

# **ORDINANCE NO. 873**

## **AN ORDINANCE ADOPTING TEXT AMENDMENTS TO CHAPTERS 1 AND 5 OF THE TROUTDALE DEVELOPMENT CODE**

### **THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:**

1. Security fencing is a solution that many businesses in Troutdale use to protect their properties and assets that are contained upon them.
2. Electric fencing provides another opportunity to expand the types of security fencing that may be considered, particularly for industrial properties.
3. Over the years as Troutdale's industrial area has grown, property theft and vandalism has increased, which detracts from the welfare of the community by discouraging existing businesses to expand or prospective businesses to locate in our community.
4. The allowance of electric fencing through a site development review process with clear standards of installation and operation provides properties within the Light Industrial and General Industrial zoning districts another option to secure their property, without having to apply for special variances
5. The Planning Commission has reviewed the proposed amendments at a public hearing during the December 8, 2021 regular meeting and voted 6-1 to recommend these amendments as presented to City Council for approval.
6. The City Council has adopted findings consistent with the provisions set forth in Troutdale Development Code Section 6.1100 as set forth in Attachment A.

### **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TROUTDALE**

Section 1. Chapter 1 shall be amended as set forth in Attachment B.

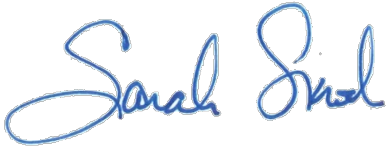
Section 2. Chapter 5 shall be amended as set forth in Attachment B.

**YEAS: 7**  
**NAYS: 0**  
**ABSTAINED: 0**



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**Randy Lauer, Mayor**  
**Date: January 26, 2022**



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**Sarah Skroch, City Recorder**  
**Adopted: January 25, 2022**



**Attachment "A" to  
Ordinance #873**

# FINDINGS OF FACT

**DATE:** January 25, 2022  
**CASE FILE:** 75-08

With regard to the aforementioned land use case file presented at public hearings conducted by the Troutdale Planning Commission on December 8, 2021 and by the Troutdale City Council on January 11, 2022 and January 25, 2022, the Troutdale City Council adopts the following findings of fact:

## **TEXT AMENDMENT (TDC 6.1120)**

**A. The proposed change to the Development Code does not conflict with applicable Comprehensive Land Use Plan goals or policies.**

The amendments proposed are with regards to allowing for greater flexibility in industrial properties to secure their properties. This involves clarifying the nature of security fencing and introducing the possibility of electric fencing that meets certain established criteria.

The Comprehensive Land Use Plan ("the Plan") does not contain a specific goal that is related to fencing standards or site security, however there are several objectives that are established that this amendment is within the spirit and intent of the Plan:

Under General Goals and Objectives in the Introductory section of the Plan, item 14 states "To promote the retention and expansion of existing businesses and the location of new businesses by developing flexible requirements which can accommodate the specific nature of a proposed project." By allowing for security and electric fencing, the city is responding to an urgent need of existing businesses to protect their assets and properties from theft and vandalism, which negatively impacts their ability to operate their business within our community. Furthermore, prospective industrial businesses will see electric fencing options as a benefit to secure their investments and limit their losses and general liability. Limiting electric fence installations to the industrial areas of the City also reduces the chance for general citizens to be accidentally impacted, as would be the case if this were allowed in commercial or residential areas of the City. Furthermore, the visual aesthetics of the commercial areas of the city are maintained.

The proposed text amendment is not in conflict with any other provision in the Plan and further continues the spirit and intent of the Plan. **The criterion is met.**

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**B. The proposed change is consistent with the applicable Statewide Planning Goals.**

There are no specific statewide land use planning goals that are directly associated with fencing. However, Goal 1 (Citizen Involvement) sets the expectations for communities to engage with their citizens about prospective development and how regulations may affect communities. The amendments proposed herein have stemmed from feedback from applicants and businesses that seek to have greater ability to protect and defend their property. The City has previously approved two variance applications for businesses to allow electric fencing. Variance approvals require unique circumstances, however the desire to consider electric fencing in particular is no longer uniquely tied with one property. By having a text amendment allow for electric fencing in the industrial zones, the guesswork of attempting to determine a unique situation in a variance application is no longer required, and clear and objective standards for the approval of an installation would now be applied.

**The criterion is met.**

**C. The proposed change is consistent with the applicable provisions of Metro Code.**

There are no specific standards in Metro Code that would apply to the proposed amendments.

**The criterion is not applicable.**

**D. Public need is best satisfied by this particular change.**

While vandalism and theft have occurred in outer industrial areas of the City, the recent uptick in vagrancy and burglary in recent years have caused significant burdens for businesses who have already invested heavily in security systems. By clarifying security fencing standards and allowing for electric fencing to be installed in certain cases with clear and objective criteria, the City is empowering industrial properties to have additional tools to prevent theft and protect assets. This provides further ability for companies to retain or expand their operations in the City, which provides job opportunities and services that benefit the public. Theft deterrence and crime prevention are the essence of this amendment application. **The criterion is met.**

**E. The change will not adversely affect the health, safety, and welfare of the community.**

The Troutdale Development Code already allows for barbed-wire fencing and assumptions could be made to allow for razor-wire fencing with the current standards in place. The amendments proposed clarify that those security fencing installations are allowed, so any existing impacts to the public health, safety, and welfare remain the same.

