



City of Rolling Hills

INCORPORATED JANUARY 24, 1957

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Agenda Item No.: 7-A
Mtg. Date: 03/14/16

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: YOLANTA SCHWARTZ, PLANNING DIRECTOR *yp*

THRU: RAYMOND R. CRUZ, CITY MANAGER *rrc*

SUBJECT: CONSIDERATION OF RESOLUTION NO. 1182 TO ADOPT ADMINISTRATIVE REGULATIONS INTERPRETING MEASURE B RELATING TO VIEW PRESERVATION

DATE: MARCH 14, 2016

ATTACHMENTS:

- A. Chapter 17.26 View Preservation Ordinance, and recent amendments-Ordinance No. 346.
- B. Resolution No. 1182 of the City Council adopting administrative regulations interpreting Measure B, as amended by the City Council at the 2/8 and 2/22/16 meetings

BACKGROUND

1. It is recommended that the City Council continue deliberations on the proposed Administrative Regulations Interpreting Measure B.
2. The City Council held public hearings in the matter of administrative regulations interpreting Measure B at its January 11, 2016, February 8, 2016 and February 22, 2016 meetings, and continued deliberation on the matter.
3. All of the documents and information provided to the City Council for the January 11, February 8 and February 22 meetings continue to be relevant and are available at City Hall. Please refer to your previous packets.
4. At the February 22, 2016 meeting following discussion and public input on the interpretation of what constitutes "acquisition" of property as it relates to Measure B,

the City Council accepted the City Attorney's recommendation (see Resolution No. 1182).

5. In addition, the City Council reviewed the public input from previous meetings and discussed at length and took public testimony on the topic of interpreting "mature" trees. Measure B states: "Chapter [Section] 17.26.010 provides that the intent of the Ordinance is to protect views from "maturing" vegetation. As such, in addition to the limitations otherwise set forth in Chapter 17.26, including but limited to this Section 17.26.090, any vegetation which is already mature at the time any party claiming a view impairment actually acquired the property shall be exempt from Chapter 17.26. "Mature" versus "Maturing" shall be defined by industry standards predominantly accepted by arborists".

Based on the discussion on this topic at the previous meetings, where members of the public and the City Council expressed some interest in defining mature trees as when the tree reaches a certain percentage of its potential growth, and to aid in Council's discussion, and following staff's discussion with several arborists, the City Attorney prepared a suggested language for Council's consideration. After some discussion, public input and minor changes, Council members agreed and accepted the City Attorney's definition. It was also suggested that language be incorporated into the interpretation of this section regarding the use of an arborist with ASCA qualifications should an expert opinion be sought regarding maturity of trees.

A discussion also ensued whether the City when ascertaining the height of trees should use the Sunset Western Garden Book or other resource book. Staff stated that after speaking with several arborists they all agreed that the Sunset Western Garden Book is the most commonly referred to resource and respected by arborists and others in the profession. Staff also reported on the difference between professional certification by the International Society of Arborists (ISA) and American Society of Consulting Arborists (ASCA). Staff reported that in order to be a member of ASCA one must have greater experience and education than to be a certified arborist by ISA and that ASCA member must be certified by ISA. As for who could be an expert witness, staff was informed that one does not have to be a member of ASCA to be an expert witness, but it may carry greater weight with some judges, due to the greater amount of education and experience that is required for members of ASCA.

Following the February 22, 2016 meeting, staff received an inquiry from Mr. Weinberg, an Attorney, regarding the City's planned method for measuring crown spread. Staff spoke to several arborists and reviewed literature on measuring trees, and although there are many methods for measuring the height and spread of trees staff recommends a simple approach and included the methodology to measure the height and width of trees in the paragraph on interpretation of "Mature" in the Resolution.

6. Also at the previous meeting staff was directed to check with local Tree Trimming and Landscaping companies, whether their employees are ISA certified or members of the ASCA.

Of the five companies staff contacted, four responded. Of the four, only one company has an employee on staff that is an ASCA member; the others have at least one (usually no more than two) employees on staff that is ISA certified. If needed, they contract with an independent arborist who is both ISA certified and a member of ASCA. Several of the consulting arborists staff spoke to are independent consultants and do not work for a tree trimming company or a landscape architecture firm.

7. As of the writing of this report no correspondence was received since the Council meeting of February 22, 2016.

8. Another item subject to interpretation from Measure B is whether the cases decided on by the City prior to passage of Measure B are exempt from Measure B.

