



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.: 5A
Mtg. Date: 01/25/16

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: YOLANTA SCHWARTZ, PLANNING DIRECTOR

Yp

THROUGH: RAY CRUZ, CITY MANAGER

**SUBJECT: CONTINUED PUBLIC HEARING AND CONSIDERATION OF AN
ORDINANCE NO. 346 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.**

ATTACHMENTS:

- A. Comparison table of the existing ordinance and proposed amendments
- B. Draft Ordinance No. 346
- C. Summary of view impairment cases filed with the City
- D. Correspondence received since January 11, 2016 City Council meeting

1. It is recommended that the City Council waive full reading and introduce the proposed ordinance for first reading; continue the public hearing and take public testimony. Following public input and Council's discussion, it is recommended that the City Council direct staff to bring the ordinance, as amended, if necessary, for second reading and adoption.

2. The City Council held a public hearing in the matter of amendments to the View Preservation Ordinance at their January 11, 2016 meeting, and continued the hearing to tonight's meeting.

3. The City Council, following public input, suggested few amendments to the ordinance, which is reflected in the attached comparison table and includes:

- 17.26.050 C and 17.26.040 D, add "without prejudice"
- 17.26.060 B, add that implementation cannot be postponed more than a year

Discussion on whether to include a provision to indemnify the City resulted in three of the Councilmembers wishing to exclude it, however no decision was made on this topic.

In response to a resident inquiry, Councilmembers directed staff to prepare a summary of view impairment cases submitted to the City since the View Preservation Ordinance took effect (1988) and their resolve.

4. All of the documents and information provided to the City Council at the January 11, 2016 meeting continue to be relevant and are available at City Hall. Please refer to your January 11, 2016 packet.

5. During the hearing the residents testified as follows:

- Not in favor of restoring/allowing more than one view
- Prepare a brand new ordinance based on the one adopted by the City of Rolling Hills Estates
- In favor of view corridors and not views from every window
- Provide a better definition of view corridors, such as establish a threshold of restoration of 70-75% of the pre-existing view
- Add a clause "without prejudice" in several places of the ordinance
- Leave it to residents to handle the dispute
- Require indemnification/ don't require indemnification
- Requiring Indemnification of the City causes a perception that the City is biased against one party and in favor of another. Perception in such cases is very important

The City Council discussed the following:

- No more than 2 views should be allowed and they should be well identified (north/south and east/west)
- The City should have a View Preservation Ordinance
- Indemnification of the City
- Following the initial restorative action, the owners of the trees should be responsible for maintaining the trees at their cost

The City Council agreed to review the proposed ordinance in detail at the January 25, 2016 meeting.

ATTACHMENT "A"

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.	views 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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CURRENT	PROPOSED	COMMENTS
<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/foilage 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, 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 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. 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, <i>without prejudice</i>, 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: 1. That no view exists within the meaning of this</p>		<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>12</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, <i>but no later than one year</i>, 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 or both parties to maintain the trees, depending</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; or2. 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>on the circumstances.</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</p>		<p>A. No Change</p>

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<p>attorney's fees and costs as determined by the court.</p> <p>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 <u>of the 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 	<p>ADDED BY MEASURE B.</p>	<p>No Change.</p>

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<p>defined by industry standards predominantly 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</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>restoration order (collectively "action").</u> <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>	<u>At the 1/11/16 CC meeting three Councilmembers felt this provision should be excluded.</u>

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ATTACHMENT "B"

Draft Ordinance No. 346

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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 bathrooms, hallways, 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 30 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 or both parties as determined by the Committee, 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 or parties. 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 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 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 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 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 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, unless the Committee adopts a final decision providing an alternative cost allocation, which shall be accompanied by written findings justifying the alternative cost allocation. 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 days of the final decision of the Committee, or the City Council on appeal, an informational covenant 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.

- G. Add Section 17.26.100 of the RHMC to read as follows:

17.26.100 Indemnification.

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"). Nothing in this reimbursement obligation shall provide to the complainant any control over decisions made by the City in connection with an action.

- H. Add to list of Sections at the beginning of the Ordinance:

17. 26. 100 Indemnification

PASSED, APPROVED AND ADOPTED this _____ day of _____ 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
_____, 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.

