



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** March 15, 2011

**TO:** Mayor and Councilmembers

**FROM:** Planning Division, Community Development Department

**SUBJECT:** Introduction Of Ordinance Regarding Temporary Suspension Of Certain Hedge Regulations

### **RECOMMENDATION:**

That Council introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending Santa Barbara Municipal Code Chapter 28.87 of Title 28, the City's Zoning Ordinance, in Order to Temporarily Suspend the Application of Certain Provisions of Section 28.87.170 Concerning the Height of Hedges in Required Setbacks and Along the Front Lot Line.

### **DISCUSSION:**

#### Background

For many years the Planning Division has identified Santa Barbara Municipal Code (SBMC) §28.87.170 (Fences, Screens, Walls and Hedges), originally adopted in 1957, as needing review and possible revision. However, other work priorities and limited resources have not allowed adequate time to be dedicated to this effort.

A large number of hedge-related complaints in the summer of 2008 caused significant community discord. This prompted the City Council to adopt on November 25, 2008 an ordinance to suspend for two years the application of SBMC §28.87.170.A and §28.87.170.B.1 to hedges. These code sections limit the height of fences, screens, walls, and hedges in the A, E, R, C-O, and C-X Zones to eight feet (8') in required setbacks, and three and one-half feet (3½') within ten feet of a front lot line. The Council's goal in doing this was to reduce neighborhood discord, enable adequate community outreach, and allow for a thorough discussion and review of a possible amendment to this section of the code. At the introductory hearing, an exception to the suspension ordinance was added regarding bamboo hedges.

The suspension ordinance did not affect hedge height limitations related to public safety. SBMC §28.87.170.B.2 remained in effect, which limits fences, screens, walls, and hedges in most zones to a height of three and one-half feet (3½') within ten feet of either side of a driveway for a distance of twenty feet back from the front lot line. Section

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28.87.170.C also remained in effect, which limits the height of fences, screens, walls, and hedges in most zones to three and one-half feet (3½') within 50 feet of a street corner.

Status of the Suspension Ordinance

Ordinance No. 5470 expired on November 25, 2010. Staff reductions and shifting workload priorities in the Planning Division did not allow for the necessary community outreach to consider an amendment to §28.87.170 prior to the expiration of the suspension ordinance. Therefore, staff is recommending that Council again temporarily suspend certain sections of the hedge ordinance until this work effort can be completed.

Effect on Development Applications and Building Permits

Ordinance No. 5470 temporarily suspended regulations related to hedges located in required interior setbacks and within ten feet of a front lot line, provided they are located at least ten feet from either side of a driveway and not near a street corner. Unless they pose a fire hazard, or are regulated by means beyond the City's authority, hedges (except bamboo) in these locations could grow to an unlimited height during the previous two-year suspension.

If the City Council extended the suspension ordinance as previously written, staff would continue to require that applicants seeking building permits for properties with overheight front and interior hedges include a statement on plans that the property must comply with §28.87.170, but would not require the immediate reduction of such hedges. This would continue to potentially delay actual compliance with the regulations for overheight front and interior hedges, depending on how and whether the ordinance is amended in the future. Based on staff's experience with the previous suspension ordinance, this causes confusion in the community regarding if, and where, hedge height limitations apply.

If the Council did not adopt a subsequent ordinance to suspend application of certain sections of §28.87.170, the regulations would apply as they did prior to November 2008. Property owners seeking permission for development would again be required to reduce all overheight hedges identified on project plans prior to final inspection.

Effect on Enforcement Cases

Because hedge height limitations related to public safety remained in effect during the previous suspension, in the two years since its adoption, staff investigated twenty-three properties with overheight hedges adjacent to driveways or street corners, and nine bamboo hedges; six located along interior lot lines and three located along front lot lines. If the City Council extended the suspension ordinance as previously written, staff would continue to enforce only those hedges adjacent to driveways and street corners, for safety purposes, and bamboo hedges along all property lines.

Staff continued to receive complaints about overheight hedges and bamboo along interior lot lines during the suspension. However, limited enforcement resources prevented us from getting to that point in the priority list of pending complaints and thus, those interior hedge and bamboo complaints have not yet been investigated.

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Zoning Staff currently has about four hundred active enforcement cases and pending complaints; thirty of those cases involve hedges. Twenty-four of the thirty cases involve hedges or screens located adjacent to driveways or near street corners, or bamboo hedges (i.e., those subject to enforcement); six involve other hedges along front or interior lot lines.

Recommendation

Amending SBMC §28.87.170 would require extensive community outreach and review by appropriate Boards and Commissions, as well as other City Departments including the Public Works and Police Departments, which also consider such regulations important for public safety. Given reduced staffing levels in the Planning Division and the need to complete existing priority projects, we would not likely get to this work effort for two to three years. In the meantime, staff suggests the City Council suspend enforcement of certain hedge regulations on complaints and most new development.

