

ORDINANCE NO. _____ (N.C.S)

AN ORDINANCE AMENDING SECTION 37-50.090 (FENCES, WALLS, AND HEDGES) OF CHAPTER 37 OF THE SALINAS MUNICIPAL CODE (ZONING CODE) TO MODIFY THE APPLICATION PROCESS FOR ELECTRICALLY-CHARGED WIRES AND FENCES IN THE INDUSTRIAL GENERAL (IG) ZONING DISTRICT AND OTHER SUBSECTIONS OF SECTION 37-50.090 (ZCA 2023-001)

WHEREAS, on November 7, 2006, the Salinas City Council, adopted Ordinance Number 2463 replacing the then existing Zoning Code; and

WHEREAS, the Salinas City Council has amended various provisions of Chapter 37 of the Salinas Municipal Code (“Zoning Code”) to allow for general changes, language clarification, and minor corrections; and

WHEREAS, on October 4, 2023, the Salinas Planning Commission continued Zoning Code Amendment 2023-001 to the October 18, 2023 public hearing; and

WHEREAS, on October 18, 2023, at a duly noticed public hearing, the Salinas Planning Commission recommended that the City Council introduce and adopt Zoning Code Amendment 2023-001, which amends Section 37-50.090 (Fences, Walls, and Hedges) of Chapter 37 of the Salinas Municipal Code (Zoning Code) to modify the application process for electrically-charged wires and fences in the Industrial General (IG) Zoning District and other subsections of Section 37-50.090; and

WHEREAS, the Planning Commission weighed the evidence presented at said public hearing, considered the staff report, determined that positive findings could be made for approval of the project and adopted Resolution No. 2023-11 recommending that the City Council finds Zoning Code Amendment 2023-001 exempt from the California Environmental Quality Act (CEQA) and approve Zoning Code Amendment 2023-001; and

WHEREAS, on November 7, 2023, at a duly noticed public hearing, the City Council weighed the evidence, including the Staff Report which is on file at the Community Development Department together with the record of environmental review and hereby finds that the following amendment will not have the effect of reversing policies of the Salinas General Plan or other plans and policies previously adopted by the City Council and the City Council finds the project to be categorically exempt from the California Environmental Quality Act (CEQA), as follows:

Categorical Exemption:

- 1. The project has been found to be a Class 5 Categorical Exemption pursuant to Guidelines Section 15305 of the Guidelines to the California Environmental Quality Act (CEQA);*

The proposed Zoning Code Amendment amends Section 37-50.090 (Fences, Walls, and Hedges) of Chapter 37 of the Salinas Municipal Code (Zoning Code) to modify the application process for electrically-charged wires and fences in the Industrial General (IG)

Zoning District and other subsections of Section 37-50.090 is categorically exempt from further environmental analysis per CEQA Guidelines Section 15305 (Minor Alterations in Land Use Limitations). The proposed Amendment would not result in a significant environmental impact since it involves a minor alteration to the above referenced Zoning Code Section.

WHEREAS, the Salinas City Council adopts the following findings, as set forth in Zoning Code Section 37-60.1120, as the basis for its introduction and adoption of the proposed Zoning Code Amendment:

Zoning Code Amendment 2023-001:

- 1. The Amendment is consistent with the Salinas General Plan and other plans and policies adopted by the Salinas City Council.***

The proposed Zoning Code Amendment would amend Section 37-50.090 (Fences, Walls, and Hedges) of Chapter 37 of the Salinas Municipal Code (Zoning Code) to modify the application process for electrically-charged wires and fences in the Industrial General (IG) Zoning District and other subsections of Section 37-50.090.

The proposed Zoning Code Amendment includes specific standards to ensure that the conditions under which electrically-charged wires or fences would be operated are consistent with the General Plan and Zoning Code, and would not be detrimental to the public health, safety, or welfare. As a result, ZCA 2023-001 would be consistent with the General Plan and Zoning Code.