CITY CLERK

ATTACHMENT "C"

Summary of view impairment cases filed with the City

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**SUMMARY OF VIEW PRESERVATION CASES: 1988-2013
(PRE MEASURE "B")**

Out of 11 cases*: 5 (4 and a portion of one) were resolved by mediation
7 (6 and a portion of one) were not resolved in mediation
2 withdrawn/resolved privately
4 were appealed to the City Council after CTV decision
2 lawsuits filed

**SUMMARY OF VIEW PRESERVATION CASES: 2013-2016
(POST MEASURE "B")**

Out of 10 cases: 0 currently in mediation
5 were resolved in mediation
5 were not resolved in mediation
2 were appealed to the City Council after CTV decision
0 lawsuits filed

TOTAL CASES SINCE 1988

Out of 21 cases: 0 currently in mediation
10 were resolved in mediation (plus portion of one)
12 were not resolved in mediation (plus portion of one)
2 were withdrawn
6 were appealed to the City Council after CTV decision
2 lawsuits filed

**some cases involved multiple parties with different outcomes*

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ATTACHMENT "D"

Correspondence received since January 11, 2016 City Council meeting

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31 Chuckwagon Road
Rolling Hills, CA 90274

January 18, 2016

City Council
City of Rolling Hills, CA 90274

RECEIVED

JAN 19 2016

City of Rolling Hills
By _____

**RESTORATIVE ACTIONS- REPLACE WITH ISA APPROVED PRUNING
TECHNIQUES THAT ACCOMPLISH THE SAME REMEDIATION GOAL**

Dear Councilpersons:

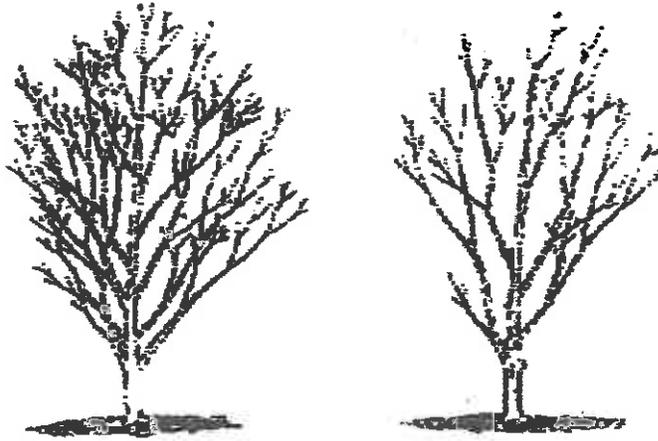
There are view abatement actions specified in *Section 17.26.030 E* that are ambiguous and in some cases are actions not approved by arborists that may injure trees and make view obstructions worse. Other beneficial abatement actions are not listed. Fortunately, after the RH view ordinance was written nearly 30 years ago, pruning actions that are approved by arborists and give specific guidance about what the term means have been defined in arboriculture glossaries

Below, I propose that certain restorative actions be deleted and replaced with actions that are defined by ISA or other arborist associations and accomplish the same remediation goal. I show these deleted actions as lined-out, followed by an arborist approved actions. Other appropriate remediation actions are added. I have re-ordered the terms from least severe to most severe.

Section 17.26.030 E. "The Committee.... 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, ~~pruning, thinning lacing, topping, crown lifting, crown reduction, stand thinning,~~ or removal or similar alteration of vegetation." **Topping or heading back of a tree is expressly forbidden.**

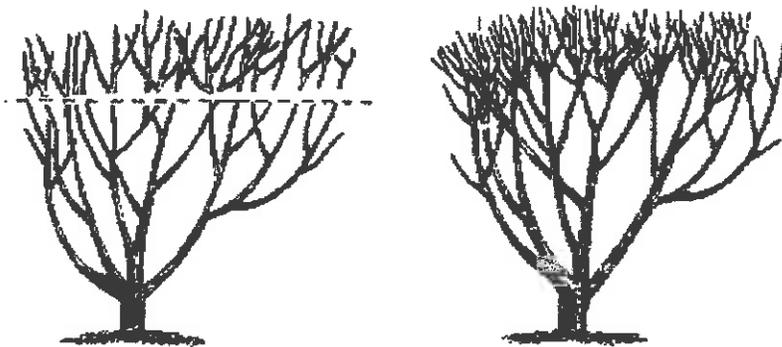
- **Pruning.** The term "Pruning" is eliminated as it is a very general non-specific term. Dr. Gilman in *An Illustrated Guide to Pruning* requires almost 500 pages to define proper pruning techniques.

- **“Thinning” replaced by Lacing.** Lacing means a method of pruning that selectively removes excess (primarily interior) limbs and foliage to improve the structure of the tree and to provide a view through the tree. No more than 30 percent of the foliage should be removed.

