

**ORDINANCE NO. 24-1005**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AMENDING CHAPTER 11.02 OF THE MONTCLAIR MUNICIPAL CODE ADDING NEW DEFINITIONS INCLUDING A DEFINITION FOR MONITORED ELECTRIFIED SECURITY FENCE AND AMENDING CHAPTERS 11.38 AND 11.77 TO ESTABLISH NEW STANDARDS AND PROCEDURE FOR ALLOWING MONITORED ELECTRIFIED SECURITY FENCES IN SPECIFIED COMMERCIAL AND INDUSTRIAL ZONES WITHIN THE CITY**

**WHEREAS**, on October 2, 2023, AMAROK, LLC, a full-perimeter security company based in Columbia, South Carolina, submitted an application requesting a zoning code amendment to allow monitored electrified security fence systems within the City boundaries; and

**WHEREAS**, AMAROK, LLC, is seeking a code amendment to the Montclair Municipal Code, that would allow business owners located on properties zoned C-3 (General Commercial Zone), MIP (Manufacturing Industrial Park Zone), M-1 (Limited Manufacturing Zone), and M-2 (General Manufacturing Zone) to allow the use of monitored electric fence security systems inside their existing perimeter fence or wall; and

**WHEREAS**, a “Monitored Electrified Security Fence System” means a perimeter alarm system that transmits a signal intended to alert the business utilizing the system and an alarm monitoring service in response to an intrusion or burglary; and

**WHEREAS**, California Civil Code Section 835, allows the use of a low-voltage “electrified security fence” to protect and secure commercial, manufacturing, or industrial property, if permitted by a local ordinance, and subject to specified minimum requirements; and

**WHEREAS**, California Civil Code Section 835 (b) (1), does not allow the installation and operation of an “electrified security fence” in a residential zone; and

**WHEREAS**, the City has received reports of several incidents involving trespassing, burglary, and major theft on properties located on the south side of Brooks Street adjacent to the Union Pacific Railroad right-of-way; and

**WHEREAS**, on June 20, 2023, City staff met with the owners of two businesses on Brooks Street to discuss issues regarding incidents of trespassing, burglary, and major theft on properties occurring on their properties and their desire to enhance security utilizing an electrified security fence; and

**WHEREAS**, on July 17, 2023, the City Council Real Estate Committee staff discussed the potential use of monitored electric security fences within specific areas within the City; and

**WHEREAS**, the Montclair Municipal Code currently has no provisions addressing the use of monitored electrified security fence systems within the City, and is, therefore, not a permitted use; and

**WHEREAS**, the purpose of this Ordinance is to provide regulations and a process for considering the approval of permits for allowing the use of monitored electrified security fencing as a supplemental means for securing industrial and commercial properties where other conventional means for securing a site have failed to protect outdoor areas from persistent trespassing, vandalism, and theft activities; and

**WHEREAS**, the purpose of this Ordinance is to add standards and procedures for monitored electrified fence systems to the Montclair Municipal Code; and

**WHEREAS**, the City of Montclair, California (“City”) is a municipal corporation, duly organized under the California Constitution and laws of the State of California; and

**WHEREAS**, pursuant to the police powers delegated to the City of Montclair by the California Constitution, the City is authorized to enact laws that promote the public health, safety, and general welfare of its citizens; and

**WHEREAS**, the City Council deems it to be necessary and appropriate to provide for certain standards and regulations relating to the location, placement, design, construction, and maintenance of monitored electrified security fence systems on public and private property in the City; and

**WHEREAS**, the Planning Commission of the City of Montclair held a public hearing on November 27, 2023, after giving published notice of the proposed code amendment to allow monitored electrified security fences in specified locations within the City; and

**WHEREAS**, the Planning Commission adopted Resolution No. 23-1998, by a vote of 5 to 0, and recommended approval with minor changes of the Ordinance to the City Council; and

**WHEREAS**, on January 5, 2024, a notice of a public hearing for Ordinance No. 24-1005 was published in the Inland Valley Daily Bulletin per State law for the January 16, 2024, City Council meeting, and