Measure B states: "*This Section 17.26.090 shall be effective retroactively to the date Chapter 17.26 was first made an Ordinance to the City of Rolling Hills.*"

The City Attorney opined that, based on this provision, any case reviewed and ruled on by the City prior to the passage of Measure B is void and not enforceable by the City. If the parties subject to pre-Measure B ruling wish to restore their view, they need to submit an application to the City based on the new requirements. The Council Ad-Hoc Committee and the Planning Commission concurred with this interpretation and recommended that the City Council adopt it, (Chapter 3 of Resolution No. 1182).

9. During the public input process on this topic, suggestion was made by several speakers that the City Council also provide an interpretation of the definition of "view corridor", and how much of a view corridor is one eligible to recoup. The language of the ordinance was amended by adding to the definition "view corridor" as follows: "View corridor" means a view from a designated viewing area broken into segments by vegetation. The speakers requested that this language be clarified.

10. Resolution No. 1182, attached, contains the recommended language for interpretation of three provisions from Measure B as follows:

- Date of Property Acquisition
- "Mature" versus "Maturing" Trees
- Retroactivity of Measure B

It is recommended that the City Council review the report, take public testimony and adopt Resolution NO. 1182, or provide other direction to staff.

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Chapter 17.26 VIEW PRESERVATION (WITH MEASURE B LANGUAGE IN BOLD, ITALICS AND UNDERLINED)

Sections:

17.26.010 Intent and purpose.

17.26.020 Committee on trees and views.

17.26.030 Desirable and undesirable trees.

17.26.040 Abatement of view impairment—Procedure.

17.26.050 Hearing procedure and findings.

17.26.060 Implementation of restorative action.

17.26.070 Enforcement.

17.26.080 Notification of subsequent owners.

17.26.090 Preservation of views defined.

17.26.010 Intent and purpose.

The City recognizes the contribution of views to the overall character and beauty of the City. Panoramic views of the Pacific Ocean, Catalina Island, City lights and Los Angeles Harbor are a special quality of property ownership for many residential lots in the City. These views have the potential to be diminished or eliminated by maturing landscaping located on private property. The purpose of this chapter is to protect this important community asset by establishing procedures for the protection and abatement of view obstructions created by landscaping, while at the same time protecting natural vegetation from indiscriminate removal.

(Ord. 239 §11(part), 1993).

17.26.020 Committee on trees and views.

A Committee on Trees and Views is established for the purpose of administering the provisions of this chapter. The Committee shall be composed of three members of the Planning Commission appointed by the Commission annually at the same time as the Commission selects its officers, or whenever a vacancy occurs. Committee meetings shall be scheduled as adjourned or special meetings of the Commission. The Committee is authorized to consult with City officials and with specialists such as landscape architects and arborists as required, but shall not incur any expense on behalf of the City without prior approval of the City Council.

(Ord. 292 §4, 2003; Ord. 239 §11(part), 1993).

17.26.030 Desirable and undesirable trees.

The Committee is authorized and directed to prepare lists of types of desirable and undesirable trees for planting within the City. The list shall be based upon tree size and shape, rate of growth, depth of roots, fall rate of leaves or bark or fruit or branches, and other factors related to safety, maintenance and appearance. The purpose of this provision is to make

information available to property owners which may serve to avoid future occasion for permits, complaints, and other proceedings authorized by this chapter.

(Ord. 239 §11(part), 1993).

17.26.040 Abatement of view impairment—Procedure.

Any person who owns or has lawful possession of a residence from which view is impaired by vegetation growing on property other than their own may seek abatement of the view impairment under the following procedure:

- A. **Application Required.** The complainant shall submit a complete application for abatement of view impairment on a form provided by the City. The application shall be accompanied by a fee as provided for in Section 17.30.030 of this title. The complainant shall describe in the application what efforts have been made by the complainant to resolve the view impairment prior to filing the complaint. A complaint shall not be accepted for filing unless the complainant can demonstrate that the owner of the view-impairing vegetation has been given notice of the impairment and a reasonable opportunity to abate it, but has refused to do so.
- B. **Mediation.** Upon receipt and acceptance of an application as complete, the City Manager shall refer the matter to a mediator for conduct of a mediation session to abate the view impairment. The mediator shall be responsible for notifying the property owner of the view-impairing vegetation of the application and for scheduling and managing the mediation process. If agreement is reached through mediation, it shall be implemented in accordance with Section 17.26.060.
- C. **Public Hearing.** In the event mediation fails to achieve agreement, the matter shall be returned to the City Manager, who shall schedule the matter for a public hearing before the Committee on Trees and Views.