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The greater consideration is the introduction of electric fencing, which had previously been prohibited by the code and would now be allowed in certain circumstances. While there are unquestionably some risks that could rise from the allowance of this type of security fencing, the amendments proposed have been crafted to limit adverse impacts to the community in the following ways:

First, the allowance of electric fencing is geographically limited to industrial areas, specifically the Light Industrial (LI) and General Industrial (GI) zoning districts. These districts are almost exclusively located in areas that are physically separated from most residential and commercial areas of the city. Industrial uses by nature are not designed for large-scale pedestrian activity and the risks associated with accidental engagement with an electric fence are minimal. The proposed amendment would not allow for installations in commercial areas, where there is greater chance for interaction with the general public and an aesthetic consideration that could cause negative impacts to surrounding properties.

Second, electric fence suppliers provide installations that must abide by overarching health and safety requirements set forth through codes, federal safety rules, and prevailing industry standards. This includes regulating the impact of shock and the more importantly the duration of shock that would not create a medically harmful situation. The proposed amendment would require a pulse-charged system rather than a continuous charged system, which significantly limits the chance of accidents and entanglements.

Third, industrial areas are often not afforded the “eyes in the street” concept of having neighboring properties being in sight of a potential target for theft. These properties rely on security systems that have proven to be breached or tampered with. Providing electric fencing to a site increases the deterrent factor for a trespasser and can often compliment existing systems. The safety of a site’s property condition, assets, and employees is thus greatly increased by its installation.

As a result of these considerations, reasonable standards were included within the amendments proposed to limit adverse impacts. **The criterion is met.**

Dwelling, Triplex. A building with three (3) dwelling units on a lot or parcel in any configuration.

Dwelling, Zero Lot Line. A single-family detached dwelling that is located on a lot in such a manner that one (1) or more of the building's sides rest directly on a lot line.

Eating and Drinking Establishment. An establishment where meals or drinks (either alcoholic or non-alcoholic) are prepared and served to the public for consumption. This use includes: Restaurants, Brew Pubs, Cafes, Delicatessens, Sandwich Shops, Taverns, Bars, or other establishments primarily engaged in serving alcoholic beverages.

Entertainment Facility, Major. A commercial or nonprofit enterprise including but not limited to amusement parks, multiple-screen theaters, museums, stadiums, zoos, or other similar uses, but not casinos. Major entertainment facilities often have a fee or age restriction for admission and generate a significant traffic impact in comparison to a minor entertainment facility.

Entertainment Facility, Minor. A commercial or nonprofit enterprise including but not limited to arcades, gaming rooms, museums, small-scale theaters, or other similar uses. Minor entertainment facilities are typically located within smaller spaces in a downtown or shopping center setting and have limited traffic impact in comparison to a major entertainment facility.

Family. An individual; two or more persons related by blood, marriage, domestic partnership, legal adoption, or guardianship; not more than five persons who need not be related by blood, marriage, legal adoption, or guardianship living together in a dwelling unit; or two or more persons with disabilities, as defined in the Americans with Disabilities Act, Fair Housing Amendments Act of 1988 or state law, who need not be related by blood, marriage, domestic partnership, legal adoption, or guardianship living together in a dwelling unit.

Fence. An accessory structure that serves as an enclosure, barrier or screen that is not part of a building.

Fence, Electric. A type of security fence that carries an electric current that can produce a shock if touched.

Fence, Security. A fence that is designed to deliberately discourage entry into a secure area of a site. This includes but is not limited to barbed wire fencing (twisted or pointed wire ends) and razor wire fencing (metal blades) in a linear or curled pattern.

Fence, Sight-Obscuring. A fence that substantially screens an area or object by eighty percent (80%) of the view at a ninety (90) degree angle, excluding screens that are living plants.

Financial Institution. A bank, credit union, or similar entity that is licensed to deposit or manage money or other financial products for customers. Financial institutions may have a presence within a building or as a stand-alone automated teller machine (ATM).

Flex Space. A building or portion thereof that can accommodate either commercial or industrial uses or a combination of those uses when permissible through relevant building codes.

square, except for doors or gates. The fence gates shall be equipped with a self-closing, self-latching device. A dwelling unit and/or accessory building may form part of the enclosure.

- F. Security fencing is permitted for agricultural, community service, commercial, or industrial uses when the wire is employed on the top of any other type of fencing, is a minimum of six (6) feet above the finished ground surface, and does not extend over a public way. The total height shall not exceed eight (8) feet from grade.
- G. Electric fencing is permitted only in the Light Industrial (LI) and General Industrial (GI) zoning districts and shall meet the following criteria:
1. Installations of electric fencing shall require a Type II site development review application.
  2. Electric fencing shall not be installed within ten (10) feet of a public right-of-way.
  3. Electric fencing shall not be installed within an easement without the written consent of the rights holder.
  4. Electric fencing shall be a pulsed charge system that shall not exceed 8,000 volts of voltage and 150 milliamps of amperage, or shall demonstrate that shock levels and duration are medically safe for humans through a manufacturer's certification.
  5. Any required building or electrical permits shall be obtained prior to installation and be inspected upon completion of installation.
  6. Any required fire approvals or acknowledgements for the installation, operation and maintenance of the electric fence shall be obtained prior to completion of installation.
  7. Warning signs that indicate hazard shall be installed at intervals of not less than 30 linear feet of fencing, indicating an electric fence exists. Signage shall be approved by the Director upon completion of installation.
  8. The total height shall not exceed ten (10) feet from grade.
- H. Windscreens. A windscreen may be constructed on the north or east side of a residential building only. The screen shall not exceed six (6) feet in height nor extend more than eight (8) feet into a required front yard setback area.

#### **5.060 Decks**

Detached decks over twelve (12) inches in height are deemed accessory structures. Decks of twenty-four (24) inches or more in height attached to a structure require a building permit.

#### **5.070 Street Side Sales**

Street side sales of products including, but not limited to, flowers, fruits, vegetables, firewood, arts and crafts, seafood, fireworks, and Christmas trees are permitted within commercial or industrial zoning districts, or on sites with a community service use, subject to the following provisions: