

**ORDINANCE NO. 1547**

**AN ORDINANCE OF THE CITY OF LAGUNA BEACH  
ESTABLISHING CHAPTER 12.14 OF THE LAGUNA BEACH  
MUNICIPAL CODE RELATING TO HEDGE HEIGHT LIMITATIONS**

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**WHEREAS**, on February 9 and March 9, 2011, the Planning Commission conducted legally noticed public hearings and, after reviewing and considering all documents and testimony, voted to recommend that the City Council approve amendments to the Laguna Beach Municipal Code relating to allowable hedge heights, the code enforcement procedures related to non-compliance with actions resulting from the hedge height claim process, and the definition of "hedge"; and

**WHEREAS**, on April 5 and April 19, 2011, the City Council conducted a legally noticed public hearing and, after reviewing and considering all documents and testimony, desires to approve additions to the Laguna Beach Municipal Code relating to view preservation and to the definition of "hedge."

**NOW, THEREFORE**, the City Council of the City of Laguna Beach does ordain as follows:

**SECTION 1.** Chapter 12.14 ("Hedge Height Limitations") is hereby added to the Laguna Beach Municipal Code to read in its entirety as follows:

**Chapter 12.14  
HEDGE HEIGHT LIMITATIONS**

**Chapter Sections:**

<b>12.14.010</b>	<b>Declarations</b>
<b>12.14.020</b>	<b>Intent and purpose</b>
<b>12.14.030</b>	<b>Definitions</b>
<b>12.14.040</b>	<b>Hedge Height Claim limitations</b>
<b>12.14.050</b>	<b>Hedge Height Claim</b>
<b>12.14.060</b>	<b>Hedge Height Claim resolution process</b>
<b>12.14.070</b>	<b>Hedge Height Claim evaluation criteria</b>
<b>12.14.080</b>	<b>Enforcement</b>
<b>12.14.090</b>	<b>Severability</b>

#### **12.14.010 Declarations**

The City Council declares as follows:

(1) Views, sunlight, and vegetation that forms hedges contribute to the aesthetic value, quality of life, ambiance and economic value of properties within the City. Similarly, access to sunlight across property lines contributes to the health and well being of community members, enhances property values and provides an opportunity to utilize solar energy. Utilization of passive solar energy reduces air pollution, visual blight and promotes health.

(2) Views, whether of the Pacific Ocean, islands, the surrounding hillsides and canyons, or other natural and manmade landmarks produce a variety of significant and tangible benefits for both residents and visitors. Views contribute to the aesthetic visual environment of the community by providing scenic vistas and inspiring distinctive architectural design. Views contribute to property values.

(3) Vegetation that forms hedges that are located in a front, side and/or rear yard may be subject to the maximum allowable fence heights as specified in Section 25.50.012. Hedges can produce a wide variety of significant psychological and tangible benefits for both residents and visitors to the community. Vegetation that forms hedges can provide privacy, modify temperatures, screen winds, replenish oxygen to the atmosphere, maintain soil moisture, mitigate soil erosion and provide wildlife habitat. Vegetation that forms hedges can contribute to the visual environment and aesthetics by blending, buffering and reducing the scale and mass of architecture. Vegetation that forms hedges can create shade and visual screens and provide a buffer between different land uses. Vegetation that forms hedges can contribute to property values.

(4) The benefits derived from views, sunlight, and vegetation that forms hedges that are located in front, side and/or rear yards may come into conflict. The planting of vegetation that forms hedges that are located in front, side and/or rear yards, and their subsequent growth, particularly when such vegetation is not properly maintained, can produce unintended harmful effects both on the property on which they are planted and/or on neighboring properties.

#### **12.14.020 Intent and purpose**

The intent and purpose of this Chapter is to recognize that in the interest of the public health, safety and welfare, every real property owner in the City is entitled to a process to determine whether vegetation located on an abutting property that forms hedges and that are located within the front, side and/or rear yards of the adjoining property create a safety hazard and/or adversely impact views from or sunlight to his/her property, and if so to resolve such conflicts.

#### **12.14.030 Definitions**

For the purpose of this Chapter, the meaning and construction of words and phrases hereinafter set forth shall apply:

- (a) "Fence" means a barrier of any material or combination of materials placed in a manner so as to enclose or screen areas of land. "Fence" includes hedges, chain link and wire mesh. (See Section 25.08.012.)
- (b) "Hedge" means generally dense vegetation so aligned as to form a physical barrier or fence. (See Section 25.08.016.)