(Ord. 292 §5, 2003; Ord. 239 §11(part), 1993).

17.26.050 Hearing procedure and findings.

- A. **Notice Required.** Public notice of the hearing shall be given a minimum of fifteen days prior to the hearing. The hearing shall not proceed unless proof is shown that the owner of the tree or other obstructing vegetation received notice of the hearing as provided herein:
 1. Notice shall be given by certified mail, return receipt requested, to the owner of the tree or other obstructing vegetation and to the complainant;
 2. Notice shall be given by first class mail to all property owners within one thousand feet of the exterior boundary of the property on which the tree or other obstructing vegetation are located and to other persons who, in the Committee's judgment, might be affected.
- B. **Content of Notice.** The notice shall state the name of the complaining party, the name of the property owner against whom the complaint is filed, the location of the tree or other vegetation, and the time and place of hearing. The notice shall invite written comments to be submitted prior to or at the hearing.
- C. **Conduct of Hearing.** The Committee shall adopt rules for the conduct of required hearings. At the hearing, the Committee shall consider all written and oral testimony and evidence presented in connection with the application. In the event the Committee requires expert advice in consideration of the matter, the cost of obtaining such evidence shall be borne by the complainant, pursuant to written agreement with the City.

- D. Findings. Based on the evidence received and considered, the Committee may find any of the following:
1. That no view exists within the meaning of this chapter;
 2. That a view exists within the meaning of this chapter, but that the view is not significantly impaired; or
 3. That a view exists within the meaning of this chapter and that it is significantly impaired.

The Committee shall make specific written findings in support of the foregoing determinations.

- E. Action. If the Committee makes finding subsection (D)(3) of this section, it shall order such restorative action as is necessary to abate the view impairment and to restore the complainant's view, including, but not limited to, removal, pruning, topping, thinning or similar alteration of the vegetation. **Such order is not intended to create an unobstructed view for applicants. Instead it is intended to create view corridors and a view through trees.** The Committee may impose conditions as are necessary to prevent future view impairments. In no event shall restorative action be required if such action would adversely affect the environment or would unreasonably detract from the privacy or enjoyment of the property on which the objectionable vegetation is located.
- F. Finality of Decision. The Committee's decision shall be final twenty days after adoption of its written findings, unless it is appealed to the City Council pursuant to the provisions of Chapter 17.54.

(Ord. 295 §7 (Exh. B (part)), 2004; Ord. 239 §11(part), 1993)

(Ord. No. 333 (Measure B), 3-18-2013)

17.26.060 Implementation of restorative action.

- A. Within thirty days of a final decision ordering restorative action, the complainant shall obtain and present to the owner of the obstructing vegetation three bids from licensed and qualified contractors for performance of the work, as well as a cash deposit in the amount of the lowest bid. In order to qualify, the contractors must provide insurance which protects and indemnifies the City and the complainant from damages attributable to negligent or wrongful performance of the work. Any such insurance shall be subject to the approval of the City.
- B. The owner of the obstructing vegetation may select any licensed and qualified contractor to perform the restorative action (as long as the insurance requirements of subsection A of this section are satisfied), but shall be responsible for any cost above the amount of the cash deposit. The work shall be completed no more than thirty days from receipt of the cash deposit.
- C. Subsequent maintenance of the vegetation in question shall be performed as prescribed by the Committee's final decision at the cost and expense of the owner of the property on which the vegetation is growing. The vegetation shall be maintained in accordance with the final decision so as not to allow for future view impairments. A notice of the decision shall be recorded against the title of the property and shall run with the land, thereby giving notice of this obligation to all future owners.
- D. The implementation method provided for in this section may be modified by the parties or in any final decision if grounds exist to justify such a modification. In particular, the Committee may allocate the cost of restorative action as follows:
1. If the Committee finds that the tree or other vegetation constitutes a safety hazard to the complainant or his property, and is being maintained by the owner in disregard of

the safety of others, the owner may be required to pay one hundred percent of the cost of correction; or

2. If the owner is maintaining a hedge fifteen feet or more in height, the Committee may allocate the cost of correction to the property owner, provided that the owner of the land on which the hedge exists shall not be required to pay more than twenty-five percent of the cost of such correction.

(Ord. 239 §11(part), 1993).

