



*City of Rolling Hills*

INCORPORATED JANUARY 24, 1957

NO. 2 PORTUGUESE BEND ROAD  
ROLLING HILLS, CA 90274  
(310) 377-1521  
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**Agenda Item No.: 6-B**  
**Mtg. Date: 01/09/17**

**TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL**

**FROM: YOLANTA SCHWARTZ, PLANNING DIRECTOR** *YJ*  
**NATALIE C. KARPELES, ASSISTANT CITY ATTORNEY**

**SUBJECT: ORDINANCE NO. 349 - AN INTERIM ORDINANCE OF THE CITY OF ROLLING HILLS, EXTENDING ORDINANCE NO. 348, WHICH TEMPORARILY PLACES A MORATORIUM ON THE PROCESSING AND CONSIDERATION OF ANY APPLICATION SOUGHT UNDER THE PROVISIONS OF CHAPTER 17.26 (VIEW PRESERVATION) OF THE ROLLING HILLS MUNICIPAL CODE, AND DECLARING THE URGENCY THEREOF.**

**DATE NOTICED: DECEMBER 29, 2016**

**ATTACHMENT:**  
**Ordinance No. 349**

**RECOMMENDATION**

Staff recommends that the City Council adopt:

ORDINANCE NO. 349 - AN INTERIM ORDINANCE OF THE CITY OF ROLLING HILLS, EXTENDING ORDINANCE NO. 348, WHICH TEMPORARILY PLACES A MORATORIUM ON THE PROCESSING AND CONSIDERATION OF ANY APPLICATION SOUGHT UNDER THE PROVISIONS OF CHAPTER 17.26 (VIEW PRESERVATION) OF THE ROLLING HILLS MUNICIPAL CODE, AND DECLARING THE URGENCY THEREOF.

**BACKGROUND & ANALYSIS**

The adoption of Measure B in March 2013 by the electorate has led to practical difficulties in the application of the City's view preservation ordinance (RHMC Chapter 17.26). The City Council has appointed a subcommittee to work collaboratively with a

group of residents to rewrite the view preservation ordinance in order to address the ambiguities and uncertainties that hamper its effective application and enforcement. Pending the conclusion of that process, it is possible that application of the current view preservation ordinance will result in determinations and decisions that are inconsistent with the new ordinance being prepared. Furthermore, the processing of applications received under the current ordinance would result in the City having to expend considerable time, expense and resources to evaluating applications under an ordinance that may soon become obsolete.

On November 28, 2016 with a four-fifths vote the City Council adopted an interim urgency Ordinance No. 348 to immediately suspend the utilization of Chapter 17.26 of the Rolling Hills Municipal Code for 45 days.

An urgency ordinance may remain in effect for only 45 days unless it is extended by another four-fifths vote. It was noted at the November 28, 2016 meeting that after notice and a public hearing, should the City Council wish to extend the moratorium, the City Council would have to reconsider this item at a duly noticed public hearing on January 9, 2017.

At the November meeting, the City Council directed the Planning Commission to commence the review of the concepts and ideas set by the subcommittee and the residents with the goal to develop an amended View Preservation Ordinance. At its December 20, 2016 meeting, the Planning Commission received the materials submitted by the City Council subcommittee and the residents and started discussion on this subject. A public forum on this topic has been scheduled for the January 17, 2017 Planning Commission meeting.

At tonight's public hearing the Council by a four-fifths vote may extend the ordinance for either ten months and 15 days, with the option of an additional one-year extension at a future time; or 22 months and 15 days. In other words, this Ordinance may be extended so that its full duration is up to a maximum of two years. City Council would have the option to repeal the moratorium ordinance at any time prior to its expiration.

Staff prepared two ordinances for City Council's consideration. One would extend the moratorium for 10 months and 15 days and the other for 22 months and 15 days. The former ordinance could further be extended for a maximum of one year; so the total extension for either of the ordinances would be up to a maximum of two years.

## ALTERNATIVES

The alternatives available to the City Council include:

1. Adopting one of the proposed Ordinances; (staff recommends 22 months and 15 days extension)
2. Declining to adopt either of the proposed Ordinance; or
3. Providing staff with an alternative direction

## NOTIFICATION

Notice of this public hearing was published in the Peninsula News on December 29, 2016 and the City Council meeting agenda was included in latest City Newsletter. The agenda and staff report were posted on the City's website and notification of this item was sent to those residents who signed up for automatic notifications of "Pending Ordinances". The staff report and the agenda were also provided to the RHCA.

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ORDINANCE NO. 349

AN INTERIM ORDINANCE OF THE CITY OF ROLLING HILLS, EXTENDING ORDINANCE NO. 349, WHICH TEMPORARILY PLACES A MORATORIUM ON THE PROCESSING AND CONSIDERATION OF ANY APPLICATION SOUGHT UNDER THE PROVISIONS OF CHAPTER 17.26 (VIEW PRESERVATION) OF THE ROLLING HILLS MUNICIPAL CODE, AND DECLARING THE URGENCY THEREOF.