**WHEREAS**, the City Council of the City of Montclair held a public hearing regarding the proposed ordinance; and

**WHEREAS**, on January 16, 2024, commencing at 7:00 p.m. in the Council Chambers at Montclair City Hall, the City Council conducted a public hearing at which time all persons wishing to testify in connection with the proposed ordinance were heard and the proposal was fully studied; and

**WHEREAS**, on January 16, 2024, the City Council unanimously set February 5, 2024, as the date for the second reading of Ordinance No. 24-1005; and

**WHEREAS**, all other legal prerequisites to the adoption of this Resolution have occurred.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MONTCLAIR, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION I.** The foregoing Recitals are adopted as findings of the City Council as though set forth fully within the body of this Ordinance.

**SECTION II.** Chapter 11.02 “Definitions” of Title 11 (Zoning and Development) of the Montclair Municipal Code is hereby amended to add the following definitions:

**11.02 Definitions.**

**“Electrified Fence”** – means any fence, barrier, or enclosure partially or totally enclosing a building, field, or yard, carrying any electrical pulse or charge through any part, section, or element, which is so designed or placed that a person or animal coming into contact with the conductive element of the fence receives an electrical shock. The use of any unmonitored electrified security fence not complying with MMC is prohibited.

**“Monitored Electrified Security Fence”** - means a perimeter alarm system that transmits a signal intended to alert the business utilizing the system and an alarm monitoring service in response to an intrusion or burglary with an assembly of battery-powered equipment, including but not limited to:

- 1. A monitored alarm device and energizer which is intended to periodically deliver non-lethal electric pulses to a security fence; and
- 2. A battery charging device used exclusively to charge the system's battery; and
- 3. Audible and video surveillance equipment; and
- 4. Other integrated components.

**“Key Box (e.g. “Knox Box”)** means a secure device with a lock operable only by emergency personnel, and containing building entry keys and other keys that may be required for access in an emergency by the latest California Fire Code.

**SECTION III.** Section 11.38.100 of Chapter 11.38 of Title 11 (Zoning and Development) of the Montclair Municipal Code shall be added as shown in Exhibit A; and

**SECTION IV.** Chapter 11.77 of Title 11 (Administrative Permit) of the Montclair Municipal Code shall be amended to add the following application type at Section 11.77.020 (Scope) as follows:

“C. Applications to install monitored electrified security fences pursuant to the requirements and findings contained in Chapter 11.38.100 of the MMC.”

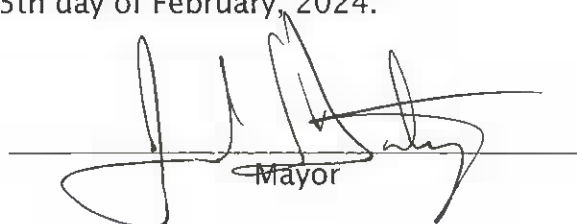
**SECTION V:** The proposed Amendment is exempt from further California Environmental Quality Act (CEQA) review under Section 15061(b)(3) (Common Sense Exemption), 15301 (Existing Facilities), 15303 (New Construction or Conversion of Small Structures), and 15311 (Accessory Structures) of the CEQA Guidelines.


**SECTION VI.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**SECTION VII.** The City Clerk shall certify the passage of this Ordinance and cause the same to be posted pursuant to Government Code Section 36933.

**APPROVED AND ADOPTED** this 5th day of February, 2024.


**ATTEST:**

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
City Clerk

I, Andrea M. Myrick, City Clerk of the City of Montclair, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 24-1005 of said City, which was introduced at a regular meeting of the City Council held on the 16th day of January, 2024, and finally passed not less than five (5) days thereafter on the 5th day of February, 2024, by the following vote, to-wit:

AYES: Lopez, Martinez, Ruh, Johnson, Dutrey  
NOES: None  
ABSTAIN: None  
ABSENT: None

  
\_\_\_\_\_  
Andrea M. Myrick,  
City Clerk

## EXHIBIT A

# New Zoning Code Section 11.38.100

### 11.38.100 - Monitored Electrified Security Fences

This chapter is intended to provide the regulations and procedure necessary for considering the approval of a permit to use an electrified security fencing system as a supplemental means for securing industrial and commercial properties where other conventional means for securing a site have failed to protect outdoor areas from persistent trespassing, vandalism, and theft activities. In granting such permits, the Director of Community Development may require conditions, in addition to those required by the provisions of this title, to protect both the health and safety of members of the public and property values in the area.