17.26.070 Enforcement.

- A. Failure or refusal of any person to comply with a final decision under this chapter or to comply with any provision of this chapter shall constitute a misdemeanor and shall be punishable by a fine of one thousand dollars or six months in County Jail, or both. Failure or refusal of any person to comply with a final decision under this chapter shall further constitute a public nuisance which may be abated in accordance with the procedure contained in Chapter 8.24.
- B. A final decision rendered under this chapter may be enforced civilly by way of action for injunctive or other appropriate relief, in which event the prevailing party may be awarded attorney's fees and costs as determined by the court.
- C. Nothing in this chapter shall preclude the prosecution of any civil cause of action under the law by any person with respect to the matters covered herein.

(Ord. 239 §11(part), 1993).

17.26.080 Notification of subsequent owners.

The owner on whose property the offending vegetation exists shall notify all successor owners of the final decision in any proceeding under this chapter, and such decision shall be binding upon all such successors in interest. Within thirty days of the final decision, an informational covenant shall be recorded against the title of the property on a form provided by the City.

(Ord. 239 §11(part), 1993).

17.26.090 Preservation of views defined.

Notwithstanding any other provision of Chapter 17.26.010 to 17.26.080 inclusive, the following provision shall apply and supersede in priority any other provision.

- 1. A view is defined in Chapter [Section] 17.12.220 and only applies to that view existing from the date any current owner of a property in the City of Rolling actually acquired the property.**
- 2. Chapter [Section] 17.26.010 provides that the intent of the Ordinance is to protect views from "maturing" vegetation. As such, in addition to the limitations otherwise set forth in Chapter 17.26, including but limited to this Section 17.26.090, any vegetation which is already mature at the time any party claiming a view impairment actually acquired the property shall be exempt from Chapter 17.26. "Mature" versus "Maturing" shall be defined by industry standards predominantly accepted by arborists.**

3. The burden of proof to show that any view is impaired shall be upon the party claiming such impairment, and the standard shall be by "clear and convincing evidence". Evidence shall be weighted in the following order of priority:

a. Photographs;

b. Expert testimony; and lastly

c. Other evidence.

(Ord. No. 333 (Measure B), 3-18-2013)

Editor's note— Ord. No. 333 (Measure B) which added the provisions set out herein, was adopted March 18, 2013, as a result of a vote of the electorate and thus cannot be changed except by another vote. Said ordinance states, "This Section 17.26.090 shall be effective retroactively to the date Chapter 17.26 was first made an Ordinance to the City of Rolling Hills."

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ORDINANCE NO. 346

AN ORDINANCE OF THE CITY OF ROLLING HILLS AMENDING SECTION 17.12.220 AND CHAPTER 17.26 RELATING TO VIEW PRESERVATION OF TITLE 17 OF THE ROLLING HILLS MUNICIPAL CODE.

The City Council of the City of Rolling Hills does ordain as follows:

Section 1. Rolling Hills Municipal Code ("RHMC") Chapter 17.26 governs the process by which a property owner whose scenic view has become impaired by vegetation growing on another property may obtain abatement of the view impairment. Section 17.12.220 defines a view. Collectively, RHMC Chapter 17.26 and the definition of a view make up the City's "View Ordinance." The City has been engaged in a long-term effort to update the View Ordinance to clarify its provisions and address circumstances that have arisen in the Committee on Trees and Views' application of the View Ordinance.

Section 2. Chapter 17.50 of the RHMC sets forth procedures for amending the Zoning Ordinance. A public hearing before the Planning Commission is necessary before a recommendation for a Zoning Code amendment can be made to the City Council. After receiving presentations from staff at the February 17, 2015 and March 17, 2015 meetings, the Planning Commission opened a duly noticed public hearing on April 21, 2015, which was continued to May 19, 2015, June 16, 2015, July 21, 2015 and August 16, 2015. Public comment was received at each continuance of the public hearing, which the Planning Commission considered in concert with the recommendations of the City Council's *Ad Hoc* Committee created to recommend changes to the View Ordinance, and reports from City staff. Notice of the public hearings was provided as required by law.

Section 3. After considering all of the evidence in the record on this matter, the Planning Commission recommended that the City Council adopt an Ordinance amending Section 17.12.220 and Chapter 17.26 of Title 17 (Zoning) of the RHMC.

Section 4. Pursuant to the requirements of the California Environmental Quality Act ("CEQA"), Public Resources Code Section 21000 to Section 21177, State CEQA Guidelines, 14 California Code of Regulations §§ 15000, *et seq.*, and the CEQA Guidelines of the City of Rolling Hills, staff analyzed the proposed amendments to the View Ordinance and concluded that the amendments are exempt from CEQA because they consist only of minor revisions and clarifications to the RHMC and will not have the effect of deleting or substantially changing any regulatory standards or findings. The proposed Ordinance is an action that does not have the potential to cause significant effects on the environment, but rather will clarify the process by which persons may apply for and obtain an order from the City to abate view impairments. Accordingly, the proposed Ordinance is exempt pursuant to the "common sense" exemption set forth in Section 15061 (b)(3) of the CEQA Guidelines because there is no possibility that the Ordinance could have a significant effect on the environment. Furthermore, the proposed Ordinance does not constitute a "project" that requires environmental review (*see* specifically 14 CCR § 15378 (b)(2, 5)).