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

**SECTION 1.** Interim Ordinance Extended. Ordinance No. 348, adopted on November 28, 2016, is hereby extended for 10 months and 15 days. Pursuant to Government Code Section 65858, subsection b, this Ordinance shall become effective on January 12, 2017, 45 days after adoption of Ordinance No. 348. This ordinance No. 349 may be further extended for one more year.

**SECTION 2.** Purpose. The general plan of the City acknowledges the contribution of both trees and views to the character and beauty of the City. Recognizing that that trees and views and the benefits derived from each may come into conflict, the City's 1988 View Preservation Ordinance was established to create a process whereby a property owner could seek to abate an obstructed view balancing tree- and view-related values.

In March 2013, the residents of Rolling Hills passed Measure B to amend the View Preservation Ordinance (Chapter 17.26 of the City's Municipal Code). 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: (i) only a view that existed when the current property owner "actually acquired" the property may be restored; (ii) 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; (iii) abatement of view impairment is intended to create "view corridors" and views through trees; and (iv) Measure B specified that its provisions are to be applied retroactively.

Implementation of Measure B revealed various ambiguities in language, resulting in uncertainty in its application. Specifically at issue were the definitions of "mature" and "maturing" trees; the interpretation of the date of acquisition of property; and the retroactive application of Measure B. On February 22, 2016, the City Council approved Ordinance No. 346 amending portions of the View Preservation Ordinance that were unaffected by Measure B and adopted Resolution No. 1182, which adopted administrative regulations interpreting Measure B.

In mid-2016, proponents of a new initiative measure began circulating a petition in order to propose a wholesale rewrite of the View Preservation Ordinance. The City Council appointed an ad hoc subcommittee of its members to meet with the proponents in an effort to collaboratively craft a new ordinance that could be adopted by the Council without a vote of the electorate.

**SECTION 3.** Urgency findings. On November 28, 2016, the City Council held a duly noticed public hearing. In light of the evidence submitted and testimony received during the public hearing, the

City Council finds as follows:

A. The adoption of Measure B in March 2013 by the electorate has led to practical difficulties in the application of the City's view preservation ordinance (RHMC Chapter 17.26);

B. As noted in Section 2, the City Council is currently actively studying the City's current view preservation ordinance and has determined to work with City residents collaboratively to rewrite the view preservation ordinance in order to address the ambiguities and uncertainties that hamper its effective application and enforcement;

C. Pending the conclusion of that process, it is possible that application of the view preservation ordinance will result in determinations and decisions that are inconsistent with the ordinance being prepared, and that considerable time, expense and resources will be devoted to evaluating applications under an ordinance that may soon become obsolete;

D. Adoption of this interim ordinance is necessary to prevent inconsistent application of the City's view preservation ordinance during the pendency of this process and to avoid a threat to public health and safety;

E. This interim ordinance is necessary to protect the public safety, health, and welfare, by prohibiting the acceptance, processing, and/or consideration of any application sought under the City's current view preservation ordinance.

**SECTION 4.** Interim Zoning Regulations. Notwithstanding any provision of the Rolling Hills Municipal Code to the contrary, no applications for the protection of views and abatement of view obstructions under Chapter 17.26 shall be processed, considered or acted upon by the Committee on Trees and Views or the City Council during the pendency of this Ordinance or any extension thereof.

**SECTION 5.** Exceptions. Enactment of this Ordinance shall not preclude the City from processing an application under Chapter 17.26 filed and accepted as complete prior to November 28, 2016. Furthermore, enactment of this Ordinance shall not preclude the City from enforcing the provisions of Section 17.26.070 of the Rolling Hills Municipal Code as to any failure or refusal of any person to comply with a final decision made under Chapter 17.26 between March 2013 and November 28, 2016.

**SECTION 6.** Severability. If any part or provision of this Ordinance or the application to any person or circumstance is held invalid, the remainder of this Ordinance, including the application of such part of provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable.

**SECTION 7.** Conflicting Laws. For the term of this Ordinance, or any extension thereof, the provisions of this Ordinance shall govern over any conflicting provisions of any other City code, ordinance, resolution or policy.

**SECTION 8.** Adoption. This ordinance is adopted pursuant to California Government Code Section 65858 and shall take effect on January 12, 2017, 45 days after adoption of Ordinance No. 348, upon adoption by a four-fifths vote of the City Council. This ordinance shall be in full force and effect for a period of 10 months and 15 days from the date it becomes effective, and may be extended for one more year so that its full duration is up to a maximum of two years. City Council would have the option

to repeal the interim ordinance at any time prior to its expiration in accordance with the provisions of California Government Code Section 65858.

