

## M E M O R A N D U M

**TO:** Planning and Zoning Board

**THROUGH:** Robin D. Meyer, AICP, Director  
Planning, Zoning and Building Department

**FROM:** Steve Schield, AICP, ASLA, CFM, Planner  
Planning, Zoning and Building Department

**SUBJECT:** Ordinance 2012-15, amending Town Code Section 158.152 – Maximum Hedge Height

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On April 19, 2012, the Town Commission referred the issue of height of hedges located in the required side yard setback to the Planning and Zoning Board for consideration and to make recommendations on changes to the existing code. At the meeting concerns were raised by residents about two unique situations in regards to side yard hedge height. The first was in reference to the use of the “Bamboo” plant species as a side yard hedge, and the second was a concern about the side yard waterfront views across a neighboring property.

### **STAFF FINDINGS:**

Currently, Section 158.152 of the Town Zoning Code does not limit the height of hedges in the required street, side and rear yards or in non-required yards. It limits the height of hedges in waterfront yards to three feet. Previous to 2008, the Town regulated the height of hedges in side and rear yards to six feet. The previous requirement has been in, or a part of the code of ordinances since the 1970s. Staff enforced the previous side yard hedge height requirement when a complaint was filed with the Town. Until a complaint was filed in 2008 about a side yard hedge height (Bamboo hedge), the Town had not had a complaint filed for a number of years. The Town does receive waterfront hedge height (three feet maximum height) complaints on a regular basis.

In other communities that staff surveyed (refer to chart), staff found that they either did not regulate the height of hedges in side or rear yards or did not actively enforce the regulation. Most communities have not had a complaint in regards to hedge height for a number of years. The cities of North Port and Bradenton Beach both do not actively enforce the height requirement and only respond to complaints. Only one of the Longboat Key homeowner associations that were surveyed regulated hedge height in side yards; most had references to regulating vegetation for light and air and for canal views.

**MAXIMUM HEIGHT RESTRICTIONS IN STREET, SIDE AND REAR YARDS**

Location	Fence/Wall	Hedge, Street Yard	Hedge, Side & Rear Yards
<b>Sarasota County</b>	6 ft. in side and rear yard	No maximum	No maximum
<b>City of North Port</b>	6 ft. in side and rear yard	3 ft. in street yard	10 ft. in side and rear yard, no active enforcement
<b>City of Sarasota</b>	6.5 ft. in side and rear yard	6.5 ft. in street yard	No maximum
<b>City of Venice</b>	6 ft. in side and rear yard	No maximum	No maximum
<b>Manatee County</b>	8 ft. in side and rear yard	4 ft. in street yard	No maximum
<b>City of Anna Maria</b>	6 ft. in side and rear yard	No maximum	No maximum
<b>City of Bradenton</b>	6 ft. in side and rear yard	4 ft. in street yard	6 ft. in side and rear yard, no active enforcement
<b>City of Bradenton Beach</b>	6 ft. in side and rear yard	4 ft. in street yard	6 ft. in side and rear yard, no active enforcement
<b>City of Holmes Beach</b>	6 ft. in side and rear yard	No maximum	No maximum
<b>City of Palmetto</b>	6 ft. in side and rear yard	No maximum	No maximum

In the 1970s, when hedge height was first addressed in the code, most homes in the Town were one story on grade and averaged 12- to 15-feet in height above grade. This would make a six foot hedge about half the height of the house and adequate to buffer windows that were three-to four-feet above grade. The newer homes are usually two stories over parking and about 35 feet above grade. The first living level windows are about 10- to 14-feet above grade. This would require vegetation to be about 15- to 20-feet tall to provide a buffer between building windows. Condominiums are also being built 10- to 14-feet above grade, and the Town has encouraged and required heavier vegetation and buffering around condominiums over the last 20 years.

The Town has required that 75 percent of the landscaped areas for a condominium be planted with trees and shrubs. This was done to conserve water and to create a soft natural buffer between properties and roadways. This has resulted in thick and tall vegetation in side and street yards around condominium sites; many now would be in excess of the side yard hedge height requirements. About two years ago, the Town passed a new water conservation landscape ordinance, which requires that new single-family homes must plant at least 50% of their landscape area with trees and shrubs. Along with a general trend to plant more drought tolerant vegetation and less sod, staff expects denser and taller vegetation in all yard areas with the increased planting requirements.

A windshield survey of side yard hedge heights was conducted in 2008. The heights of the hedges at that time ranged from approximately eight feet to 30 feet. Roughly 21

percent of the 1,044 homes surveyed had hedges in excess of eight feet in height. These ranged from 12 percent of the homes in the Country Club Shores and Bayou neighborhoods on the south end, to a high of approximately 38 percent in the Sleepy Lagoon and Hideaway Bay neighborhood on the north end. The Village area had approximately 20 percent of the homes that exceeded the side or rear yard hedge height requirements. The homes on the north end of the island tend to have less turf and be more heavily planted with shrubs and trees. The plantings were taller both in the side yard and street yard areas. Staff believes that the number and height of hedges has increased since any restrictions on height were removed in 2008.

**STAFF ASSESSMENT:**

The regulation of side yard hedge height would impact hundreds of homes and condominium complexes if side yard hedge height restrictions were regulated again. It would also greatly increase the cost of code enforcement if staff was required to measure and enforce the height of all side yard hedges.

The area of hedge height that the residents and the Town Commission have strongly felt should be regulated is in the waterfront yard and those side yard areas that would affect waterfront views. Hedges in waterfront yards are required to be no more than three feet high. Many neighborhood associations have additional requirements in regards to vegetation within the waterfront yard. The height restriction helps protect waterfront views along the bay, canals and bayous. The area of greatest concern is where two neighboring properties have different waterfront yards. The house or building with the greater waterfront yard is impacted by the side yard hedge located closer to the water. Staff is proposing that restriction be placed only on the portion of the side yard that is located between the two different waterfront yards. This would provide equal waterfront views to both buildings. A selective regulation of hedges located in side yards adjacent to waterfront yards would give additional protection for water views over neighboring properties, and it should not impact the great number of taller side yard hedges where no one has raised concerns.

The other concern about side yard hedges was the use of the Bamboo species as a planting material for hedges. Bamboo is a member of the grass family. It grows very quickly in height and, as a grass also spread along the ground. It can be very aggressive and can be difficult to contain along a property line. Individual shoots can be removed, but the overall plant can not be trimmed without killing any stalks from the trimming. The species is not currently on any nuisance exotic plant list on the federal, state or local levels, but staff does recognize the aggressive nature of the plant and does not recommend its planting where it would impact neighboring properties.

**STAFF RECOMMENDATION:**

**As a result of recent concerns that the Town Commission has raised about side yard waterfront yard views, staff is recommending that hedge height regulations in side yards be selectively restricted where waterfront yard views are impacted.**

**Please find attached Ordinance 2012-15, which selectively restricts side yard hedge height, for your consideration.**

**Because of the very unique case of the Bamboo hedge, staff is not recommending a change to the Town code, but if the Board wishes to address the concerns about the use of “Bamboo” as a side yard hedge plant, staff would recommend that the board may want to restrict the specie Phyllostachys “Bamboo” from being planted or maintained within five feet of any property lines.**

Attachments: Ordinance 2012-15

xc: David Persson, Town Attorney  
Robin D. Meyer, AICP, Director – Planning, Building & Zoning Department