Section 5. After considering the information presented during public hearings on this matter, the City Council finds that the proposed Zoning Ordinance amendments comply with the requirements of the City of Rolling Hills General Plan and State Planning and Zoning Laws (Government section 65000 *et seq.*) and will preserve the public health, safety and general welfare, while balancing property rights. Notice of the public hearings was provided as required by law.

Section 6. The City Council hereby adopts an Ordinance amending Section 17.12.220 and Chapter 17.26 of Title 17 (Zoning) of the Rolling Hills Municipal Code as follows:

A. Amend Section 17.12.220 of the RHMC to amend the definition of "View" and add the definition of "View corridor" in alphabetical order to read as follows:

"View" means a view from a principal residence, but not including from garages or closets, and any immediately adjoining patio or deck area at the same elevation as the residence which consists of a visually impressive scene or vista not located in the immediate vicinity of the residence, such as a scene of the Pacific Ocean, off-shore islands, city lights of the Los Angeles basin, the Palos Verdes Hills or Los Angeles Harbor.

"View impairment" means a significant interference with and obstruction of a view by landscaping, trees or any other planted vegetation.

"View corridor" means a view from a designated viewing area broken into segments by vegetation.

- B. Amend Section 17.26.010 of the RHMC to read as follows:

17.26.010 Intent and purpose

The City recognizes the contribution of views to the overall character and beauty of the City. Views of the Pacific Ocean, Catalina Island, City lights and Los Angeles Harbor are a special quality of property ownership for many residential lots in the City. These views have the potential to be diminished or eliminated by maturing landscaping located on private property. The purpose of this chapter is to protect this important community asset by establishing procedures for the protection of views and abatement of view obstructions created by landscaping, while at the same time protecting natural vegetation from indiscriminate removal.

- C. Amend Section 17.26.040 of the RHMC to read as follows:

17.26.040 Abatement of view impairment - Procedure.

Any person who owns or has lawful possession of a residence from which a view is impaired, pursuant to the definition of "view impairment" in Section 17.12.220 of this title, by vegetation growing on property other than their own may seek abatement of the view impairment under the following procedure:

- A. **Mediation Application.** The complainant shall submit a complete application for abatement of view impairment by mediation on a form provided by the City. The application shall be accompanied by a fee as provided for in Section 17.30.030 of this title. The complainant shall describe in the application what efforts have been made by the complainant to resolve the view impairment prior to filing the mediation application. An application shall not be accepted for filing unless the complainant can demonstrate that the owner of the view-impairing vegetation has been given notice of the impairment and a reasonable opportunity to abate it, but has refused to do so.
- B. **Eligibility.** A person shall not be precluded from filing an application for abatement of view impairment on grounds that vegetation located on the complainant's property contributes to impairment of the requested view. A person who has obtained an order abating impairment of a view against a property shall not be precluded from filing a subsequent application to abate impairment of the same view by vegetation on another property. An application may be filed to abate impairment of one or more distinct views listed in Section 17.12.220 "View;" however, if multiple views are identified, each must be disjointed and observable from a separate viewing area.
- C. **Mediation.** Upon receipt and acceptance of an application as complete, the City Manager shall refer the matter to a mediator for conduct of a mediation session to abate the view impairment. The mediator shall be responsible for notifying the property owner of the view-impairing vegetation of the application and for scheduling and managing the mediation process. At the conclusion of mediation, the mediator shall advise the City Manager as to whether the complaint has been resolved. Agreement reached through mediation shall be reflected in an executed contract and implemented in accordance with the terms of the agreement.
- D. **Public Hearing Application.** In the event mediation fails to achieve agreement, the complainant may submit an application and accompanying fee as provided for in Section 17.30.030 of this title for a public hearing. Upon receipt and acceptance of an application for a public hearing as complete, the City Manager shall schedule the matter for a public hearing before the Committee on Trees and Views. If a complete application for a public hearing is not received within sixty (60) days of the mediator's notification set forth in Section 17.26.040(C), the City shall terminate, without prejudice, all proceedings related to the application.