- (c) "Vegetation" means all types of plants, bushes, hedges and shrubs, including trees.
- (d) "View" means a vista of features, including but not limited to bodies of water, beaches, coastline, islands, skylines, ridges, hillside terrain, canyons, geologic features and landmarks. The term "view" does not mean an unobstructed panorama of these features.

#### **12.14.040 Hedge Height Claim limitations**

(a) Subject to the other provisions of this Chapter, a real property owner in the City may initiate the claim resolution process as outlined in Section 12.14.060. However, a claim to remedy a safety hazard and/or obstruction of views from or sunlight to neighboring properties may only be made regarding vegetation located on real property, as defined herein, that is within 100 feet of the complainant's real property boundary, and if a claim pertaining to the same vegetation has not been initiated and acted upon by the City against that real property by the same complainant(s) or a subsequent owner(s) of the complainant's property.

(b) Requests for Hedge Height Claim action with regard to any vegetation located on City property, including parks, and for City maintained trees may be initiated only as outlined in Section 12.04.070.

(c) Requests for Hedge Height Claim action with regard to any Heritage Tree not maintained by the City may only be initiated as outlined in Section 12.08.070.

(d) Hedges and vegetation that have been authorized as part of an approved landscaping plan for which a maximum height has been established, pursuant to the design review process (Section 25.05.040), shall not be subject to the provisions of this Chapter.

#### **12.14.050 Hedge Height Claim**

A claim to remedy a safety hazard and/or obstruction of views from or sunlight to a neighboring property from hedges that are located in front, side and/or rear yards shall consist of all of the following:

(1) Completion and submittal of a Hedge Height Claim form by the owner of the impacted property, including a description of the nature and extent of the alleged safety hazard, view and/or sunlight obstruction. Evidence may include, but is not limited to, documented and dated photographic prints, negatives, slides and written testimony from residents living in the area. Such evidence must show the extent to which the view and/or sunlight access has been obstructed by trees and/or vegetation.

(2) Five sets of a dimensioned plot plan that specifies the scale of the drawing and shows the property boundary, adjacent streets and alleys, and the locations of all hedges alleged to cause a safety hazard, view and/or sunlight obstruction, including the address of the property upon which any hedges are located.

(3) Five sets of photographic prints showing the alleged hedge impacts as photographed from the impacted property.

(4) Evidence that the complainant has discussed their concerns of safety, or view and/or sunlight obstruction with the property owner of the claimed offending vegetation, and such attempt at resolution has failed. Evidence may include, but is not limited to, written summaries of conversations, copies of letters, and receipts for certified or registered mail correspondence.

(5) A public hearing noticing list of all property owners within a 100-foot radius of the vegetation owner's property, including a radius map and addressed, stamped envelopes with the City of Laguna Beach return address. The list must be compiled by a professional listing

service, in the format described on the Hedge Height Claim application, and submitted directly to the City prior to filing a Hedge Height Claim.

(6) A processing fee, as established by City Council resolution.

#### **12.14.060 Hedge Height Claim resolution process**

The complainant shall follow the process established by this Chapter in seeking resolution to a Hedge Height Claim.

(1) First, the complainant shall contact the owner of the claimed offending vegetation to attempt a mutually satisfactory resolution. If such attempt(s) are unsuccessful the complainant may file a Hedge Height Claim with the City requesting a public hearing to resolve the matter.

(2) After receiving a complete Hedge Height Claim the Director of Community Development, or his/her designee, shall contact the complainant to conduct a site visit to his/her property to observe the alleged safety hazard, view and/or sunlight obstruction. A site visit shall also be conducted at the vegetation owner's property, if requested by the vegetation owner.

(3) Once a Hedge Height Claim is filed, the vegetation on the site that allegedly forms hedges shall not be modified or altered until the claim is resolved. The Director, his/her designee, or the City Council on appeal, shall not consider or act on any changes to the vegetation that occur after a Hedge Height Claim is filed.

(4) After completion of the site visit(s) the Director of Community Development, or his/her designee, shall schedule a public hearing using the same public notice procedure set forth in Section 25.05.020.

(5) The person filing the challenge shall have the burden of proof that the hedges constitute a safety hazard and/or obstruct views from or sunlight to the complainant's property.

(6) At a noticed public hearing, the Director of Community Development, or his/her designee, shall consider all testimony and evidence, approve or deny the claim, and if approved, shall clearly specify any type of remedial action that includes heights at which the hedge or hedges are to be maintained. Any action requiring hedges to be reduced in height shall in no event be a height below the maximum allowable fence heights set forth in Section 25.50.012(B), unless the offending hedges are determined to be a safety hazard.

