



Legislation Details (With Text)

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**File created:** 9/5/2017    **In control:** City Council

**On agenda:** 10/12/2017    **Final action:** 10/12/2017

**Title:** Consider Text Amendment Application No. TA-17-007, Initiated June 22, 2017, by Council direction, and related environmental finding pertaining to the indemnification of security and electric fences:  
 1. ADOPT Environmental Assessment No. TA-17-007 approving a Finding of No Possibility pursuant to Section 15061 (b)(3) of the California Environmental Quality Act Guidelines.  
 2. BILL - (For introduction) Approving Text Amendment Application No. TA-17-007 amending subsection F of Section 15-2009, and subsection I of Section 15-2010 of the Fresno Municipal Code.

**Sponsors:** Planning and Development Department

**Indexes:**

**Code sections:** Chapter 12. - LAND USE PLANNING AND ZONING

**Attachments:** 1. Exhibit A -Text Amendment Application No. TA-17-007, 2. Exhibit B - Environmental Assessment, 3. Exhibit C – Planning Commission Resolution, 4. Exhibit D – Ordinance Bill for Text Amendment.pdf

Date	Ver.	Action By	Action	Result
10/12/2017	1	City Council	approved	Pass

**REPORT TO THE CITY COUNCIL**

**October 12, 2017**

**FROM:** JENNIFER K. CLARK, Director  
Development and Resource Management Department

**THROUGH:** DAN ZACK, Assistant Director  
Development and Resource Management Department

**BY:** DREW WILSON, Planner  
Development and Resource Management Department

**SUBJECT:**  
 Consider Text Amendment Application No. TA-17-007, Initiated June 22, 2017, by Council direction, and related environmental finding pertaining to the indemnification of security and electric fences:  
 1. **ADOPT** Environmental Assessment No. TA-17-007 approving a Finding of No Possibility pursuant to Section 15061 (b)(3) of the California Environmental Quality Act Guidelines.  
 2. **BILL - (For introduction)** Approving Text Amendment Application No. TA-17-007 amending subsection F of Section 15-2009, and subsection I of Section 15-2010 of the Fresno Municipal Code.

**RECOMMENDATION:**

Consider Text Amendment Application No. TA-17-007 and related environmental finding pertaining to the indemnification of security and electric fences:

1. **ADOPT** Environmental Assessment No. TA-17-007, an environmental finding approving a Finding of No Possibility pursuant to Section 15061 (b)(3) of the California Environmental Quality Act Guidelines.
2. **BILL - (For introduction)** Approving Text Amendment Application No. TA-17-007 amending subsection F of Section 15-2009, and subsection I of Section 15-2010 of the Fresno Municipal Code.

## EXECUTIVE SUMMARY

Text Amendment Application No. TA-17-007 was initiated by City Council Resolution 2017-909 on June 22, 2017. The Fresno Municipal Code (FMC) currently requires property owners to execute a covenant to indemnify the City prior to installation of a security or electric fence. The purpose of this text amendment is to allow the owner of the fence to execute an indemnification agreement with the City in place of a covenant.

## BACKGROUND

### Existing Development Code

The FMC currently requires that prior to the installation of security or electric fences, the property owner must obtain a permit and execute a covenant to indemnify the City against all claims relating to the fencing.

### Proposed Development Code Changes

As mentioned above, the Fresno City Council, by resolution 2017-909 moved to initiate changes to Section 15-2009-F and 15-2010-I of the FMC. The City Council resolution allows security and electric fence owners to execute an indemnity agreement with the City for all fence-related claims. This is intended to alleviate the property owners of legal responsibility and allow the fence owners to assume the risk. The primary owners of the security and electric fences are typically fence companies and not property owners. The text amendment would remove an unnecessary legal barrier to installation of such fences.

Text Amendment No. TA-17-007 proposes to add the following changes to Section 15-2009-F and 15-2010-I:

#### **SECTION 15-2009. SECURITY FENCING.**

F. City Indemnification. Prior to the installation of security fencing, the [fence] owner shall obtain a permit and execute a[n agreement] [~~covenant~~], with any required subordinations prepared by the City, to defend, hold harmless, and indemnify the City against all claims related to the fencing.

#### **SECTION 15-2010. ELECTRIC FENCES.**

I. City Indemnification. Prior to the installation of security fencing, the [fence] owner

shall obtain a permit and execute a[n agreement] [~~covenant~~], with any required subordinations prepared by the City, to defend, hold harmless, and indemnify the City against all claims related to the fencing.

## **Public Notice and Comment**

Pursuant to the requirements of FMC Section 15-5806 (and 15-5007-D), notice of this public hearing was published in the Fresno Bee on September 28, 2017, which is at least ten days prior to the public hearing. Section 15-5007-D allows the posting of a public hearing notice, in at least one newspaper of general circulation, as an alternative noticing method for large mailings. Notice was provided by this method pursuant to FMC.

## **Citizen Committees**

The text amendment does not fall within the purview of the Council District Plan Implementation and Design Review committees as it does not propose any physical development or allow for any forms of additional development that would warrant consideration by the committees.

## **Airport Land Use Commission:**

Scheduled for review on October 2, 2017.

## **Planning Commission**

On September 20, 2017, the Planning Commission recommended approval of the application by a 5-0 vote with two members absent.

## **ENVIRONMENTAL FINDINGS**

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

The State Guidelines for the implementation of the California Environmental Quality Act provide for the exemption of projects which will have no potential for causing a significant effect on the environment. More specifically, Section 15061(b)(3) of the CEQA Guidelines states: "...CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA."

The City of Fresno has determined that a Finding of No Possibility that the project will have impacts on the environment pursuant to Section 15061(b)(3) of the CEQA Guidelines is appropriate for the proposed text amendment. Given that the proposed text amendment will only modify the indemnification requirements of security fence installation, the revisions will not result in a change to the physical environment. Individual establishments that install a new Security or Electric Fence are subject to CEQA review at the time of application submittal.

**LOCAL PREFERENCE** Local preference does not apply because this item is not subject to a competitive bidding process.

## **FISCAL IMPACT**

N/A

**Attachments:**

- Exhibit A: Text Amendment Application No. TA-17-007
- Exhibit B: Environmental Assessment
- Exhibit C: Planning Commission Resolution
- Exhibit D: Ordinance Bill for Text Amendment