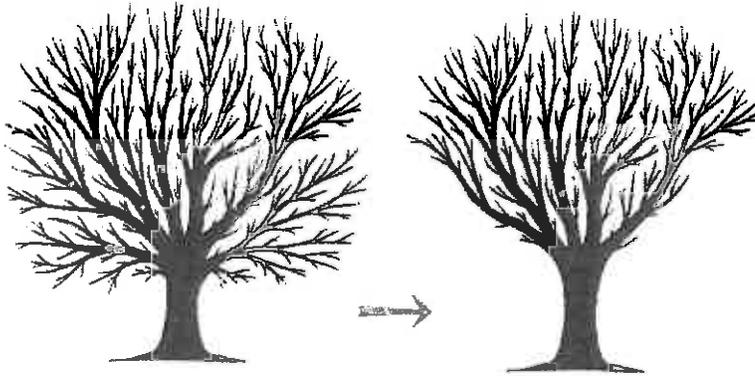


Before and After
Lacing

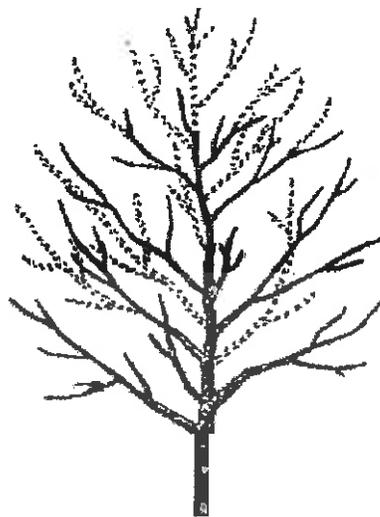
- **Topping replaced by “Crown lifting” and “Crown reduction.”** Topping is the removal of the entire top of a tree’s crown by cutting back large diameter branches to stubs and truncating the main stem/trunk. Topping damages and weakens trees, often results in explosive new growth, and topped trees appear disfigured and mutilated. Most cities have tree/view ordinances that forbid topping of trees (see attached “Don’t Top Trees!”).



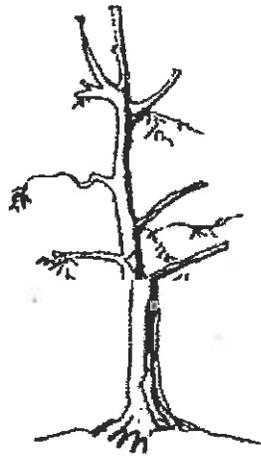
- **Crown lifting.** Means removing the lower branches of a tree so that a view can be experienced under the tree.



- **Crown reduction.** Means a method of pruning that reduces a tree's height and or/spread. Crown reduction entails reduction of the top, sides or individual limbs by removal of leaders or the longest portions of limbs to a lateral limb large enough to assume the tree's growth. This arborist approved method of reducing the height and/or spread of a tree replaces "topping," which has many undesirable effects.



- **Stand thinning.** Means the selective removal of specific trees from a grove of trees.
- **"Heading back."** This severe method of reducing the mass of a tree by cutting back major limbs to stubs is forbidden in tree/view ordinances in most cities. It causes explosive new growth, similar to topping, that results in a dense ball of vegetation. Heading back makes a tree look ugly and makes view impairment worse. I recommend that "topping" and "heading back" should be **expressly forbidden** in the view ordinance.



Sincerely,

Lynn E. Gill

Lynn E. Gill

Don't Top Trees!



