



CITY OF BLACK DIAMOND

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Meeting Date: June 8, 2021

To: Planning Commissioners

Staff Contact: Mona Davis, AICP – Community Development Director

Subject: Fences and Hedges Code Amendments

Findings of Fact

Currently, the City code regulates the height of fences and walls, but not of hedges. Hedges often function as a fence, providing a sight-obscuring screen or barrier between houses or the like. Therefore, the following regulations have been developed to include hedges with the fence and wall regulations. The proposed regulations promote public safety and aesthetically pleasing neighborhoods and can also help to preserve the views of neighbors (where applicable) by limiting the height of hedges.

The City will not require permits for hedges, as is required for fences and walls, but hedges meeting the proposed definition will need to comply with the height requirements pursuant to setbacks. Property owners will be responsible for removing or trimming hedges to bring them into compliance with these regulations.

There are some exceptions for the hedge height limit in compliance with the City code's current landscaping requirements for non-residential uses abutting residential uses, and exceptions may be allowed through the subdivision approval process.

Proposed Code Amendments

Chapter 18.100 DEFINITIONS

18.100.330 HEDGE

"Hedge" means trees, shrubs, bushes and/or any living green fence which are planted in a substantially uniform configuration, grown and joined together in some definite manner that form a screen, barrier, or boundary which encloses land, divides land into distinct portions, separates contiguous properties, obstructs the passage of light and air into adjacent land or obstructs the vision of motorists on or near public roads.

18.50.060 FENCES, HEDGES, AND WALLS.

The height of the fence or wall shall be determined from the existing, established grade on the property. These regulations are primarily intended to regulate height of fences, hedges, and retaining walls to promote traffic and public safety and to maintain or create aesthetically pleasing neighborhoods,



encourage safe access to and from properties, encourage the feeling of spaciousness along neighborhood streets, and reduce conflicting interests between abutting property owners.

- A. Fences, hedges, and walls may ~~be constructed to a height~~ not ~~to~~ exceed the following heights in each of the required setback areas, as regulated per each zone, or as modified by subsection B of this section:
1. Front yard: Forty-two inches; provided, that fences constructed of wrought iron or similar materials that provide visibility may be seventy-two inches in height. Exception: Fences protecting a swimming pool, agricultural use or community garden may exceed forty-two inches in height, provided they are at least seventy-five percent open;
 2. Side yard: Seventy-two inches;
 3. Rear yard: Seventy-two inches;
 4. Street side yard: Seventy-two inches.
 5. These limitations do not apply within the public zone district.
- B. Exceptions:
1. The height and design of landscaping hedges may be modified through the subdivision approval process, provided the design allows for visual access.
 2. The buffering of non-residential uses abutting residential zones may exceed the height limits listed above in accordance with BDMC 18.72.030.F(2) landscaping requirements.
 3. For properties located in the shoreline jurisdiction, all fence and hedges located in the Ordinary High Water Mark (OHWM) setback must comply with the height limit in the City of Black Diamond adopted Shoreline Master Program (SMP) Chapter 4, C.8.c.9(a) in order to maintain visual access to the waterfront.
- C. Special Height Restrictions. There shall not be anything constructed or reconstructed, and no obstruction permitted to grow, other than a post, column or tree not exceeding one-foot square or one foot in diameter, between a height three feet and ten feet above the established grade within the triangular areas described below, without the express approval of the public works director:
1. The triangular area formed by a line extending twenty feet along the right-of-way lines of a street and alley or edge of a private driveway, measured from the point of intersection and the line connecting the two ends of the two twenty-foot lines;
 2. Fences located at the corner of intersecting streets shall comply with the sight distance requirements of the city public works standards.
- D. In general, no fence, wall, hedge, structure or other obstruction shall act as a sight hazard to traffic, and the public works or community development director may order the removal of such hazard whether or not such object otherwise complies with the provisions of this title.
- E. Other than in the public, industrial or business/industrial park zones, no fence may include the use of barbed wire, provided, that pasture areas a minimum of one acre in area may be fenced with barbed wire in any zone. Barbed wire may be attached to the top of and in addition to the height of a seventy-two-inch fence, provided it does not extend more than one additional foot in height.
- F. The height of the fence or wall shall be determined from the existing, established grade on the property. Hedges shall be measured from the topmost portion of vegetation to the ground.



Staff Recommendation

The purpose of tonight's meeting is to get Commissioner's input and feedback on the proposed amendments. Should the Commissions support these amendments, they will move forward to the next meeting's agenda for a public hearing and recommendation to City Council.

Staff recommends approval of the code amendments as proposed.

Process and Appeal

Code amendments are a Type 5, legislative decision made by the City Council. The process includes a public hearing before the planning commission, which will make a recommendation to the City Council. There is no administrative appeal of Type 5 decisions, but they may be appealed to the Washington State Growth Management Hearings Board.



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Subject: Senior Housing Code Amendments

Findings of Fact

Age-limit

The definition of senior housing is found in Black Diamond Municipal Code section 18.100.655. Within this definition senior housing is limited to an age-restriction of sixty-five years or older. Staff is recommending amending the code to change the age-restriction to fifty-five years or older. This allows senior housing within the City more options for how they choose to age-restrict their communities.

The U.S. Department of Housing and Urban Development (HUD) Fair Housing Act includes three types of housing “exemptions” where communities can lawfully refuse to sell or rent dwellings to families with minor children due to certain restrictions. The Housing for Older Persons exemptions apply to the following housing:

1. Provided under any state or federal program that the Secretary of HUD has determined to be specifically designed and operated to assist elderly persons (as defined in the state or federal program);
2. Intended for, and solely occupied by persons 62 years of age or older; or
3. Intended and operated for occupancy by persons 55 years of age or older.

HUD specifically states that the 55 or older exemption is the most common of the three.

There are numerous senior housing developers and property management companies that run senior housing developments with an age-restriction of fifty-five years or older. For instance, SHAG (Sustainable Housing for Ageless Generations), a large provider of senior housing in the Puget Sound region is frequently restricted for 55+.

Nearby cities including Orting, Enumclaw, Milton and Buckley either define a senior citizen, senior housing or the like as 55+. Some other communities limit senior housing to 62+, and some city’s regulations more generally state senior housing is “age restricted” with no specific age limit stated in the code.



Cottage Housing

In addition to the amendment to the age restriction on senior housing, staff is recommending that senior housing also be permitted as detached cottage housing (in addition to multi-family and attached single family). Cottage housing can provide a great option for senior housing as it has all the benefits of single-family homes, just in a smaller space, and often with community amenities. The senior housing cottages would still need to be developed in accordance with the City's current cottage housing regulations found in BDMC Chapter 18.88 to be permitted. This includes a zone restriction to the MDR8 zone, minimum and maximum project size, location restrictions, and development standards (density, height, coverage, open space, parking, etc.). By allowing senior housing in cottage developments it provides a detached housing option for these developments that is currently not allowed per the code, providing a more independent living option. Examples of this type of senior housing can be seen in Issaquah and Maple Valley.

Proposed Code Amendments

18.100.655 Senior housing.

Multifamily, cottage housing, or attached single family housing for seniors that is age-restricted to occupancy or ownership by residents of which at least one in each dwelling unit is ~~sixty-five~~ fifty-five years or older and that does not provide on-site life-care services and staffing for living support and health care.

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