- D. Amend Section 17.26.050 of the RHMC to read as follows:

17.26.050 Hearing procedure and findings.

- A. **Notice Required.** Public notice of the hearing shall be given a minimum of fifteen days

prior to the hearing. The hearing shall not proceed unless proof is shown that the owner of the tree or other obstructing vegetation received notice of the hearing as provided herein:

1. Notice shall be given by certified mail, return receipt requested, to the owner of the tree or other obstructing vegetation and to the complainant;
 2. Notice shall be given by first class mail to all property owners within one thousand feet of the exterior boundary of the property on which the tree or other obstructing vegetation are located and to other persons who, in the Committee's judgment, might be affected.
- B. Content of Notice. The notice shall state the name of the complaining party, the name of the property owner against whom the complaint is filed, the location of the tree or other vegetation, and the time and place of hearing. The notice shall invite written comments to be submitted prior to or at the hearing.
- C. Conduct of Hearing. The Committee shall adopt rules for the conduct of required hearings. At the hearing, the Committee shall consider all written and oral testimony and evidence presented in connection with the application. If during the course of the proceedings it is discovered that information submitted in an application is inaccurate or incomplete such that it could be misleading, or a significant change has occurred impacting either the view or the obstruction, an applicant may be directed to amend the application or submit supplemental information. In the event the Committee requires expert advice in consideration of the matter, the cost of obtaining such evidence shall be borne by the complainant, pursuant to written agreement with the City. The City shall select such expert and enter into an agreement only upon receipt of a payment for the selected service from the party. An application shall be deemed withdrawn and all proceedings shall be terminated with respect thereto, without prejudice, if the parties to a complaint notify the City that it has been voluntarily resolved, or if the complainant fails or refuses to provide supplemental information requested by the City or fails or refuses to pay the cost of the expert services, or the complainant requests a delay of the proceedings for more than one hundred eighty (180) days unless good cause exists for the delay.
- D. Findings. Based on the evidence received and considered, the Committee may find any of the following:
1. That no view exists within the meaning of this chapter;
 2. That a view exists within the meaning of this chapter, but that the view is not significantly impaired; or
 3. That a view exists within the meaning of this chapter and that it is significantly impaired.
 4. The Committee shall make specific written findings in support of the foregoing determinations.
- E. Action. If the Committee makes finding of subsection (D)(3) of this section, it shall order such restorative action as is necessary to abate the view impairment, including, but not limited to, removal, pruning, topping, thinning or similar alteration of the vegetation. Such order is not intended to create an unobstructed view for applicants. Instead it is intended to create view corridors and a view through trees. The Committee may impose conditions as are necessary to prevent future view impairments. In no event shall restorative action be required if such action would adversely affect the environment or would unreasonably detract from the privacy or enjoyment of the property on which the objectionable vegetation is located. If restorative action is precluded by the existence of one or more such limiting factors, the Committee shall make specific written findings to that effect.
- F. Environmental Review. If the Committee makes finding of subsection (D)(3) of this section and orders restorative action, the proposed order shall be reviewed by City staff to determine the appropriate level of environmental review. If the action is determined to be exempt from the California Environmental Quality Act ("CEQA"), a resolution containing the Committee's written findings shall be presented for adoption at the Committee's next meeting. If the action is determined not to be exempt from CEQA, the complainant shall bear the City's reasonable costs of environmental review and CEQA compliance, including consultant fees.
- G. Finality of Decision. The Committee's decision shall be final on the date the Committee adopts a resolution setting forth its decision. The decision shall become effective thirty (30)

days after adoption of the resolution, unless an appeal has been filed to the City Council pursuant to the provisions of Chapter 17.54. For purposes of such an appeal, references to the Planning Commission in Chapter 17.54 shall be interpreted as inclusive of the Committee on Trees and Views.

E. Amend Section 17.26.060 of the RHMC to read as follows:

17.26.060 Implementation of restorative action.

- A. The complainant shall bear the cost of the initial restorative action. Within thirty (30) days of a final decision ordering restorative action, the complainant shall obtain and present to the owner of the obstructing vegetation three bids from licensed and qualified contractors for performance of the work, as well as cash deposit in the amount of the lowest bid. In order to qualify, the contractors must provide insurance, which protects and indemnifies the City and the complainant from damages attributable to negligent or wrongful performance of the work. Any such insurance shall be subject to the approval of the City.
- B. The owner of the obstructing vegetation may select any licensed and qualified contractor to perform the restorative action (as long as the insurance requirements of subsection A of this section are satisfied), but shall be responsible for any cost above the amount of the cash deposit. The work shall be completed no more than ninety (90) days from receipt of the cash deposit or if additional time is necessary due to weather or unique conditions of the vegetation, at the earliest date recommended by the contractor, but no later than one year, and shall be approved by the City Manager.
- C. Subsequent maintenance of the vegetation in question shall be performed at the cost and expense of the owner of the property on which the vegetation is growing. The vegetation shall be maintained in accordance with the final decision so as not to allow for future view impairments.