- 2. The Amendment will not have the effect of reversing the policies of the Salinas General Plan, any applicable Specific Plan, and other plans and policies adopted by the Salinas City Council.***

The proposed Zoning Code Amendment would amend Section 37-50.090 (Fences, Walls, and Hedges) of Chapter 37 of the Salinas Municipal Code (Zoning Code) to modify the application process for electrically-charged wires and fences in the Industrial General (IG) Zoning District and other subsections of Section 37-50.090.

As the General Plan does not specifically address electrically-charged wires or fences, the Zoning Code Amendment would not have the effect of reversing policies of the General Plan. There are no other plans and policies adopted by the Salinas City Council relating to electrically-charged wires or fences. As the Zoning Code Amendment is not site-specific, there are no known applicable Specific Plans.

- 3. The Amendment would not create an isolated district unrelated to adjacent zoning districts.***

The Zoning Code Amendment is an amendment to the text of the Zoning Code and would not rezone or create new zoning districts. Therefore, the Zoning Code Amendment would not create any isolated districts unrelated to adjacent zoning districts.

4. *The City has the capability to provide public utilities, roads, and services to serve the uses allowed by the proposed amendment.*

Salinas is an urbanized area and public infrastructure is presently in place to serve most uses. The proposed Amendment would not create the need for additional infrastructure.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF SALINAS AS FOLLOWS: (Revisions are shown in underline/~~striketrough~~ text)

SECTION 1. Amend Zoning Code Section 37-50.690 (d) and (k) to read as follows:

“(d) **Location and Maximum Height.** The maximum height of fences, walls, and hedges in required yards (also see *Section 37-50.090(e): Required Walls*) shall be as follows:

(1) Residential and Agricultural Districts (See **Figure 37-50.20**).

(A) Front yards: three feet;

(B) Corner side yards:

(i) Within ten feet of a corner side property line: three feet, or

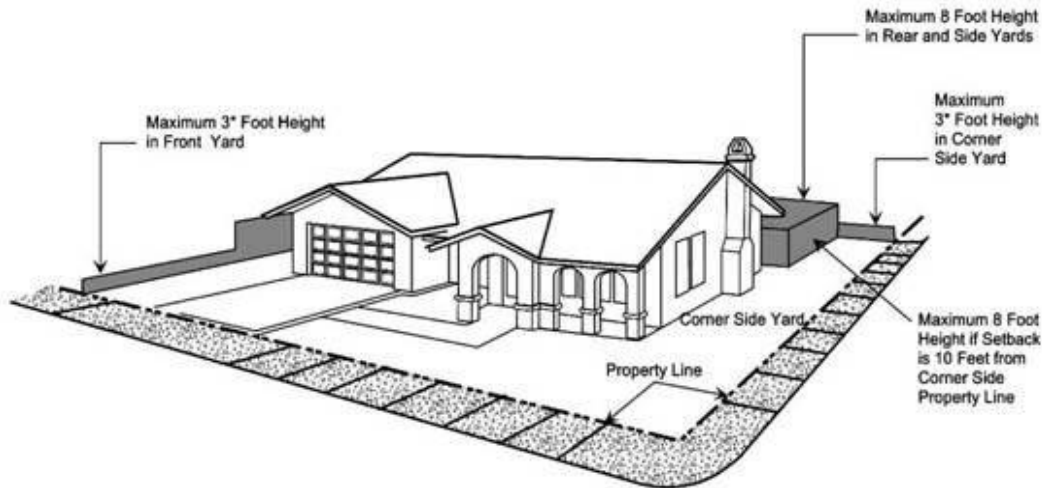
(ii) If setback a minimum of ten feet from the corner side yard property line: eight feet. Such a fence, wall, or hedge may extend along the corner side yard portion of the lot as well as the length of the house until the fence, wall, or hedge meets the required front yard setback. At no time shall such fence, wall, or hedge encroach into any area of unrestricted visibility as specified in *Section 37-50.460: Driveway and corner visibility*;

(C) Interior side or rear yards: eight feet.