#### A. Monitored Electrified Security Fence Allowed.

Only monitored electrified security fence systems designed to carry non-lethal pulses of direct current to deter potential intruders shall be allowed in the City as provided in this section and subject to the following standards:

1. All monitored electrified security fence systems shall be a product listed by a Nationally Recognized Testing Laboratory (e.g., UL, CSA, IAPMO) in compliance with International Standard IEC 60335-2-76.
2. Monitored electrified security fences shall be pulsed output-type system only. Continuous output-type systems are prohibited.
3. The energizer for an electrified security fence must be driven by a commercial storage battery not to exceed 12 Volts DC. No part of the system shall connect to the electrical grid or carry continuous current.
4. Supplemental lighting, audible, and video surveillance equipment connected to an alarm monitoring company shall be installed as required by the Director of Community Development.
5. A Key Box (e.g. "Knox Box") or other similar approved device shall be installed for emergency access to property by Police and Fire Department personnel. The location of the key box shall be determined by the Fire Marshal.
6. Installation of all monitored electrified security fence systems shall be completed by a licensed C-10 electrical contractor in conformity with this Section and the safety requirements of IEC 60335-2-76.
7. The monitored electrified security fence system shall comply with the provisions of California Civil Code Section 835.
8. No part of a monitored electrified security fence shall be allowed to extend into the public right-of-way or public park/open space.
9. Before the installation of a monitored electrified security fence is permitted under this Section, the owner must provide written notice to the Fire Marshal of the proposed location of the electrified security fence.

#### B. Restricted Use

The installation of a monitored electrified security fence is restricted to the following areas and zoning districts as indicated and/or defined on the City of Montclair Official Zoning Map:

1. Commercially Zoned Property (C-3-General Commercial Zone):
  - a. Permitted outdoor storage of equipment or machinery, motor vehicle storage, major utility and recycling facilities, or contractor yard, in conjunction with a permitted and operating business, except where abutting a residentially-zoned property or use.

- b. On developed properties where one or more general boundary lines of property abuts a railway, overpass, freeway, drainage channel, or other extraordinary or unusual physical condition(s).
  - c. Wireless Telecommunication Facilities sites located 100 feet from a residential use or zone.
2. Industrially Zoned Property (MIP-Manufacturing Industrial Park Zone; M-1-Limited Manufacturing Zone); M-2-General Manufacturing Zone), such as:
- a. Where general warehousing, outdoor storage of equipment or machinery, motor vehicle storage areas, freight/logistics uses, major utility and recycling facilities, contractor yards, and mini or self-storage facilities are lawfully permitted and operating.
  - b. On developed properties where one or more boundary lines of property abuts a railway, overpass, freeway, drainage channel, or other extraordinary or unusual physical condition(s).
  - c. Wireless Telecommunication Facilities sites 100 feet from a residential use or zone.
3. Prohibited Locations:
- a. Single-family and multifamily zones and properties. Mixed-use developments are considered a multifamily zone.
  - b. Properties adjacent to a residential zone and use.
  - c. Within the boundaries of the *North Montclair Downtown Specific Plan* (NMDSP) and *Montclair Place District Specific Plan* (MPDSP) areas;
  - d. Within 10 feet of a front or street side property line or any public right-of-way.
  - e. Within 300 feet of a public park/open space, church, and/or school facility (public or private).
  - f. Within the public right-of-way.
4. Exempt Locations Citywide
- a. Federal or State-owned properties or uses not adjacent to residential zones and uses.
  - b. City facilities (not including Public Parks).
  - c. Unoccupied Public Utility Infrastructure Facilities (e.g. substations, water tanks, telecommunication sites, etc.). Such facilities shall meet the requirements of and obtain an approved Alarm Permit per Section 11.38.200.
5. Uses not listed above in 11.38.120(1) and (2) are not eligible to use monitored electrified security fences unless the Director of Community Development, or his/her designee, determines the use is similar and the monitored electrified security fence can meet all other applicable requirements of this Chapter.