F. Amend Section 17.26.080 of the RHMC to read as follows:

17.26.080 Notification of subsequent owners.

Within thirty (30) days of the final decision of the Committee, or the City Council on appeal, a document shall be recorded against the title of the property on which the offending vegetation exists and the complainant's property, on a form provided by the City, which shall run with the land and be binding upon all successors in interest.

PASSED, APPROVED AND ADOPTED this 8th day of February, 2016.


JEFF PIEPER
MAYOR

ATTEST:


HEIDI LUCE
CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) §§
CITY OF ROLLING HILLS)

I certify that the foregoing Ordinance No. 346 entitled:

AN ORDINANCE OF THE CITY OF ROLLING HILLS AMENDING
SECTION 17.12.220 AND CHAPTER 17.26 RELATING TO VIEW
PRESERVATION OF TITLE 17 OF THE ROLLING HILLS
MUNICIPAL CODE.

was approved and adopted at a regular meeting of the City Council on February 8, 2016 by the
following roll call vote:

AYES: Councilmembers Black, Mirsch, Wilson and Mayor Pieper.

NOES: Mayor Pro Tem Dieringer.

ABSENT: None.

ABSTAIN: None.

and in compliance with the laws of California was posted at the following:

Administrative Offices.


HEIDI LUCE
CITY CLERK

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RESOLUTION NO. 1182

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROLLING HILLS ADOPTING ADMINISTRATIVE REGULATIONS INTERPRETING MEASURE B RELATING TO VIEW PRESERVATION.

The City Council of the City of Rolling Hills does hereby resolve and order as follows:

Section 1. In June 1988, the City adopted a View Preservation Ordinance. The ordinance established preservation of views as a primary value of the community and created a process by which a property owner could seek to abate an obstructed view. In November 2003, the ordinance was modified relative to the composition of the Committee on Views and Trees, the body designated to consider view applications.

Section 2. In March 2013, the residents of Rolling Hills passed Measure B to amend the View Preservation Ordinance. The principal effect of Measure B was to shift the protection of the ordinance from views that are *capable* of being enjoyed from a property to views that were *actually* enjoyed from a property when the property owner acquired the property. In particular, the initiative amended the ordinance as follows:

- Only a view that existed when the current property owner “actually acquired” the property may be restored;
- Abatement of view impairment is limited to obstructions caused by trees that were “maturing” at the date of acquisition and trees that were “mature” at the time of property acquisition are excluded from consideration;
- Measure B specified that abatement of view impairment is intended to create “view corridors” and views through trees, and not unobstructed views;
- Measure B specified that its provisions are to be applied retroactively.

Section 3. Measure B contains various ambiguities that have resulted in uncertainty in its application in view obstruction cases submitted to the City’s Committee on Trees and View for consideration. Measure B can only be amended by the voters; however, the City may adopt administrative regulations providing guidance and interpreting ambiguities in order to assure uniformity in the application of Measure B to future view complaint cases. Based on this authority and recommendation by the Planning Commission, the City Council reviewed, discussed and developed a policy interpreting Measure B.

Section 4. The City Council finds that Attachment A titled City of Rolling Hills Administrative Regulations Interpreting Measure B Relating to View Preservation clarify the initiative and is hereby adopted:

PASSED, APPROVED AND ADOPTED THIS ____ DAY OF _____ 2016.

MAYOR

ATTEST:

HEIDI LUCE, CITY CLERK

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in section 17.54.070 of the Rolling Hills Municipal Code and Code of Civil Procedure Section 1094.6.

Attachment A

City of Rolling Hills
Administrative Regulations Interpreting Measure B
Relating to View Preservation

- Chapter 1 Date of Property Acquisition
- Chapter 2 “Mature” versus “Maturing” Trees
- Chapter 3 Retroactivity of Measure B

Chapter 1
DATE OF PROPERTY ACQUISITION

Section 1001. Interpretation of the Date of Acquisition of Property.