(2) Commercial and Mixed Use Districts.

(A) Front yards and corner side yards and within required landscape planters adjoining a street pursuant to *Section 37-50.690(g)(2)(A): three feet*;

(B) Interior side and rear yards: eight feet.



*Except for exceptions specified in Subsection (f)

Figure 37-50.20
Max. Fence, Wall, and Hedge Height in Residential and Agricultural Districts

(3) Industrial Districts.

- (A) Front yards and corner side yards and within required landscape planters adjoining a street pursuant to *Section 37-50.690(g)(2)(A)*: three feet if sight-obscuring. If nonsight-obscuring and set back a minimum of ten feet from the front or corner side yard property line: eight feet, except that electrically-charged wires or fences, subject to the approval of a conditional use permit or a building permit in accordance with *Section 37-50.090(l)*, shall not exceed a maximum height of ten feet;
- (B) Interior side and rear yards: eight feet, except that electrically-charged wires or fences, subject to the approval of a conditional use permit or a building permit in accordance with *Section 37-50.090(l)*, shall not exceed a maximum height of ten feet.

(4) Public/Semipublic, Parks and Open Space Districts. The maximum height of fences, walls, and hedges in required yards shall be determined at the time of the approval of the site plan review or conditional use permit (as required by the applicable zoning district) for the principal use where the fence, wall or hedge is proposed to be located. If no such approval is required under the applicable zoning district or if the principal use is existing and no use, building or site modifications are proposed for the site other than the installation of a fence, wall, or hedge, the city planner shall make the determination of the maximum fence, wall, or hedge height permitted for the site based on site conditions, use of the site, and surrounding uses and zoning districts.

(5) New Urbanism Districts. Fences, walls, and hedges located on properties in the new urbanism (NU) districts shall be subject to the requirements of *Article III, Division 8: New Urbanism (NU) Districts.*”

“(k) **Prohibited Fences.**

- (1) No barbed wire or razor wire or similar fencing is permitted in any district, except that barbed wire may be allowed for security or safety purposes in the IG (General Industrial) district (when not visible from an arterial, collector street, or U.S. Highway 101), and in the IBP (Industrial-Business Park), and in the IGC (Industrial-General Commercial) districts if not visible from any public right-of-way subject to the approval of a Site Plan Review.
 - (2) No electrically-charged wires or fences are permitted in any district, except that electrically-charged wires or fences may be allowed for security purposes in the ~~IG (Industrial-General)~~, IBP (Industrial-Business Park) and IGC (Industrial-General Commercial) districts subject to the approval of a conditional use permit in accordance with *Section 37-50.090(1)*. Electrically-charged wires or fences may be allowed for security purposes in the IG (Industrial General) subject to the approval of a building permit per Section 37-50.090(1)(2).
 - (3) Chain link fencing shall be prohibited in any front or corner side yard or in any required landscape planter pursuant to *Section 37-50.690(g)(2)(A)* in an R, C or MU district.
- (1) **Electrically-Charged Wires and Fences.** It shall be unlawful for any person to install, maintain, or operate any electrically-charged wires or fences in violation of this section.
- (1) Conditional Use Permit Required. A conditional use permit, issued in accordance with *Article VI, Division 8, Conditional Use Permits*, shall be required for all electrically-charged wires or fences, except in the IG (Industrial-General) wherein a building permit is required per Section 37-50.090(1)(2). Conditional use permit and building permit applications for electrically-charged wires or fences shall be subject to review and approval by the fire chief, the police chief, the building official, the city engineer, and the city planner, or their designees, and shall be subject to conditions as deemed reasonable and appropriate to ensure the protection of public health, safety, and welfare.
 - (2) Building Permit Required. A building permit, issued in accordance with Chapter 9 of the City Code, shall be obtained prior to installation of electrically-charged wires or fences. Applicable listing(s) along with other pertinent information and applications shall be provided to the building official prior to approval for building permit issuance.
 - (3) Allowable Zoning Districts. Installation of electrically-charged wires or fences is limited to the following zoning districts: IG (Industrial-General), IBP (Industrial-Business Park), and IGC (Industrial-General Commercial).
 - (4) Location. Electrically-charged wires or fences shall be prohibited on sites ~~adjacent~~ contiguous to existing or planned residential development.
 - (5) Public Access. Electrically-charged wires or fences shall be restricted to sites with limited public access.
 - (6) Security Purposes. Electrically-charged wires or fences may be allowed for security purposes only including, but not limited to, equipment, vehicles, and the like in outdoor storage areas.

