted:

2. Any of the following uses:
- c. Building material **sales yard** and lumber yard, including the sale of rock, sand, gravel and the like as an incidental part of the main business, but not including a concrete batch plant or a transit mix plant.
  - d. Contractor's equipment **storage yard** or plant, or rental of equipment commonly used by contractors.
  - f. **Outdoor storage** facilities for coal, coke, building materials, sand, gravel, stone, lumber. **Open storage** of construction contractor's equipment and supplies shall be screened by seven foot obscuring fence, wall, or mass plantings, or otherwise so located as not to be obnoxious to the orderly appearance of the district.

CITY OF KNOXVILLE ZONING ORDINANCE  
OUTDOOR AND OPEN STORAGE, STORAGE AND SALES YARDS

### PC-2 (Retail and Distribution Park) District

- A. General description. The PC-2 district is established to provide for the unified development of uses ranging from those found in regional shopping centers to those found in distribution/light warehousing parks. Businesses within this district may cater to a variety of retail, wholesale and service trades and may require limited outdoor storage for materials and equipment. As with other planned commercial districts, emphasis is placed on rational placement of activities, traffic and pedestrian circulation, access and parking, loading, landscaping and the mitigation of adverse offsite impacts.
- F. Outdoor storage areas. Outdoor storage areas shall be located to the side or rear of buildings and screened to a minimum height of eight (8) feet.

### A-1 (General Agricultural) District

- C. Uses permitted on review.
4. Commercial livestock feed and sales yard.

### F-1 (Floodway) District

- B. *Permitted uses.*

*Adjacent to an industrial district:*

2. Storage yards for equipment and material not subject to major damage by flood, provided such use is accessory to a use permitted in an adjoining district.

## DEFINITIONS

*Structure* - Structure means a combination of materials to form a construction that is safe and stable and includes among other things stadiums, platforms, radio and television towers, sheds, storage bins, fences, and display signs.

~~REVISED~~ Exhibit B

**ORDINANCE**

ORDINANCE NO.

NOV 16 2011

ORDINANCE NO: \_\_\_\_\_

REQUESTED BY: Vice Mayor Bailey

PREPARED BY: Council

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KNOXVILLE TO AMEND SECTION 19-100 OF THE KNOXVILLE CITY CODE ENTITLED "BARBED WIRE FENCES OR FENCES CONTAINING SPIKES; ELECTRICAL FENCES" SO AS TO AUTHORIZE THE USE OF ELECTRIC FENCES IN OUTDOOR STORAGE AREAS SUBJECT TO SPECIFIC REGULATIONS.

APPROVED ON 1<sup>ST</sup>

READING: 11-15-2011

APPROVED ON 2<sup>ND</sup>

READING: \_\_\_\_\_

APPROVED AS AN EMERGENCY

MEASURE: \_\_\_\_\_

MINUTE BOOK: \_\_\_\_\_ PAGE \_\_\_\_\_

WHEREAS, Section 19-100 of the Knoxville City Code currently provides that it is unlawful for any person within the corporate limits of the City of Knoxville to erect, construct or maintain any fence or obstruction which is charged with electricity; and,

WHEREAS, City Council is of the opinion that electrical fences should be authorized in the City in limited circumstances and subject to strict and specific regulations; and,

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KNOXVILLE:

SECTION 1: Section 19-100 of the Code of the City of Knoxville shall be, and hereby is, amended by designating the first sentence thereof as Subsection (a) and by deleting the second

sentence thereof in its entirety and substituting in lieu thereof the following as Subsection (b):

- (b) It shall be unlawful for any person to erect, construct or maintain in the City any fence or obstruction charged with electricity except for an electric fence constructed in an outdoor storage area located in compliance with the City of Knoxville Code of Ordinances, Appendix B, "Zoning Regulations", and subject to the following regulations and limitations:
  - (1) **Permit.** Electric fences shall require a permit which shall be issued, governed and regulated in accordance with regulations to be established by the Plans Review and Building Inspections.
  - (2) **Security.**
    - (i) An electric security fence shall be equipped with the following features:
      - (a) An approved manual disconnect shall be provided that will interrupt the power supply to the fence. The manual disconnect means shall be located at an approved and accessible location and shall be secured by a locking device that is keyed to the Knoxville Fire Department and is installed consistent with the standards and regulations of the Knoxville Fire Department.
      - (b) The manual disconnect means shall clearly indicate the fence power status.
      - (c) Signage shall be provided at the manual disconnect that indicates "Fence Power Emergency Bypass" in red letters at least 1" high on a white background. Based on the installation, additional signs may be required at additional points to clearly indicate the location of the manual disconnect means.
    - (ii) An electric security fence shall be equipped with an alarm system meeting the requirements of the City's False Alarm Ordinance, Knoxville City Code §§19-110--19-119.
  - (3) **Location.** Permits for electric fences shall be issued only for outdoor storage areas which are located upon property in compliance with the City of Knoxville Code of Ordinances, Appendix B, "Zoning Regulations".

- (4) **Height.** Electric fences shall have a height of 10 feet.
- (5) **IEC Standard.** Unless otherwise specified herein, electric fences shall be constructed or installed in conformity with the specifications set forth in International Electrotechnical Commission (IEC) Standard No. 60335-2-76.
- (6) **Electrification.**
  - (i) The energizer for electric fences must be driven by a commercial storage battery not to exceed 12 volts DC. The storage battery shall be charged primarily by a solar panel, however, the solar panel may be augmented by a commercial trickle charger.
  - (ii) 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
- (7) **Perimeter Fence or Wall.** No electric fence shall be installed or used unless it is completely surrounded by a non-electrical fence or wall not less than 6 feet in height, and with a minimum size for any openings within the fence of no greater than 2 inches by 2 inches.
- (8) **Warning Signs.** Electric fences shall be clearly identified with warning signs which read: "Warning - Electric Fence" at intervals of not less than 50 feet. Such warning signs shall be at least 8 inches by 12 inches in size with 1.5 inch letters.

SECTION 2: This Ordinance shall take effect seventeen (17) days from and after its passage, the public welfare requiring it.

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 Presiding Officer of the Council

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 City Recorder