

INDIAN WELLS CITY COUNCIL

September 5, 2024



To: City Council
From: Community Development Department
Prepared by: Jon Berg, Community Development Director
Subject: **Council's Request to Review City's Hedge Height and Tree Regulations**

RECOMMENDED ACTIONS:

Council **DISCUSSES** and provides **DIRECTION** for reviewing the City's hedge height and tree regulations.

BACKGROUND:

Per Section 2.06.040 of the City Council Policy Manual, the City Council would like to review the City's hedge height and screen planting ordinance in consideration of potentially modifying the following regulations: 1) rules for trees that screen views by growing together, and 2) consideration of allowable hedge heights for adjoining residential properties with different pad heights. The City Council approved Mayor Sanders' request at its July 18, 2024, Council Meeting to place the matter on the September 5, 2024 agenda.

The City's existing rules for trees and hedge heights are found in the City's Zoning Code, Chapter 21.50, Walls, Fences, and Landscaping. Section 21.50.051(a) prohibits any hedge (within the building setback) to exceed nine (9) feet in height measured from the finished grade of the residential lot (Attachment 1). This doesn't take into account any elevational grade differences between adjoining lots.

Section 21.50.053 defines individual shrubs as plants with multiple branches arising from the ground, unlike trees with a single trunk, capable of reaching a height of three (3) feet or more at maturity. The City's Code prohibits individual shrubs from exceeding nine (9) feet in height adjacent to property lines within the front or rear setbacks. Section 21.50.51(b) defines a "hedge" or "screen planting" as a dense row of trees or shrubs which form a substantially solid, opaque screen between residential properties. Section 21.50.51(b)(1) further qualifies that individual trees or shrubs shall not be considered a hedge or screen planting if sufficient distance is maintained between them to prevent branches from touching or intertwining (refer to Attachment 1). Heights of trees are not regulated if they do not create a hedge or screen planting (as defined and illustrated in the Code).

DISCUSSION:

Hedges:

The City's Municipal Code regulates the allowable heights for hedges and walls between adjoining residential properties. Currently, wall heights are limited to a maximum of 6-feet [Section 21.50.050(a)(1)], individual shrubs are limited to 9-feet [21.50.053(b)] within front and rear setbacks, and hedges are limited to 9-feet [Section 21.50.051(a)] between side and rear yards of adjoining residential properties. This allows a homeowner to flank their wall with a hedge row to provide an additional 3-feet of screening above their 6-foot high perimeter wall. Heights of trees are not regulated, but they must be grown from a single trunk in the ground and maintain spatial separation without their branches touching or intertwining with adjacent trees or shrubs. While the City does not have a scenic viewshed ordinance it has deliberately restricted the heights of hedges and walls to minimize the impact on desirable views while balancing other homeowner priorities such as privacy, security and shading, especially for south facing yards and windows.

As per Section 21.50.051(d), heights of hedges (and walls) are independently measured from the finished grade elevations for each residential property (Attachment 2). Essentially, each homeowner is allowed to install a 6-foot high wall and a 9-foot high hedge on their property as measured from their independent pad elevations. In some cases, adjoining residential properties have certified pad elevations 1 to 2-feet higher than the neighboring property. In these cases, any perimeter hedge row or wall installed on the higher pad will be proportionally taller as viewed from the lower pad elevation (Attachment 3). However, this is not only true for hedges and walls, but also for any legal structure (home/casita, chimney, patio cover, etc.) built on the higher pad elevation within a residential zone.

Views of surrounding mountains are highly valued by Indian Wells homeowners. The City's Code Enforcement Staff have received complaints from some homeowners concerned that their views are being inequitably obstructed by allowing 9-foot tall hedges to be planted on their neighbor's property, when there is a 1 to 2-foot grade separation between their residential pads. They would like the City to consider modifying the hedge height requirements to be measured from the lower pad elevation between two adjoining residential properties. Depending on grade separation between lots, this would effectively limit the allowable hedge height to 7 or 8-feet on the higher residential pad (Attachment 4). There are also a number of residents who have expressed their opposition to changing the standard and would prefer to maintain the allowable 9-foot hedge height on individual lots to preserve their privacy, security, and ability to maximize the shade/cooling of their respective yards and homes.