JAN 19 2016

from the **TREE CITY USA
BULLETIN**

City of Rolling Hills
By _____

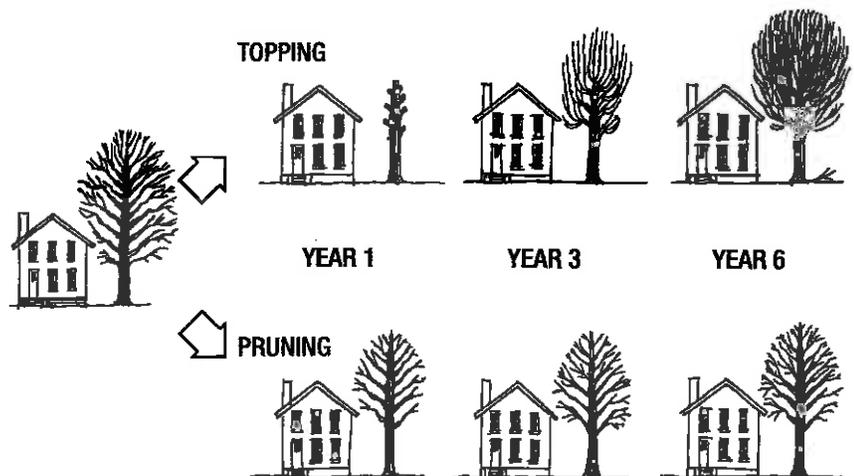


The sight of topped trees is all too common in communities and along the roadways of America – trunks with stubby limbs standing naked in the landscape, trees stripped of all dignity and grace. Trees are often topped because they grow into utility wires, interfere with views or solar collectors, or simply grow so large that they worry the landowner. But, as one arborist has said, “Topping is the absolute worst thing you can do for the health of your tree.”

PROPER PRUNING – THE ALTERNATIVE TO TOPPING

WHY NOT TO TOP: 8 GOOD REASONS

1. **Starvation:** Topping removes so much of the tree's leafy crown that it dangerously reduces the tree's food-making ability.
2. **Shock:** By removing the protective cover of the tree's canopy, bark tissue is exposed to the direct rays of the sun. The resultant scalding can cause the tree's death.
3. **Insects and Disease:** The exposed ends of topped limbs are highly vulnerable to insect invasion or fungi spores decay.
4. **Weak Limbs:** New branches that grow from a stubbed limb are weakly attached and more liable to break from snow or ice weight.
5. **Rapid New Growth:** Instead of controlling the height and spread of the tree, topping has the opposite effect. New branches are more numerous and often grow higher than before.
6. **Tree Death:** Some tree species can't tolerate major branch loss and still survive. At best, they remain weak and disease-prone.
7. **Ugliness:** A topped tree is a disfigured tree. Even with new growth, it never regains the grace and character of its species.
8. **Cost:** The true cost of topping is often hidden – lower property values, expense of removal, and replacement if the tree dies.



When a decision is made to reduce the size of an older tree, it can be topped, or it can be pruned properly. Although the speed and nature of re-growth will depend on species and local factors, any comparison between irresponsible topping and competent pruning will be dramatic. Qualified arborists use crown reduction to control height when necessary. Selected limbs are removed at their junction with the trunk or a limb at least one-third the diameter of the removed limb.

YEAR 1: The topped tree is an ugly stub and a remnant of a once-lovely tree. If pruned properly, the tree's size is reduced but form and beauty are retained.

YEAR 3: Vigorous sprouts have sprung out of the topped tree in large numbers and are growing with abnormal rapidity. The pruned tree adds growth, but it does so more slowly and distributes it more normally.

YEAR 6: In a relatively short time, the topped tree is as tall – and far bushier and more dangerous – than it was to begin with. The properly pruned tree is safer, more beautiful, and its size is better controlled.

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Arbor Day Foundation
100 Arbor Avenue • Nebraska City, NE 68410

31 Chuckwagon Road
Rolling Hills, CA 90274

January 21, 2016

City Council
City of Rolling Hills

RECEIVED

JAN 21 2016

City of Rolling Hills
By _____

**SHOULD THE CITY OF ROLLING HILLS SPEND TAXPAYER DOLLARS
TO RESOLVE VIEW DISPUTES AMONG PROPERTY OWNERS?**

Dear City Councilpersons:

No, taxpayer dollars should not be used to resolve disputes between property owners in Rolling Hills. Resolution of property disputes is best left up to the view-seeker and tree/vegetation owner. If they can't reach an agreement, they can turn to arbitration or the courts—without Rolling Hills being dragged into the fray! Taxpayer dollars would be better used for such improvement projects as undergrounding of utilities, increased sheriff patrols, fire-fuel reduction, needs of seniors, city beautification and so forth.

Factors to consider:

- 1) **The City should remain scrupulously neutral in resolving view disputes.** There is not a presumption that the view seeker is the wronged party. It is entirely possible that a view seeker could file a frivolous view resolution in an attempt to obtain a view that did not exist when they purchased their property. The tree/vegetation owner deserves equal protection under the law from an unscrupulous owner seeking to increase their property value at the expense of a neighbor's property value.
 - City attorney's only role should be solely to interpret the law and provide guidance to the view committee or city counsel
 - View-seeker and/or tree owner should retain legal counsel, at their own expense, if they wish to be represented
 - View-seeker and/or tree owner should retain arborists or other experts if they desire, at their own expense
 - I suggest that the view committee go back to being a citizen committee separate from the Planning Commission. They have plenty of other things to do!

