



Legislation Details (With Text)

File #: ID 23-1688 **Version:** 1 **Name:**

Type: Action Item **Status:** Agenda Ready

File created: 11/10/2023 **In control:** City Council

On agenda: 12/14/2023 **Final action:**

Title: HEARING for Consideration of Text Amendment Application No. P23-01018 and related Environmental Finding for Environmental Assessment No. P23-01018, amending Section 15-2009 of the Fresno Municipal Code, relating to Zone Districts where razor wire fencing is permitted.

- ADOPTION of a finding set forth in Environmental Assessment No. P23-01018, that Text Amendment Application No. P23-01018 is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303/Class 3.
- BILL (for introduction) amending Chapter 15 of the Fresno Municipal Code Section 15-2009, relating to the Zone Districts where razor wire fencing is permitted.

Sponsors: Planning and Development Department

Indexes:

Code sections:

Attachments:

| Date | Ver. | Action By | Action | Result |
|------------|------|--------------|--------|--------|
| 12/14/2023 | 1 | City Council | TABLED | |

REPORT TO THE CITY COUNCIL

FROM: JENNIFER CLARK, Director
Planning and Development Department

SOPHIA PAGOULATOS, Planning Manager
Planning and Development Department

BY: ADRIENNE ASADOORIAN, Planner
Planning and Development Department

SUBJECT

HEARING for Consideration of Text Amendment Application No. P23-01018 and related Environmental Finding for Environmental Assessment No. P23-01018, amending Section 15-2009 of the Fresno Municipal Code, relating to Zone Districts where razor wire fencing is permitted.

- ADOPTION of a finding set forth in Environmental Assessment No. P23-01018, that Text Amendment Application No. P23-01018 is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303/Class 3.
- BILL (for introduction) amending Chapter 15 of the Fresno Municipal Code Section 15-2009, relating to the Zone Districts where razor wire fencing is permitted.

RECOMMENDATION

Staff is recommending approval of Text Amendment Application No. P23-01018 and related Environmental Finding for Environmental Assessment No. P23-01018, amending Section 15-2009 of the Fresno Municipal Code, relating to Zone Districts where razor wire fencing is permitted.

EXECUTIVE SUMMARY

The City of Fresno (Applicant) is proposing Text Amendment P23-01018 which would amend Section 15-2009, Security Fencing, of the Fresno Municipal Code to permit razor wire in the following situations: (1) where such fencing is required by any law or regulation of the City, the State of California, the federal government, or other public agency; (2) where used to contain livestock; (3) in Commercial Districts where not visible from any street, highway, public open space, recreation area, or Residential District; (4) in Industrial Districts unless it abuts a Residential District, is located within 100 feet of a Residential District, or is located within 100 feet of a park or other public open space, where it is prohibited; (5) Construction Sites as a temporary measure. Prior to installation, property owners are required to apply for a permit with the City and execute an agreement to defend, hold harmless, and indemnify the City against all claims related to the fencing.

BACKGROUND

On December 5, 2019, the City Council approved Resolution No. 2019-248, initiating a Text Amendment to the Development Code of the City of Fresno to amend Section 15-2009 of the Fresno Municipal Code relating to security fencing. This amendment specifically addresses the inclusion of razor wire fencing, due to discrepancies in Section 15-2009 of the Fresno Municipal Code which identify locations where barbed wire security fencing is permitted, but do not address the provision of razor wire fencing. Text Amendment No. P23-01018 proposes to update Section 15-2009 of the Municipal Code to allow razor wire fencing in locations where barbed wire is currently permitted.

Public Notice and Comment

A Legal Notice was published in the Fresno Bee on October 20, 2023, pursuant to Fresno Municipal Code Section 15-5007 (See Exhibit C). In addition, the notice was posted on the City Clerk's website and provided to the City's distribution list for such notices.

Review by Committees and Commissions

The active Council District Plan Implementation Committees and Tower District Design Review Committees all reviewed the proposed text amendment, which applies Citywide. Their recommendations are listed below:

District 1: On September 14, 2023, the Committee recommended denial of the proposed application with the following recommendations: expand the allowable distance between where razor wire is permitted and parks and open space and Residential Districts, clarification of a grandfather fee and new application for approval, clarification on defining zones where razor wire would be permitted in construction sites, the creation of an impact study on where razor wire would be permitted in communities living in poverty and communities of color, evidence of incident rates of illegal razor wire, clarification of where razor wire is permitted by law, and proposal of a study which would analyze alternative solutions to razor wire fencing.