### **C. Permits Required.**

It shall be unlawful for any person to install, maintain, or operate an electrified fence system of any kind in violation of this Section. Any approved electrified fence security system shall require the following:

- 1. An Administrative Permit issued by the Community Development Department as defined and regulated in Chapter 11.77 of the MMC (Administrative Permit).
  - a. Administrative Permits for monitored electrified security fences are not transferable unless the new owner of the business for which an Administrative Permit was issued is not making any substantive changes to the operation of the business as determined by the Director. A new business license, Alarm Permit, and updated Administrative Permit shall be required.

- b. New businesses, new development of the property, expansion, or substantial changes to the use of the property as determined by the Director shall require the removal of the electrified security fence system or submittal of a new application for an Administrative Permit, subject to the requirements of this Chapter.
- 2. Building Permit(s) issued by the Building Division. The monitored electrified security fence system shall comply with all applicable local and state regulations.
  - a. It shall be unlawful to operate a monitored electrified security fence system until the building permit final has been issued by the Building Official or designee.
  - b. Unpermitted, inoperable, or abandoned monitored electrified fence systems shall be immediately removed from the premises by the applicant and/or property owner.
- 3. An Alarm User Permit according to Chapter 4.12.040 of the Montclair Municipal Code.

**D. Justification for Monitored Electrified Security Fence**

As part of the application for an Administrative Permit to install a monitored electrified security fence, the applicant shall submit a written justification for utilizing such a system on-site. The applicant shall provide:

- 1. A notarized authorization letter from the property owner (if different from the applicant) allowing the applicant to apply for, install, and operate an electrified security fence system on the subject property.
- 2. A detailed site plan showing existing improvements and location for the proposed monitored electrified fence security system and its various components (e.g. screen wall or fence, system materials, power source, key box, cut-off switch, cameras, lights, etc.).
- 3. A written request that includes the intended purpose for an electrified security fence system, facts, and/or diagrams to support the need for an electrified fence security system including but not limited to Police reports (e.g. calls for service, arrests, loss statements, etc.). The written request shall also demonstrate that all reasonable measures (e.g., existing fences or walls, security guards, conventional alarms, etc.) have not been successful in mitigating or preventing security breaches or property theft.
- 4. The established fee for a permit to install a monitored electrified security fence shall be paid by the applicant at the time of application submittal.

**E. Findings for Approval**

In approving an Administrative Permit for a monitored electrified security fence system, the Director of Community Development, or his/her designee, shall make all of the following findings:

- 1. Based on the justification provided by the applicant, and site inspection(s), the proposed use of a monitored electrified fence system is warranted and after all other reasonable efforts have been attempted, and would be an effective means of deterring potential intruders; and
- 2. The proposed monitored electrified security fence system complies with all requirements of this section; and
- 3. The installation of the proposed monitored electrified security fence system will not have a detrimental effect on the appearance of the street, pose a direct danger to members of the public, or adversely affect the use of surrounding properties. In some cases, the Director, or his/her designee, may require new or existing exterior fences to be installed or modified with additional details (e.g. mesh, slats, increased height, etc.), or low-growing landscaping (on the exterior side of the non-electrified fence or wall) as a means of protecting the aesthetics of commercial areas and to further prevent unintentional contact with the electrified security fence.

## **F. Permit Revocation**

If an approved monitored electrified security fence system is found not to comply with any provision of this Section and the applicant has not taken the initiative to address the deficiency within ten (10) days of written notice from the City, the City may revoke the Administrative Permit approval. Upon permit revocation, the permit holder/applicant shall receive a statement from the Community Development Department describing the reason for the revocation and shall immediately turn off the electric pulse for the fence.

## **G. Appeal.**

A decision of the Director of Community Development may be appealed to the Planning Commission within 10 days of the Director's decision. The appeal shall be made on forms prescribed by the Planning Division and fees paid per the fee resolution. The submission of the application and fees shall constitute the filing of the appeal. The Planning Commission shall review the appeal at a regularly scheduled meeting according to the schedule of meetings and deadlines for submission of applications. The Commission shall either uphold, reverse, or modify the Director's decision.