- 2) **The view seeker is seldom financially less able to pursue a view dispute than is the tree/vegetation owners.** That's the argument given for spending taxpayer dollars to help the view-seeker regain/create a view. In Rolling Hills, it would be rare for a property owner to be so destitute that they cannot afford legal and expert representation. In a recent view resolution case, Occhipinti and Fournier

vs. Sherman, my supposition is that the view-seekers were financially much better able to prosecute the view resolution action than was Sherman. They don't need the help of Rolling Hills taxpayers!

3) The City should not become a party to a dispute between property owners and participate financially in expensive litigation.

It is very rare for a city to shoulder the financial risk of becoming a party to a view dispute. Most cities provide view resolution guidelines and definitions in an ordinance, and provide a view committee that acts as a facilitator or ombudsman to assist the view-seeker and tree owner on an advisory basis in resolving a dispute. If the parties cannot agree, they can then turn to arbitration or litigation—without the City being dragged into expensive litigation!

The RH Planning Director provided an analysis of view ordinances in benchmark cities. I have summarized the results below, combined with a similar study I conducted a few years ago (attached).

CITY	PARTY TO DISPUTE	NOT PARTY TO DISPUTE	LIABILITY INDEMINIFICATION
Berkeley		X	X
Beverly Hills		X	X
Laguna Beach		X	X
Malibu		X	X
Oakland		X	X
Palo Alto		X	Tree Protection Ord. only
Palos Verdes Estates		X	X
Rancho Palos Verdes	X		
Rolling Hills	X		
Rolling Hills Estates		X	X
Sausalito		X	
Tiburon		X	X

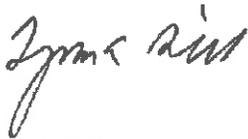
4) Reimbursement of City's view remediation action costs- loser pays all

Prior to adoption of Measure B, the view seeker could get, with the City's help, a view that did not exist when they purchased their property in Rolling Hills. It was entirely fitting that the view-seeker should reimburse the City for its expenses, as obtaining a view they never had could significantly improve their property value.

After passage of Measure B, not so much! Now, the wronged party is likely to be a property owner who had a view when they purchased their property, and now needs City help to restore the view. The tree-owner could well be the recalcitrant party unwilling to be neighborly and restore his neighbor's view.

Of course, there is also the possibility of a view-seeker attempting to obtain a view that they did not have when they purchased their property, by filing a frivolous view remediation action. Requiring the losing party to pay all of the City's costs ("loser pays all") would discourage such frivolous view applications, and would also encourage uncooperative property owners whose trees have grown to block a neighbor's view to work with their neighbor to restore a view, without getting the City involved.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lynn E. Gill".