PASSED, APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
BEA DIERINGER, MAYOR

ATTEST:

\_\_\_\_\_  
HEIDI LUCE, CITY CLERK

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

I certify that the foregoing Ordinance No. 349 entitled:

AN INTERIM ORDINANCE OF THE CITY OF ROLLING HILLS, EXTENDING ORDINANCE NO. 349, WHICH TEMPORARILY PLACES A MORATORIUM ON THE PROCESSING AND CONSIDERATION OF ANY APPLICATION SOUGHT UNDER THE PROVISIONS OF CHAPTER 17.26 (VIEW PRESERVATION) OF THE ROLLING HILLS MUNICIPAL CODE, AND DECLARING THE URGENCY THEREOF.

was approved and adopted at a regular meeting of the City Council on January 9, 2017 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.

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HEIDI LUCE  
CITY CLERK



ORDINANCE NO. 349

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

SECTION 1. Interim Ordinance Extended. Ordinance No. 348, adopted on November 28, 2016, is hereby extended for 22 months and 15 days. Pursuant to Government Code Section 65858, subsection b, this Ordinance shall become effective on January 12, 2017, 45 days after adoption of Ordinance No. 348.

SECTION 2. Purpose. The general plan of the City acknowledges the contribution of both trees and views to the character and beauty of the City. Recognizing that that trees and views and the benefits derived from each may come into conflict, the City's 1988 View Preservation Ordinance was established to create a process whereby a property owner could seek to abate an obstructed view balancing tree- and view-related values.

In March 2013, the residents of Rolling Hills passed Measure B to amend the View Preservation Ordinance (Chapter 17.26 of the City's Municipal Code). 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: (i) only a view that existed when the current property owner "actually acquired" the property may be restored; (ii) 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; (iii) abatement of view impairment is intended to create "view corridors" and views through trees; and (iv) Measure B specified that its provisions are to be applied retroactively.

Implementation of Measure B revealed various ambiguities in language, resulting in uncertainty in its application. Specifically at issue were the definitions of "mature" and "maturing" trees; the interpretation of the date of acquisition of property; and the retroactive application of Measure B. On February 22, 2016, the City Council approved Ordinance No. 346 amending portions of the View Preservation Ordinance that were unaffected by Measure B and adopted Resolution No. 1182, which adopted administrative regulations interpreting Measure B.

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SECTION 3. Urgency findings. On November 28, 2016, the City Council held a duly noticed public hearing. In light of the evidence submitted and testimony received during the public hearing, the City Council finds as follows:

A. The adoption of Measure B in March 2013 by the electorate has led to practical difficulties in the application of the City's view preservation ordinance (RHMC Chapter 17.26);

B. As noted in Section 2, the City Council is currently actively studying the City's current view preservation ordinance and has determined to work with City residents collaboratively to rewrite the view preservation ordinance in order to address the ambiguities and uncertainties that hamper its effective application and enforcement;

C. Pending the conclusion of that process, it is possible that application of the view preservation ordinance will result in determinations and decisions that are inconsistent with the ordinance being prepared, and that considerable time, expense and resources will be devoted to evaluating applications under an ordinance that may soon become obsolete;

D. Adoption of this interim ordinance is necessary to prevent inconsistent application of the City's view preservation ordinance during the pendency of this process and to avoid a threat to public health and safety;

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SECTION 5. Exceptions. Enactment of this Ordinance shall not preclude the City from processing an application under Chapter 17.26 filed and accepted as complete prior to November 28, 2016. Furthermore, enactment of this Ordinance shall not preclude the City from enforcing the provisions of Section 17.26.070 of the Rolling Hills Municipal Code as to any failure or refusal of any person to comply with a final decision made under Chapter 17.26 between March 2013 and November 28, 2016.

SECTION 6. Severability. If any part or provision of this Ordinance or the application to any person or circumstance is held invalid, the remainder of this Ordinance, including the application of such part of provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable.

SECTION 7. Conflicting Laws. For the term of this Ordinance, or any extension thereof, the provisions of this Ordinance shall govern over any conflicting provisions of any other City code, ordinance, resolution or policy.

SECTION 8. Adoption. This ordinance is adopted pursuant to California Government Code Section 65858 and shall take effect on January 12, 2017, 45 days after adoption of Ordinance No. 348, upon adoption by a four-fifths vote of the City Council. This ordinance shall be in full force and effect for a period of 22 months and 15 days from the date it becomes effective, which is the maximum time the interim Ordinance may be extended so that its full duration is up to a maximum of two years. City Council would have the option to repeal the interim ordinance at any time prior to its expiration in

accordance with the provisions of California Government Code Section 65858.

PASSED, APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
BEA DIERINGER, MAYOR

ATTEST:

\_\_\_\_\_  
HEIDI LUCE, CITY CLERK

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

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CITY CLERK