(7) The determination of the Director of Community Development, or his/her designee, shall be memorialized in writing and shall include a site plan clearly depicting the location of the hedges and maximum heights at which they are to be maintained. Such determination shall be distributed to the complainant, the hedge owner, and placed in both property files at City Hall.

(8) Either party may appeal the decision of the Director of Community Development, or his/her designee, to the City Council as set forth in Section 25.05.070.

(9) In the event that the complainant prevails in the final action, 50% of the Hedge Height Claim fee shall be refunded to the complainant.

(10) In the event that the complainant prevails, the hedge owner shall have 30 days from the date of the final action to complete the remedial action set forth in the action.

#### **12.14.070 Hedge Height Claim evaluation criteria**

In evaluating a Hedge Height Claim, the following criteria shall be considered:

(1) Whether or not the vegetation that is the subject of the Hedge Height Claim meets the definition of "hedge."

(2) Whether or not the hedges that are the subject of the Hedge Height Claim are located within a front, side and/or rear yard of the subject property.

(3) Whether or not the hedges that are the subject of the Hedge Height Claim and are located within a front, side and/or rear yard of the subject property create a safety hazard and/or obstruct views from or sunlight to the property of the complainant.

#### **12.14.080 Enforcement**

In addition to the ordinary remedies available to the City, violations of this Chapter may be enforced pursuant to the provisions of Chapter 1.15 and/or Chapter 7.24, including abatement of non-conforming hedge heights and the assessment of costs thereof against the property owner.

(1) Once a final Hedge Height Claim action is rendered, and 30 days from the final action to remediate the offending hedge heights has expired without completion of the required remediation, the complainant may file a complaint with the City's Code Enforcement Division to enforce the action.

(2) With regard to all Hedge Height Claim actions in which the subject hedges are determined to create a safety hazard, the owner of the offending hedges shall be given a maximum of 30 days from receipt of any code enforcement notification from the City to comply with the Hedge Height claim action. In the event that the hedge owner does not remedy the violation within the 30-day timeframe, fines shall be assessed each day and collected, unless there are exceptional circumstances that prevent the completion of the required remediation, and the City may complete such remediation and assess the hedge owner for its costs.

(3) With regard to all Hedge Height Claims actions, wherein the subject hedges are determined to obstruct views from or sunlight to the complainant's property, the owner of such hedges shall be given a maximum of 90 days from receipt of any code enforcement notification from the City to comply with the Hedge Height Claim action. In the event that the hedge owner does not remedy the violation within the 90-day timeframe, fines shall be assessed each day and collected, unless there are exceptional circumstances that prevent the completion of the required remediation, and the City may complete such remediation and assess the hedge owner for its costs.

#### **12.14.090 Severability**

If any section, subsection, sentence, clause, phrase or portion of this Chapter is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Chapter. The City Council hereby declares that it would have adopted this and each section, subsection, phrase or clause of this Chapter irrespective of the fact that any one or more sections, subsections, phrases or clauses be declared invalid or unconstitutional on their face or as applied.

**SECTION 2.** The City Council finds that the adoption and implementation of this ordinance are exempt from the provisions of the California Environmental Quality Act pursuant to Sections 15301 and 15304 of the State CEQA Guidelines, in that the council finds there is no possibility that the implementation of this ordinance may have significant effects on the environment.

**SECTION 3.** This Ordinance is intended to be of Citywide effect and application. All ordinances and provisions of the Laguna Beach Municipal Code and Sections thereof inconsistent herewith shall be hereby repealed to the extent of such inconsistency and no further.

**SECTION 4.** This Ordinance shall take effect and be in full force and effect thirty days after the final approval by the City Council.

**SECTION 5.** The City Clerk of the City of Laguna Beach shall certify to the passage and adoption of this Ordinance, and shall cause the same to be published or posted as required by law.

ADOPTED this 19th day of April, 2011.



Toni Iseman, Mayor

ATTEST:



City Clerk

I, Martha Anderson, City Clerk of the City of Laguna Beach, do hereby certify that the foregoing Ordinance No. 1547 was introduced at a regular meeting of the City Council on April 5, 2011, and was finally adopted at a regular meeting of the City Council of said City held on April 19, 2011 by the following vote:

AYES: COUNCILMEMBER(S): Egly, Rollinger, Pearson, Iseman

NOES: COUNCILMEMBER(S): None

ABSENT: COUNCILMEMBER(S): Boyd



City Clerk, of the City of Laguna Beach, CA