Lynn E. Gill

RECEIVED

JAN 21 2016

COMPARISON OF TREE AND VIEW ORDINANCES
OF OTHER CALIFORNIA CITIES WITH SIMILAR TERRAIN

City of Rolling Hills
By From Lynn Gill

SUMMARY OF TREE AND VIEW ORDINANCES

ISSUE	ROLLING HILLS VIEW ORDINANCE	OTHER CITY TREE AND VIEW ORDINANCES
1) View and/or tree ordinance or policy?	<ul style="list-style-type: none"> No comprehensive tree policy; only a View Policy Protects natural vegetation from indiscriminate removal 	<ul style="list-style-type: none"> Of 8 other cities, all but Malibu have both comprehensive tree and view ordinances (view part of tree policy) Malibu regulates landscaping of new construction
2) What baseline date is used to establish a view?	<ul style="list-style-type: none"> Date the view-seeker purchased their property 	<ul style="list-style-type: none"> 4 cities use the date when Complainant purchased his property 1 city uses view at any time during ownership of Complainant RPV, the most restrictive, uses dates when Complainant's and Tree-Owner's lots were established
3) How is a view defined?	<ul style="list-style-type: none"> View corridor concept from one or more views points The ordinance allows multiple viewing points 	<ul style="list-style-type: none"> RPV and Tiburon- the one best view form a primary viewing area RHE- Defines vistas and scenic corridors Others- defines view character as to example vistas
4) Who enforces the covenants/ordinances?	<ul style="list-style-type: none"> The City becomes a party to the dispute, and by use of its police power compels view remediation as determined by the Board The City thereby subjects itself to litigation 	<ul style="list-style-type: none"> All except RPV provide only definitions and guidelines, the City facilitates but does not become a party to disputes, which are settled between Complainant and Tree Owner RPV uses its police power to compel view remediation determined by View Restoration Commission (RPV has about \$300,000 per year litigation expenses)
5) View Remediation Process	<ul style="list-style-type: none"> Requires attempt to resolve dispute among Complainant view-seeker and Tree Owner Application and mandatory mediation Dispute to View Committee, then the City Council Litigation among parties and Rolling Hills as last resort. Rolling Hills pays for the view-seeker's legal costs 	<ul style="list-style-type: none"> Most other cities define a process that includes informal efforts between parties to resolve dispute, mediation, arbitration, and litigation as a last resort. In some cases, the City facilitates the process as ombudsman RPV- required attempts to resolve dispute among the parties, View Restoration Committee makes recommendation for view remediation subject to appeal by the City Council, litigation among parties including the City as last resort
6) Criteria for View Remediation	<ul style="list-style-type: none"> Defines vistas (ocean, mountains, city lights, harbor, etc.) Determination of view corridor(s) 	<ul style="list-style-type: none"> All except RPV consider a variety of factors related to trees, in addition to view: privacy, shade, quality of tree, impact on tree-owners property value, soil stability, wildlife habitat, wind screening, etc. RPV establishes primary viewing area and one best view. Requires replacement plantings for privacy, shade, health of remaining landscaping, integrity of landscape design
7) Tree Topping	<ul style="list-style-type: none"> Allowed, among other remedies 	<ul style="list-style-type: none"> Topping prohibited by most cities. 4 other cities allow crown raising or reductions, but actions may not destroy visual proportions or aesthetic value, or negatively affect the health of the tree
8) Fees	<ul style="list-style-type: none"> Cost above the application fee borne by the City 	<ul style="list-style-type: none"> In 5 other cities, costs are borne entirely by the private parties in the dispute (the City is not a party to the dispute) RPV is reimbursed by Complainant for all costs incurred by City (but they still have to collect from parties - legal costs borne by the City run about \$300,000 per year)

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**COMPARISON OF TREE AND VIEW ORDINANCES
OF OTHER CALIFORNIA CITIES WITH SIMILAR TERRAIN**

9) Replacement plantings and Cost apportionment	<ul style="list-style-type: none"> ▪ Replacement plantings could be required ▪ View Committee decides apportionment, if any 	<ul style="list-style-type: none"> ▪ RPV requires that Complainant pay full cost of replacement plantings ▪ Berkeley requires Complainant to reimburse Tree Owner for the full value of the tree (typically \$15,000 and up) ▪ In 5 other cities, costs are apportioned based on relative benefits and burdens of each, as agreed among the private parties, or as determined by mediation, arbitration, or litigation
10) Maintenance of cut-back trees and plantings	<ul style="list-style-type: none"> ▪ Tree owner pays for maintenance of cut-back trees or plantings ▪ View Committee/City Council could allocate otherwise among the parties 	<ul style="list-style-type: none"> ▪ 2 cities, Berkeley and Oakland, require Complainant to pay for maintenance of cut-back trees or plantings ▪ 3 cities, RHE, Sausalito, and Tiburon apportion the costs between Complainant and Tree Owner based on burdens and benefits of each; or as determined by agreement, mediation, or litigation ▪ Only RPV requires that the Tree Owner must pay for maintenance of cut-back trees and plantings
10) Public Utility Tree Trimming	<ul style="list-style-type: none"> ▪ No pruning guidelines. Utilities consistently severely cut-back and top trees. 	<ul style="list-style-type: none"> ▪ All other cities require compliance with pruning guidelines, Tree City USA standards, supervision by an arborist, forester, or public works to preserve the integrity of the tree and to hide poles and wires

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**COMPARISON OF TREE AND VIEW ORDINANCES
OF OTHER CALIFORNIA CITIES WITH SIMILAR TERRAIN**