If anyone is aggrieved or affected by the decision of the Planning Commission, they may appeal the decision to the City Council within 10 days of the decision of the Planning Commission. The appeal shall be submitted per the above appeal provisions. The City Council shall review the appeal and either uphold, reverse, or modify the Planning Commission's decision. The City Council's decision shall be final.

## **H. Installation Requirements.**

### **1. Decorative Perimeter Fence or Wall Required.**

- a. No monitored electrified security fence system shall be installed or operated unless it is completely behind a new or existing permitted non-electrified decorative fence or wall of at least six feet in height (New or existing chainlink fences are not considered to be decorative). The installation of a standalone electrified fence system is prohibited.
- b. An electrified fence, or portion thereof, shall be a minimum of 10 feet back from any street property line.
- c. For new or existing buildings with frontages abutting a public or private sidewalk, or within 10 feet of a street property line, an electrified fence shall be set back from the face of the building by at least five feet.
- d. The non-electrified perimeter fence shall be separated from the electrified fence system between four to eight inches inside the non-electric perimeter barrier, except for gate openings with insulated contacts.
- e. The inside area between the non-electric perimeter fence and the monitored electrified security fence shall be kept clear of landscaping, shrubbery, debris, or material of any kind.
- f. Barbed, razor, or similar wires shall be removed from existing walls and fences.

### **2. Design.**

- a. A monitored electrified security fence system shall be installed to appear as minimally intrusive as possible as viewed from any public or private street.
- b. The number of vertical support posts shall be minimized and evenly spaced to the greatest extent possible.

### **3. Height.**

Monitored electric security fence systems shall be limited to a maximum height of 10 feet, or two feet higher than an existing and permitted wall or fence barrier, whichever is lower. Height shall be measured from an adjacent public sidewalk or level-paved surface, whichever is closer.

#### 4. Warning Signs.

Monitored electrified security fences shall be identified by warning signs. The warning signs shall conform to the following requirements:

- a. Warning signs shall be located on both sides of the electrified security fence, parallel with the direction of the fence, at not more than 30-foot intervals and shall read: "WARNING – ELECTRIC SECURITY FENCE" and include commonly recognized symbol for shock, consistent with California Civil Code Section 835.
- b. The text shall be printed in English and Spanish. All lettering shall be a minimum of one (1) inch high.
- c. Warning sign dimensions shall be a minimum of four inches high by eight inches wide.
- d. The warning signs shall consist of a yellow background with black text and must be kept in good condition to ensure visibility.

#### 5. Electrical Shut-Off for Emergencies.

Installation of a cut-off switch capable of disconnecting and de-energizing the fence from the controller in case of emergencies, electrical storms, etc., is required. A key box/switch or keypad shall be installed to provide secure access to the cut-off switch. The key box/switch or keypad shall be provided with a reflective marker displayed in an approved location.

All electrified security fence systems shall also have an approved visual signal indicator next to the key switch for emergency responders that indicates if the battery-operated alarmed electric fence is energized or de-energized. The signal indicator shall be lit when the fence is charged and not lit when not charged.

#### **I. Hours of Activation**

An electrified security fence shall be energized only during the hours when the general public does not have access to the protected property.

#### **J. Alarm System**

All approved monitored electrified security fence systems shall require and include an interface with an alarm system to be monitored during all times after a business is closed, or at all times when electrified security fences are installed to protect unoccupied public utility properties. The alarm system shall be registered with the City, subject to the requirements of Chapter 4.12 of the Montclair Municipal Code, including service fees for false alarm service calls.

#### **K. Indemnification**

The property owner and the applicant issued permits to install and use a monitored electrified security fence system as provided in this Section shall agree, as a condition of permit issuance, to defend, indemnify, and hold harmless the City of Montclair and its agents, officers, consultants, independent contractors and employees from any claims, actions or proceedings arising out of any personal injury, including death, or property damage caused by the electrified fence.