Trees:

The City of Indian Wells was named a Tree City USA by the Arbor Day Foundation in 2022 and continues to this day in honor of its commitment to effective urban forest management. In support of maintaining a dense tree population the City's landscape ordinance requires a minimum of 2 trees on each residential lot fronting public streets. The existing code does not limit the height of individual trees that are grown from a single trunk in the ground, however; they are required to maintain spatial separation, so their branches do not touch or intertwine to create a screen (Attachment 5). Over the years, Code Enforcement Staff have received comments from homeowners concerned their views are being obstructed by their neighbors' trees. Although the City's Code does not limit their height, after inspection, if staff determines that branches between adjacent trees are growing together and creating a screen, the responsible homeowner is required to carefully prune the affected area to create sufficient space between the individual trees. Due to the dangerous heights and potential detrimental effects to trees from improper trimming, staff always recommend the homeowner hire a professional when trimming branches on their trees. According to the International Society of Arborists (ISA), trimming trees to control their height or limit growth creates a significant health and safety risk for the tree and surroundings areas (Attachment 6). Indiscriminate cutting of tree branches leaves behind woody stubs that cause decay, weak branch attachments, and increased likelihood of large branches falling to the ground, which can result in property damage or worse. Constant trimming exacerbates the adverse effects on a tree's health and can ultimately result tree mortality.

Other Valley Cities:

Staff conducted a survey and researched the municipal codes for the eight (8) other valley cities to compare their hedge height and tree screening regulations. Through this review it was determined most of the cities did not have specific regulations for maintaining hedges, and the ones that did were generally tied to wall heights or limiting hedges in front yards (Attachment 7). Survey responses and research revealed that no other valley city regulates the height of trees or impacts to viewsheds caused by screen planting on residential properties. The survey results also indicated that in other valley cities, complaints about landscape height are not enforced and are instead treated as a civil matter. Below is a comparative analysis of existing hedge height requirements found within the municipal code sections for the nine (9) valley cities:

Indian Wells: Section 21.50.051 allows residential hedges to be a maximum 9-feet high within rear and side yard setbacks adjacent to other residential properties. Must be setback 20' from front property line for full 9-foot height allowance at frontage. Measurements are taken from the finished grade of planted hedge.

Cathedral City: Section 9.80.120 addressed hedge heights in terms of enclosing tennis courts. Associated tennis court hedges shall not exceed 12-feet in height located towards rear half of the lot, and setback not less than 3' from property line. Section 9.80.020 also promotes placement of shrubs and trees along rear/side property lines to screen playground equipment. Playground equipment may be up to 10' in height. No other regulations address hedge heights between residential properties. No specific regulations address where height of hedges are measured from, so it is assumed the standard measurements are taken from the finished grade of the affected lot. Tree heights are not regulated.

Coachella: Section 17.60.010 limits hedges to a max height of 30-inches along front yard property as approved by City Staff. Hedge heights in other areas of the lot, including rear and side-yard are not addressed by the city's code. No specific regulations address where height of hedges are measured from, so it is assumed the standard measurements are taken from the finished grade of the affected lot. The city's code does not address other regulations related to screen planting.

Desert Hot Springs: Section 17.60.010 states fences, walls, and hedges shall be limited to 4-foot max height in the first 10-feet of yard. In the rear or side yard areas not within the front yard setback, the wall, fence, or hedges shall not exceed 6 feet in height. No specific regulations address where height of hedges are measured from, so it is assumed the standard measurements are taken from the finished grade of the affected lot.

Indio: Section 3.02.10.C. refers to hedges the same as fences, walls and screening. They are limited to 3-feet within front setback, and 6-feet within rear/side setbacks (an additional foot may be allowed for transparent fences). The city's code also considers grade differential between two properties and/or a retaining wall when measuring height of common property fence or wall. Section 3.01.03.E. fence/wall height measurement – requires measuring the height of a fence or wall from the average of the vertical distance between ground levels immediately adjacent to both sides of the fence or wall to the highest point of such fence or wall. The city's code does not include language that protects viewsheds affected by tree screening.

La Quinta: There is no mention of hedges or screen planting in the municipal code.

Palm Desert: Section 25.40.100 restricts hedge heights between 3-foot to 6-foot tall for downtown residential districts. Note: the City of Indian Wells does not have a residential downtown district, so this is not applicable. No specific regulations address where height of hedges are measured from, so it is assumed the standard measurements are taken from the finished grade of the affected lot. There is no other reference to hedges or tree screening in the city's municipal code.

Palm Springs: Section 93.02.00.E addresses hedge heights for homes abutting golf fairways, where it limits hedge height to a maximum of 5-feet on rear/side property

abutting a fairway. Otherwise, hedge heights are not regulated on properties that don't abut a fairway. The city's code does consider methods of measurement for properties with elevation differential that may affect walls or hedges in some cases. It states that when adjacent properties have an elevation differential at the property line, the height shall be measured from the average grade at the property line. The city's code does not include provisions for view protection from tree screening.