On January 25, 2011, the Ordinance Committee forwarded staff's recommendation to suspend enforcement of certain hedge regulations on complaints and require only those seeking discretionary approval for new development from the Staff Hearing Officer or the Planning Commission – a time when staff conducts a site visit and performs a complete zoning plan check prior to a public hearing - to comply with the applicable standards of §28.87.170. This approach may reduce confusion among members of the public over how the suspension ordinance applies to new development, as it would explicitly state the trigger for when the standards apply. It would also continue to address the community concern that led to the adoption of the prior suspension ordinance – the initiation of a large number of hedge height enforcement cases based on numerous complaints filed by one individual – until the City is able to more fully consider a possible amendment to §28.87.170.

In addition, the Ordinance Committee voted two to one to recommend that bamboo hedges continue to be enforced, as they were during the previous two-year suspension.

Next Steps

The comprehensive update to the hedge ordinance will be placed on the Planning Division's workload along with other existing special projects. If Council indicates that work on the hedge ordinance is a priority, staff believes in order to allow for a thorough discussion of issues related to such an amendment, it may require the full three year suspension period to return to City Council with a formal recommendation to amend the ordinance.

**BUDGET/FINANCIAL INFORMATION:**

No significant expenditures are required for initial and ongoing staff work required to implement a subsequent ordinance suspending certain sections of §28.87.170. A work program for how to consider possible changes to the ordinance has yet to be developed.

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**SUBMITTED BY:** Paul Casey, Assistant City Administrator/ Community  
Development Director

**APPROVED BY:** City Administrator's Office

COUNCIL INTRODUCTION DRAFT 3/15/11  
 SHOWING CHANGES FROM ORDINANCE NUMBER 5470

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA AMENDING SANTA BARBARA MUNICIPAL CODE CHAPTER 28.87 OF TITLE 28, THE CITY'S ZONING ORDINANCE, IN ORDER TO TEMPORARILY SUSPEND THE APPLICATION OF CERTAIN PROVISIONS OF SECTION 28.87.170 CONCERNING THE HEIGHT OF HEDGES IN REQUIRED SETBACKS AND ALONG THE FRONT LOT LINE.

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

**SECTION ONE.** Pending a review and consideration by the City Council of possible amendments to City Zoning Ordinance requirements applicable to hedges within certain zones of the City, the application of the following provisions of section 28.87.170 of the Municipal Code with respect to hedges are hereby suspended except with respect to hedges consisting of the bamboo plant:

1. Subsection A ("Required Setbacks"), and
2. Clause "1" of Subsection B ("Front Lot Line, Side of Driveway.")

**SECTION TWO:** Nothing herein shall be deemed to suspend the application or enforcement of the requirements of Santa Barbara Municipal Code section 28.87.170 with respect to fences, screens, or walls nor to the requirement for full compliance with the most recently adopted Uniform Fire Code provisions of the City for the "distance requirements" which may be applicable to hedges and buildings (i.e., Uniform Fire Code section 4702.2) or applicable to "Vegetation Road Clearance (i.e., Uniform Fire Code section 4707.8) as adopted by Title 8 of the Santa Barbara Municipal Code nor to effect the discretion of the City Engineer to condition new proposed development within the City to install and maintain private landscaping in a manner that does not potentially adversely impact public traffic and pedestrian safety.

**SECTION THREE:** Nothing herein shall be deemed to suspend the application or enforcement of the requirements of Santa Barbara Municipal Code section 28.87.170 to hedges located on real property that is the subject of an application for development where the application for development requires a discretionary approval from the Staff Hearing Officer or the Planning Commission. Compliance with section 28.87.170 shall be a condition of approval for any approval of such

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development application and compliance with the condition of approval shall be confirmed prior to the issuance of a certificate of occupancy or approval of a final inspection.

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**SECTION FOUR:** This ordinance shall remain in effect for a period of three years subsequent to the date of its adoption or upon the enactment of an amendment to Santa Barbara Municipal Code Section 28.87.170 relating to or regulating hedges in certain zones of the City whichever occurs first.

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**SECTION FIVE:** The suspension of City enforcement of portions of Municipal Code Section 28.87.170 pursuant to this ordinance does not delete or repeal the zoning standards stated in Section 28.87.170. This suspension of enforcement is not intended to affect the ability of private individuals to establish a private nuisance on the basis of a property owner violating the zoning standards announced in Section 28.87.170. Furthermore, the adoption of this ordinance has no effect on the operation or effectiveness of the City's View Dispute Resolution Ordinance, Chapter 22.76 of the Santa Barbara Municipal Code.