

ATTACHMENT "C"

Comparison Chart of the existing ordinance and proposed amendments

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ORDINANCE COMPARISON CHART (NEW UNDERLINED)
DEFINITIONS AND
CHAPTER 17.26 VIEW PRESERVATION

CURRENT	PROPOSED	COMMENTS
<p>17.12.220 "V" words, terms and phrases. "View" means a view from a principal residence 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.</p>	<p>"View" means a view from a principal residence, <u>but not including from bathrooms, hallways, garages or closets</u>, 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. <u>"View corridor" means a view from a designated viewing area broken into segments by vegetation.</u></p>	<p>Add that bathrooms, closets, garages, & hallways are not considered viewing areas</p> <p>Measure B introduced language that one is not eligible to a "panoramic" view but to a view corridor. This section defines view corridor.</p>
<p>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</p>	<p>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</p>	<p>Delete the word "Panoramic" and add "of views" in the last sentence</p>

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view obstructions created by landscaping, while at the same time protecting natural vegetation from indiscriminate removal.	<u>views</u> and abatement of view obstructions created by landscaping, while at the same time protecting natural vegetation from indiscriminate removal.	
<p>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.</p>		No change
<p>17.26.030 Desirable and undesirable trees. A. 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.</p>		No change

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<p>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:</p> <p>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.</p>	<p>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:</p> <p>A. <u>Mediation</u> Application. The complainant shall submit a complete application for abatement of view impairment by <u>mediation</u> 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 <u>filing the mediation application</u>. <u>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.</u></p> <p>B. <u>Eligibility</u>. <u>A person shall not be precluded from filing an application for abatement of a 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</u></p>	<p>Include reference to the definition of a view impairment.</p> <p>A. Clarify the process and submittal requirements for mediation and if the mediation fails; clarify the process to apply to the Committee on Trees and Views (CTV).</p> <p>B. Add new Paragraph “B”: A person may file an application for a view impairment even if there are trees/ foliage on his/her property that contribute to the view impairment. A person may file against multiple tree owners to seek abatement of the same view. A person may</p>

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	<p><u>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.</u></p>	<p>pursue remedies simultaneously or separately for view abatement of more than one view, but the views must be disjointed and be from separate viewing areas</p>
<p>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.</p> <p>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.</p>	<p>C. Mediation. Upon receipt and acceptance of an application as complete, the City Manager shall refer the matter to a mediator for a 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. <u>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.</u></p> <p>D. Public Hearing <u>Application</u>. In the event mediation fails to achieve agreement, <u>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,</u> the City Manager shall schedule the matter for a public hearing before the Committee on Trees and Views. <u>If a complete application for a public hearing is not received within 30 days of the mediator's notification set forth in Section</u></p>	<p>C. Clarification of the mediator's role and that if an agreement is reached through mediation it shall be implemented per the terms of the agreement.</p> <p>D. The current language uses the word "shall", as if it was mandatory that the complaining party apply to CTV after mediation fails.</p> <p>The City Council Ad Hoc Committee considered and the Planning Commission concurred that a time period should be established for when the complainant may apply to</p>

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<p>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.</p>	<p>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. <u>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.</u> 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 <u>or both parties as determined by the Committee, pursuant to written agreement with the City.</u> <u>The City shall select such expert and enter into an agreement only upon receipt of a payment for the selected service from the party or parties.</u> <u>An application shall be deemed withdrawn and all proceedings shall be terminated with respect thereto if the parties to a complaint notify the City that it has been voluntarily resolved or the complainant requests a delay of the proceedings for more than one hundred eighty (180) days unless good cause exists for the delay.</u></p>	<p>C. This item clarifies that additional information may be submitted by the applicant and that the CTV could request more information; or that an amended application could be submitted.</p> <p>The Planning Commission discussed and voted to add a provision that if an expert opinion/report is requested by the CTV, that the members of the Committee could require either the complaining party, or under certain circumstances both parties to pay for such an opinion/report. Also added to this provision is the method by which such an opinion should be obtained; and that an application would be deemed withdrawn under certain conditions.</p>
<p>D. Findings. Based on the evidence received and considered, the Committee may find any of the following:</p> <ol style="list-style-type: none">1. That no view exists within the meaning of this		<p>D. No Change</p>