~~Measure B provides that a person may only apply to restore the view existing from the date that the current owner of the property actually acquired the property. In determining whether a transfer of property has resulted in an acquisition affecting the view that a person may apply to have restored, the City shall generally apply the rules applicable to reassessment of property taxes in the County of Los Angeles.~~

~~The impacts of common transfers of property are illustrated below:~~

- ~~A. The acquisition date of property acquired through inheritance shall be the date that the previous owner acquired the property, not the date of the transfer by inheritance.~~
- ~~B. The acquisition date of property acquired from a third party through an arms-length purchase and sale shall be the date of the sale as evidenced by a deed.~~
- ~~C. When property is placed into a revocable trust, the acquisition date of property shall not change. When property is placed into an irrevocable trust, or a revocable trust becomes irrevocable, the acquisition date shall be the date that the property was placed into the irrevocable trust or the revocable trust became irrevocable.~~

Section 1001. Interpretation of the Date of Acquisition of Property.

Measure B provides that a person may only apply to restore the view existing from the date that the current owner of the property actually acquired the property. The City interprets this provision to mean that the protectable view under the ordinance is the view possessed by the property on the date it was most recently purchased for fair market value. Hence, in determining the date on or after which the protectable view is established, the acquisition date shall be the most recent date title to the property was conveyed for fair market value (as evidenced by a deed) through an arms-length purchase and sale.

Chapter 2 “MATURE” VERSUS “MATURING” TREES

Section 2001. Definition of “Mature” Trees

~~The International Society of Arboriculture defines maturity by “mature height,” which means the “maximum height that a plant is likely to reach if the conditions of the planting site are favorable.” The Sunset Western Garden Book is a trusted reference guide on trees, plants and other vegetation present in the region and defines a plant species’ “maturity” as the time at which a plant achieves a certain height range and displays other characteristics. The Sunset Western Garden Book provides maximum height ranges for species of plants typically involved in View Preservation cases in the City.~~

~~For purposes of the View Preservation Ordinance and Measure B, a plant is “mature” when it reaches the maximum height for the species specified in the Sunset Western Garden Book. However, arborists agree that plants that have been regularly cut may never reach their maximum potential height, and several alternative methodologies are recognized to determine the age of such trees. However, the alternative methodologies are complex and require reliance on a professional arborist. Further, the proponents of Measure B testified before the Planning Commission that the intent of Measure B was to exempt trees that have reached their full species height prior to acquisition of a complainant’s property. Therefore, trees that show evidence of regular cutting and are therefore unlikely to reach their maximum potential height shall not be considered “mature” for purposes of the View Preservation Ordinance and shall not be exempt from restorative action.~~

Section 2001. Definition of “Mature” Trees

For purposes of RHMC Section 17.26.090 (2) a tree will be considered mature if at the time the party claiming view impairment acquired the property the tree had achieved 75% of its maximum canopy height and width (spread). Maximum canopy height and width will be as set forth in the latest edition of the Sunset Western Garden Book. The Sunset Western Garden Book is a trusted reference guide on trees, plants and other vegetation present in the region and displays a plant species’ height ranges and other characteristics.

Should the Rolling Hills Committee on Trees and Views, City Council or any of the parties involved in a view complaint case require or wish to obtain an expert opinion on maturity of trees, such opinion shall be provided by a certified consulting arborist who is a member of the American Society of Consulting Arborists (ASCA).

For the purpose of measuring the height of a tree, the height shall be measured between the base of the tree and the tip of the highest branch on the tree. The base of the tree is the point of the tree where the pith (center) of the tree intersects the ground surface.

The width (spread) of a tree canopy shall be measured across the canopy from the tip of the outermost branch at one end of the tree to the tip of the outermost branch at the opposite side of the tree (from dripline to dripline).

Section 2002. Definition of “Maturing” Trees

Trees and other vegetation that are not “mature” as specified in these regulations are “maturing.”

Chapter 3
RETROACTIVITY OF MEASURE B

Section 3001. Retroactive Application.

Any resolution of the City of Rolling Hills adjudicating any complaint regarding view impairments adopted by the Committee on Trees and Views, or the City Council on appeal, prior to March 18, 2013, is hereby considered void and will not be enforced by the City.

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) §§
CITY OF ROLLING HILLS)

I certify that the foregoing Resolution No. 1182 entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
ROLLING HILLS ADOPTING ADMINISTRATIVE REGULATIONS
INTERPRETING MEASURE B RELATING TO VIEW
PRESERVATION

was approved and adopted at a regular meeting of the City Council on _____, 2016 by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

and in compliance with the laws of California was posted at the following:

Administrative Offices.

HEIDI LUCE, CITY CLERK