Staff Response to D1 Comments: Of the recommendations which fall under the scope of review of the City of Fresno Planning and Development Department, City staff has provided the following

responses:

- *Please refer to Exhibit G - Map of Potential Razor Wire Locations for an overview of locations throughout the City of Fresno where razor wire would be permitted.*
- *The Text Amendment references razor wire is permitted “where such fencing is required by any law or regulation of the City, the State of California, the federal government, or other public agency.” This language is intended to ensure compliance with State and Federal laws which pertain to security fencing.*
- *The City currently does not have citation data pertaining to illegal razor wire fencing, as proactive code enforcement of razor wire fencing was halted due to the initiation of this Text Amendment per Resolution No. 2019-248.*
- *Language included in this Ordinance does not require temporary razor wire fencing on construction sites to be restricted within the certain zones stipulated within the Ordinance. Razor wire fencing on construction sites as a temporary measure would be permitted Citywide.*

District 2: On April 10, 2023, the Committee recommended approval of the proposed application.

District 3: On April 11, 2023, the Committee recommended approval of the proposed application with the following recommendations: the creation of a task force run by Code Enforcement to focus on identifying properties which have permitted barbed wire, abatement of illegal barbed wire which would include a warning, education on why it is illegal and application of a permit within a time limit, and potential fine if not within compliance.

Staff Response to D3 Comments: The establishment and review of a task force run by Code Enforcement which would monitor illegal barbed wire would fall under the purview of the City Attorney’s Office.

District 4: The Committee is currently inactive.

District 5: On September 11, 2023, the Committee recommended approval of the proposed application.

District 6: On April 17, 2023, the Committee recommended approval of the proposed application.

Tower District Design Review Committee: On May 2, 2023, the Committee recommended approval of the proposed application.

Airport Land Use Commission: ALUC staff determined additional review was not necessarily due to the limited scope of the Text Amendment.

Planning Commission

The Planning Commission considered this item at its regularly scheduled meeting of November 1, 2023, and recommended approval by a 6-0-1 vote (see Exhibit H). No members of the public spoke in support or opposition.

ENVIRONMENTAL FINDINGS

An environmental assessment was prepared for this project in accordance with the requirements of the California Environmental Quality Act (CEQA) Guidelines (See Exhibit F).

CEQA Guidelines Section 15303 applies to projects pertaining to new construction or conversion of small structures consisting of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. Examples of this exemption include, but are not limited to accessory structures including garages, carports, patios, swimming pools, and fences.

Staff has reviewed the project and has determined that it is exempt from CEQA pursuant to CEQA Guidelines Section 15303 under the Class 3 exemption. This Text Amendment proposes changes to the zoning code and does not commit the City to any specific project or development on any particular site. However, it would allow for an applicant to install a specific type of security fencing, as an accessory structure, pursuant to a permit issued by the City.

The application process already exists within the Fresno Municipal Code per Section 15-2009 for Security Fencing, and all individual projects under the proposed Text Amendment will be subject to discretionary review. Each individual application will be evaluated pursuant to the requirements of CEQA, and the appropriate level of environmental review will be completed when the scope and impacts of each individual entitlement are known. This Text Amendment only pertains to the installation of razor wire fencing when permitted by the ordinance. Any new fencing would be considered construction of new, small, and limited structures and is not likely to have a significant effect on the environment. Therefore, this action is exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15303/Class 3 for New Construction or Conversion of Small Structures.

Furthermore, Staff has determined that none of the exceptions to Categorical Exemptions set forth in CEQA Guidelines, Section 15300.2 apply to this project.

FRESNO MUNICIPAL CODE FINDINGS

Development Code Text Amendment. Section 15-5811 of the Fresno Municipal Code provides that the Planning Commission shall not recommend, and the City Council shall not approve an application unless the proposed Text Amendment meets Criteria A (1 and 2) of Section 15-5811. Please see Exhibit D for the Fresno Municipal Code Findings.

LOCAL PREFERENCE

No procurement associated with this item.

FISCAL IMPACT

No fiscal impact associated with this item.

Attachments:

- Exhibit A - City Council Initiating Resolution 2019-248
- Exhibit B - Bill for Introduction - Text Amendment P23-01018
- Exhibit C - Public Notice
- Exhibit D - Fresno Municipal Code Findings
- Exhibit E - Presentation

Exhibit F - Environmental Assessment
Exhibit G - Map of Potential Razor Wire Locations
Exhibit H - Planning Commission Resolution No. 13818