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<p>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.</p> <p>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.</p>	<p>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, 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. <u>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.</u></p>	<p>E. Deleted "and to restore the complainant's view" from first sentence.</p> <p>Language added that if restorative action is precluded due to environmental constraints, CTV shall make specific findings to that effect.</p>
	<p>F. <u>Environmental Review. If the Committee makes finding subsection (D)(3) of this section and orders restorative action, the proposed</u></p>	<p>F. Add new paragraph "F" specifying that environmental review pursuant to CEQA</p>

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<p>38</p> <p>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.</p>	<p><u>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.</u></p> <p>G. Finality of Decision. The Committee's decision shall be final <u>on the date the Committee adopts a resolution setting forth its decision. The decision shall become effective thirty 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.</u></p>	<p>requirements shall be conducted prior to adoption of a final decision by CTV and that if the project is deemed not to be exempt from CEQA, the complainant shall bear reasonable cost of the environmental review including consultant fee.</p> <p>G. This provision in the current ordinance is confusing, since pursuant to the zoning ordinance, a decision of the final reviewing body is final upon adoption of a Resolution and is effective 30-days later, unless an appeal has been filed. View cases are not automatically reviewed by the City Council, unless appealed. This clarification is necessary to be consistent with other provisions.</p>
<p>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</p>	<p>A. <u>The complainant shall bear the cost of the initial restorative action.</u> 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</p>	<p>A. This is to clarify up front that the complainant is to pay for the initial restorative action.</p>

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<p>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.</p> <p>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.</p> <p>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.</p>	<p>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.</p> <p>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 <u>ninety 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 and approved by the City Manager.</u></p> <p>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, <u>unless the Committee adopts a final decision providing an alternative cost allocation, which shall be accompanied by written findings justifying the alternative cost allocation.</u> The vegetation shall be maintained in accordance with the final decision so as not to allow for future view impairments.</p>	<p>B. Some species of trees cannot be remediated in certain months; therefore a 30-day period is too restrictive. Both the Ad Hoc Committee and the PC reviewed this provision and agreed on this change.</p> <p>C. The City Council Ad Hoc Committee could not agree on who should pay for the maintenance of trees, following the initial restorative action; and deferred this item to the Planning Commission. The Planning Commission recommends that the CTV have the ability to require the owner of the trees <u>or both parties to maintain the trees</u>, depending on the circumstances.</p>

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<p>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:</p> <ol style="list-style-type: none"> 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 	<p>D. To be deleted</p>	<p>D. Paragraph D is deleted. Some of the provisions of this paragraph are incorporated in the other paragraphs of Section 17.26.060; and some of the language is very vague and does not belong or apply to the ordinance.</p>
<p>17.26.070 Enforcement.</p> <p>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.</p> <p>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</p>		<p>A. No Change</p>

of

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<p>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.</p>		
<p>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.</p>	<p>Within thirty days of the final decision of the <u>Committee, or the City Council on appeal</u>, an informational covenant shall be recorded against the title of the property <u>on which the offending vegetation exists and the complainant's property</u>, on a form provided by the City, which shall run with the land and be binding upon all successors in interest.</p>	<p>Clarifies that the City will record an informational covenant for both properties that would run with the land. Currently the covenant is recorded against the property on which the vegetation exists.</p>
<p>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.</p> <ol style="list-style-type: none"> 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 	<p>ADDED BY MEASURE B.</p>	<p>No Change.</p>

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<p>accepted by arborists.</p> <p>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:</p> <p>a. Photographs;</p> <p>b. Expert testimony; and lastly</p> <p>c. Other evidence.</p>		
<p>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."</p>	<p>MEASURE B</p>	<p>No Change.</p>
<p>INDEMNIFICATION -Not currently in the Ordinance</p>	<p><u>17.26.100 Indemnification</u></p> <p><u>Complainants shall defend, indemnify and hold harmless the City, its agents, officers, attorneys and employees from any claim, action or proceeding against the City or its agents, officers, attorneys or employees to attack, set aside, void or annul a decision of the Committee or City Council on appeal restoring an impaired view or that otherwise challenges, or seeks damages resulting from, the issuance, defense, implementation, or enforcement of a view restoration order (collectively "action").</u></p>	<p>New provision.</p> <p>The City Council Ad Hoc Committee couldn't agree whether a provision should be included in the ordinance regarding indemnification of the City, and deferred that decision to the Planning Commission. After lengthy discussion, public input and deliberation, the Planning Commission recommends that the complaining party indemnify the City.</p>

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	<u>Nothing in this reimbursement obligation shall provide to the complainant any control over decisions made by the City in connection with an action..</u>	

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