DETAIL OF TREE AND VIEW ORDINANCES

POLICY ISSUE	RANCHO PALOS VERDES	ROLLING HILLS ESTATES	PALOS VERDES ESTATES	BERKELEY	OAKLAND	SAUSALITO	TIBURON	MALIBU
<p>1) View and/or tree ordinance or policy?</p> <p>Note: <u>Guidelines for Developing and Evaluating Tree Ordinances</u> (which include view ordinances) are provided by American Planning Association and International City Management Association</p>	<ul style="list-style-type: none"> - 1989 Ballot Measure on View Restoration - Guidelines and Procedures for Restoration of Views - Public Works manages maintenance of street and parks trees, issues permits for street trees planting and trimming 	<ul style="list-style-type: none"> - "Public and Private Vegetation Guidelines" - (I A) "Suggestions to Resolve a View Problem" - New Planting Guidelines - Recommended Tree List - Pruning Guidelines 	<ul style="list-style-type: none"> - Parklands Committee advises residents on designated trees, tree management procedures, right-of-way trees, trimming or removal of City trees. - Tree Management Policy related to City trees recognizing importance of both trees and views - PVE has no view ordinance as such, except for Neighborhood Compatibility Ordinance on new construction. Neighbors look at plans, including landscaping - Views are considered by the Art Jury when approving plans, however, "The Art Jury is NOT charged with the responsibility of maintaining the view from any site." 	<ul style="list-style-type: none"> - Urban Forest Management Program - Chapter 12.45 "Solar Access and Views" 	<ul style="list-style-type: none"> - Tree Ordinance, Title 12, Chapter 12.36. - Permits required to remove protected trees - View Ordinance, Title 15, Chapter 15.52 	<ul style="list-style-type: none"> - Tree and View Preservation Ordinance- Section 11.12 of Municipal Code 	<ul style="list-style-type: none"> Tree Ordinance includes Chapter 15 on restoration of views or sunlight 	<ul style="list-style-type: none"> - Regulates landscaping for new construction - No general ordinance related to views- recommends working out disputes among neighbors - Code Enforcement Officer may become involved if Zoning Code and landscaping plan is violated
2) What baseline date is used to establish a view?	Date when complainant's lot and the tree	Date when the property was acquired by the view		Documentation showing absence of view	View that existed when complainant purchased their	View that existed when complainant purchased their	View that existed when complainant purchased their	Date of approved landscaping plan of offending lot

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**COMPARISON OF TREE AND VIEW ORDINANCES
OF OTHER CALIFORNIA CITIES WITH SIMILAR TERRAIN**

POLICY ISSUE	RANCHO PALOS VERDES	ROLLING HILLS ESTATES	PALOS VERDES ESTATES	BERKELEY	OAKLAND	SAUSALITO	TIBURON	MALIBU
	owner's lot were established	obstructed neighbor, and the state of the view at that time		obstruction at any time during tenure of current owner	property	property	property	
3) How is a view defined?	Viewing area is where the <u>one</u> best and most important view is taken. Once established, the viewing area and view may not be changed for any subsequent application of applicant	Vistas and scenic corridors: LA Basin, mountains, ocean, bays, harbors, coastlines, canyon and other landforms. Existence and extent of view obstruction assessed. More than 10% of total view panorama must be obscured by vegetation to be considered impairment.	"It is recognized that both the abundance of mature trees and beautiful views contribute to the City's special character."	Distant vista of skylines, bridges, distant cities, geologic features, hillside terrains and wooded canyons or ridges.	Distant vista or panorama of bridges, distant cities, canyons, etc. that existed when the Claimant acquired his or her property	Defines example vistas such as San Francisco Bay, bridges, geologic features, canyons, and ridges. Does not mean an unobstructed panorama	Viewing area at primary living area (where view is observed most often) or active use area (most frequently occupied portion) View defined as to character	Not defined
4) Who enforces the covenants/ordinances?	The City of RPV, through its View Restoration Commission	Enforcement of the Guidelines is by the private parties involved Guidelines set forth a procedure for resolution of disputes	Palos Verdes Homes Association and Art Jury work to mediate view disputes. There is not a view ordinance as such	Enforcement of the Chapter is by the private parties involved Chapter sets forth a procedure for resolution of disputes	Enforcement of the Chapter is by the private parties involved Chapter sets forth a procedure for resolution of disputes	- Ordinance establishes rights and provides complaining owner with a process, and enables them to resolve through informal, mediation, arbitration, or litigation - Tree and View Committee acts as board of arbitration	- Ordinance establishes rights and provides complaining owner with a process, and enables them to resolve through informal, mediation, arbitration, or litigation	- Minimal support of Zoning Officer, owners resolve among themselves