Rancho Mirage: Section 17.20.070 addresses fences, hedges, and walls, limiting hedge height to 3-feet on corner parcels within the corner cutback area. Other than this, the city's code is silent on hedge height restrictions. No specific regulations address where height of hedges are measured from, so it is assumed the standard measurements are taken from the finished grade of the affected lot. The survey results point to Section 17.24.040 which governs the final inspections of planting materials in the rear yard setback of new single-family developments, requiring all plants to remain below the "plane" created by the home's roof ridge to six inches above the rear wall. In addition, the city's landscape regulations address the hazardous conditions of mature trees, treating view obstruction from plant height as a civil matter.

Code Enforcement Challenges and Other Considerations:

Implementing changes to the City's hedge height and tree screening ordinances present challenges from a code enforcement perspective that should be considered. A primary consideration is public outreach and education regarding any new regulations. Similar to the City's recent Landscape Ordinance changes, the city may need to undertake a robust education and outreach campaign. This could involve community meetings, informational eBlasts, and updates to the City's website to ensure all property owners are aware of the changes. Additionally, a timeline for compliance may be necessary to provide homeowners with sufficient time to adjust to the new requirements. Establishing a grace period during which residents can bring their properties into compliance without penalty could help ease the transition and reduce the burden on both code enforcement staff and property owners.

Another significant challenge is determining whether existing hedges and trees that do not meet any new standards should be grandfathered in. If grandfathered in, the City will need to establish a method for identifying and documenting these grandfathered properties to ensure appropriate application of new regulations. Several Homeowner Associations may have their own separate criteria that differ from the City's and should be accounted for in the creation of new regulations from a grandfathering or enforcement perspective.

Enforcement of any new regulations will require special attention to compliance deadlines and ensuring adequate resources are available for enforcement. Historically, the city has established a clear deadline for compliance with a tiered penalty system for non-compliance that has aided in maintaining order and fairness. The City may need to

allocate additional resources to its Code Enforcement team or consider using a 3rd party contractor for additional inspections and enforcement during the initial transition period.

As briefly mentioned above, potential reduction to hedge heights or the pruning of trees due to new regulations may be detrimental to the plant. The City may benefit from the establishment of clear and practical guidelines for hedge and tree pruning to avoid irreparable damage to vegetation and promote safety. The City should consider the potential health impacts on trees and shrubs from required pruning or height reduction, as over-pruning can lead to long-term damage or mortality, which could result in further enforcement challenges.

Lastly, the City should consider the impacts of new regulations on community aesthetics, personal privacy, and protection of scenic views and maintain a balance between these. A potential reduction to a property's shrubs or trees may tip the scales towards protection of scenic views at the detriment of personal privacy or community aesthetics. Changes to hedge height regulations could affect property values if residents perceive a loss of privacy or shading, which are important aspects of their property's appeal.

Additional challenges may present themselves after the implementation of new regulations. The City may need to revisit and adjust the regulations based on community feedback and questions encountered during enforcement.

OPTIONS:

Any modifications to the City's hedge height and screen planting ordinance would require updates to Title 21 of the City's municipal code, which is under the purview of the Planning Commission. Consequently, if the City Council would like to formally consider modifications to the ordinance, it would initially require a Public Hearing with the Planning Commission to consider the request and make their formal recommendation to City Council. If the Council chooses to send the item to Planning Commission, staff is requesting Council's direction regarding the focus of potential modifications to the ordinance. The following options are provided by staff to initiate dialog among Council:

Hedges:

1. Take measurements for hedge heights from the finished grade at the lower pad elevation between two adjoining residential lots; or
2. Take measurements for hedge heights from the average finished grade between two adjoining residential lots; or
3. Reduce the current allowable hedge height from a maximum of 9-feet to a lower maximum allowable height; or
4. Leave the current hedge height regulations without modification; or
5. Provide alternative direction to staff.

Trees:

1. Set specific height and spacing requirements for trees; or
2. Define specific locations within a residential yard where trees are not allowed or cannot exceed a specific height; or
3. Require hedge height limitations apply to all common shrubs or plants commonly used for hedges regardless if they are planted individually in such a way that they are not intertwining or creating a screen with adjacent shrubs or trees; or
4. Narrow the definition of a tree to exclude specific shrubs and plants commonly uses as hedges; or
5. Leave the current screen planting regulations without modification; or
6. Provide alternative direction to staff.

ATTACHMENTS:

1. IWMC Section 21.50.051(a)(b) Hedges or Screen Planting Height Standards
2. IWMC Section 21.50.051(d) Measurement of Screen Planting Height
3. 9-foot Hedge Profile
4. 7-foot Hedge Profile
5. Tree Screening Examples
6. International Society of Arboriculture Tree Pruning Info
7. Comparative Analysis of Valley Cities