



## DEVELOPMENT CODE INTERPRETATION

SUBJECT	Date	Interpretation No.
Clarification of What Constitutes 'Nonconforming Chain-link or Similar Fencing' as Described at Development Code §16.48.100(D)(2)(c) (Electrified Fencing)	10/03/18	2018-01

### I. BACKGROUND

The Community Development Department received multiple applications for Land Development Permits for the installation of electrified fencing at development properties in the Industrial, Limited (IL) and Industrial, General (IG) Districts, for properties with existing chain-link fencing.

The Development Code contains regulations for chain-link fencing which include, but are not limited to, restrictions on: height, setback, material, and use of barbed wire/razor wire. The issue raised by the current applications relates to the scope of nonconformities as used in Development Code section 16.48.100(D)(2)(c).

### II. CODE REQUIREMENT

Development Code §16.48.100(D)(2)(c) provides:

"Electrified fencing shall be completely surrounded by a non-electrified fence or wall that is not less than six (6) feet high and have no barbed, concertina, or similar wire attached. Vehicle access gates along public rights-of-way may be exempted from this requirement, subject to approval of a Land Development Permit or another discretionary application for a project on the same site. Any barbed, concertina, or similar wire on existing fences shall be removed prior to the installation of the electric fence. Nonconforming chain-link or similar fencing shall be removed from required front and street side setback areas prior to the initiation of use of any approved low voltage fencing system."

### III. PURPOSE OF INTERPRETATION

This interpretation will clarify the scope of the term "nonconformities" as it relates to chain-link or similar fencing under Section 16.48.100(D)(2)(c).

#### **IV. INTERPRETATION**

This interpretation is made pursuant to the rules and procedures of Development Code Chapter 16.08 and applies to existing developed properties with legally built<sup>1</sup> existing chain-link fencing in the Industrial, Limited (IL), Industrial, General (IG), and Port (PT) districts.

When such properties request approval for electrified fencing, Development Code §16.48.100(D)(2)(c) shall be interpreted to permit the retention of existing chain-link fencing located closer than 10 feet from front and side property lines and which is not vinyl coated.

Additionally, this interpretation affirms §16.48.100(D)(2)(c) such that barbed wire, razor wire, concertina or similar wire shall be removed prior to installing an electrified fence.

#### **V. BASIS FOR INTERPRETATION**

In accordance with Development Code §16.08.030(B), this interpretation is based on the following findings:

1. This interpretation is consistent with the applicable provisions of this Development Code.

This interpretation supports the objective at Development Code §16.04.020(E) "Purpose and Intent of Development Code" which provides in relevant part, "The purpose of this Development Code is to implement the Stockton General Plan by classifying and regulating the uses of land and structures within the City of Stockton; by protecting and promoting the public health, safety, and general welfare; and by preserving and enhancing the aesthetic quality of the City. To fulfill these purposes, the intent of this Development Code is to: (E) Protect the character and social and economic stability of residential, commercial, and industrial areas;"

This interpretation is also consistent with at least one of the purposes listed in Development Code Chapter 16.228 "Nonconforming Uses, Structures, and Parcels," §16.228.010 "Purpose of Chapter" which provides in relevant part: "Generally, this chapter is intended to be administered in a manner that would prevent the expansion of nonconformities and establish circumstances under which they may be continued."

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<sup>1</sup> Legally built means constructed under prior Development Code (circa August 2004) and which did not, relative to the subject at hand, require front yard setbacks for fences nor a vinyl coating requirement for chain-link (when located in setback).

2. This interpretation is not detrimental to the public convenience, health, interest, safety, or general welfare of the City or injurious to the property.

This interpretation facilitates improved safety at industrial properties by enabling enhanced security measures (i.e., electrified fencing) with the potential to protect persons and property. Additionally, this interpretation will not amend, affect, or otherwise interfere with other applicable safety standards included in Development Code section 16.48.100(D)(2).

3. This interpretation is consistent with the general land uses, objectives, policies, and programs of the General Plan, any applicable specific plan, precise road plan, or master development plan, and the intent of this Development Code.

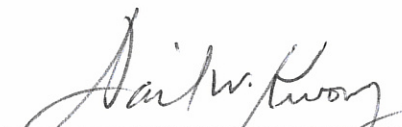
This interpretation is consistent with the following General Plan provisions:

Objective ED-4: To promote business growth and industry diversification, maintaining a conducive business climate and a supportive economic foundation.

Policy ED-4-17: Protecting Industrially Designated Areas. The City finds it important to protect land uses, such as industrial development, business and industrial parks, and the transportation corridors, which serve land so designated. Protection of intrusion from non-compatible land uses are essential to provide for long-term job development and investment.

Policy PFS-7.5: Design Features for Crime Prevention and Reduction. The City shall continue to promote the use of building and site design features as a means for crime prevention and reduction.

APPROVED:



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DAVID W. KWONG, DIRECTOR

LEGAL REVIEW BY:



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LORI ASUNCION, ASSISTANT CITY ATTORNEY