- (7) Energizer Requirements. The energizer for electrically-charged wires or fences shall be driven by a commercial storage battery not to exceed 12 volts direct current. The storage battery shall be charged primarily by a solar panel. However, the solar panel may be augmented by a commercial trickle charger.
- (8) Maximum Height. Electrically-charged wires or fences shall not exceed a maximum height of ten feet.
- (9) Perimeter Fence or Wall. Perimeter fencing shall be required for all electrically-charged wires or fences as follows:
 - (A) A perimeter fence or wall a minimum of six feet in height shall be installed on the exterior side (the side facing the abutting public right-of-way and/or abutting properties) of any and all electrically-charged wires or fences.
 - (B) The perimeter fence or wall shall be in conformance with requirements including, but not limited to, height and setbacks pursuant to *Section 37-50.090*.
 - (C) The perimeter fence or wall shall be in conformance with the industrial design standards pursuant to *Section 37-30.330* or public/semipublic design standards pursuant to *Section 37-30.400*, as applicable depending on the zoning district.
- (10) Minimum Safe Distance Between Fences. Electrically-charged wires or fences shall be installed a minimum distance of at least twelve inches from the perimeter wall or fence as a safety measure to prevent contact with the electrically-charged wires or fences from the perimeter fence or wall.
- (11) Warning Signs. Electrically-charged wires or fences shall be clearly identified with warning signs, on both sides of the electrically-charged wires or fences, at intervals of not greater than sixty feet. The warning signs shall contain the words "Warning—Electric Fence" in both English and Spanish and shall include the international safety symbol that signifies "Caution, Risk of Electric Shock/High Voltage."
- (12) Knox Box. A "Knox Box" or other similar device approved by the fire department and the police department shall be installed for emergency access purposes. The "Knox Box" shall be designed such that activation of the "Knox Box" will de-energize the electrically-charged wires or fences.
- (13) Automatic De-energizing. Electrically-charged wires or fences shall be designed to automatically de-activate/de-energize upon manual cutting of the wires.
- (14) Hours of Operation. Electrically-charged wires or fences shall not be allowed in operation when the uses are open to the public.
- (15) Prevention of Fire Hazards. All weeds, brush, trees, and other vegetation in proximity to any electrically-charged wires or fences shall be maintained such that they will not pose a fire hazard, as determined by the fire department."

SECTION 2. This Ordinance shall take effect and be in force thirty days from and after its adoption.

SECTION 3. The Salinas City Clerk is hereby directed to cause the following summary of this ordinance to be published by one (1) insertion in The Monterey Herald, a newspaper of general circulation published and circulated in the City of Salinas and hereby designated for that purpose by the Salinas City Council:

“An Ordinance amending Chapter 37 of the Salinas Municipal Code (Zoning Code) to amend Section 37-50.090 (Fences, Walls, and Hedges) of Chapter 37 of the Salinas Municipal Code (Zoning Code) to modify the application process for electrically-charged wires and fences in the Industrial General (IG) Zoning District and other subsections of Section 37-50.090 (ZCA 2023-001).”

SECTION 4. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Salinas City Council hereby declares that it would have passed this ordinance, and each and every section, subsection, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

This Ordinance was introduced and read on November 7, 2023, and passed and adopted on November 7, 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED

Kimbley Craig, Mayor

ATTEST

Patricia Barajas, City Clerk

APPROVED AS TO FORM

Christopher A. Callihan, City Attorney