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5) View Remediation Process	<ul style="list-style-type: none"> - Complaining owner notifies tree owner, attempts to resolve disputes - Complainant applies to City - View Restoration Committee reviews and makes recommendation - Appeal to the City Council - Litigation among complainant, tree owner and RPV 	<p>Neighbors discuss view obstruction to attempt to find a mutually agreeable solution.</p> <p>Suggested consultation with landscape architect, horticulturist, landscape contractor</p> <p>City Hall staff can assist if invited in the assessment of view obstruction and remediation</p>	<ul style="list-style-type: none"> - Complainant and tree owner attempt to resolve the view issue - If view issue is not resolved, it is referred to the Homes Association. - Homes Association Ombudsman attempts to broker a resolution with the parties. - If agreement is not received, Homes Association determines view remediation requirements - If tree owner does not comply with Association requirements, they cannot receive permits or receive other approvals from the City or Association -The Association requirements must be complied with before the tree owner can sell their property 	<ul style="list-style-type: none"> - Initial attempts at reconciliation among the parties - Mediation if acceptable to tree owner - Tree claim preparation - Binding arbitration if acceptable to tree owner - Litigation among the private parties 	<p>Claim procedure in chapter 15.52 for private resolution of disputes :</p> <ul style="list-style-type: none"> - Informal - Arbitration - Litigation 	<ul style="list-style-type: none"> - Complaining owner notifies tree owner, attempts to resolve - Claimant obtains report of a feasible solution from an Arborist - Mediation, if accepted by tree owner - Binding arbitration by if accepted by both parties. Trees and Views Committee is the board of arbitration - Litigation among the owners 	<ul style="list-style-type: none"> - Informal remediation among owners - Mediation if accepted by tree owner - Binding arbitration if accepted by tree owner - Litigation among the owners - Town protected from civil or criminal liabilities 	Among parties, process not defined
6) Criteria for View Remediation	<ul style="list-style-type: none"> - Establishment of a primary viewing area - Establishment of one best view from primary 	<p>View when complainant 's property was acquired</p> <p>Impact of proposed</p>	<p>Depends upon circumstances of each situation</p> <p>The Art Jury is NOT charged with the</p>	<ul style="list-style-type: none"> - Existence of landmarks, vistas, or unique features which cannot be seen since acquisition 	<ul style="list-style-type: none"> - Native trees exempt from ordinance - Existance of a view - Extent view is 	<ul style="list-style-type: none"> - Character of the view - Extent to which view is diminished - Benefits of the plantings in 	<ul style="list-style-type: none"> - Extent of view obstruction - Aesthetic quality of tree (s) - Location with respect to 	

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	viewing area - Establishment of view when lot was created or view when ordinance was passed in 1989 Impact on privacy of tree owner - Property owner may take dated pictures of their view and file them with the City for proof of future view remediation actions - Replacement for: o Privacy o Shade o Energy-efficiency of structure o Health or viability of remaining landscaping o Integrity of landscape design	remediation on: - Aesthetic impairment - Increased erosion - Decreased privacy - Slope instability - Decreased wind screening	responsibility of maintaining the view from any site	of the property - Effect of the tree on sunlight, hazards posed - Visual quality of tree - Location re landscaping - Soil stability - Visual, auditory and wind screening - Energy conservation/ climate control - Wildlife habitat - Economic value of tree - Economic value of property as a result of the tree Native, rare or specimen tree	diminished by tree; balanced against Benefits of the tree: - visual screening - economic value - wildlife habitat - soil stability - energy conservation - visual quality Replacement planting paid by Complainant	question (visual quality, landscaping purpose, privacy, wind screening, auditory, economic value and enjoyment)	landscape design - Soil stability - Privacy (visual and auditory) - Energy conservation and climate control - Wildlife habitat - Undesirable tree definitions - Protected trees	
84 7) Tree Topping	Allowed, if thinning or crown raising are not effective. Topping may not kill the tree or destroy its aesthetic value			Topping not recommended by the City but allowed if trimming or thinning not effective	Allowed, topping may not destroy the visual proportions of the tree or adversely affect growth pattern or health	Allowed, may not destroy visual proportions, or affect health or growth pattern (arborist's advice is required)	Allowed, but discouraged	

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8) Fees	Actual costs associated with the remediation effort including consultants collected by the City, reported to be about \$2000. However, in 1998 RPV incurred costs \$300,000 greater than fees	None to City (private resolution of disputes)	None to City (private resolution of disputes)	None to City (private resolution of disputes)	None to City (private resolution of disputes)	Actual costs incurred by complainant and tree owner for mediation, arbitration, litigation	Actual costs incurred by complainant and tree owner for mediation, arbitration, litigation	Actual costs incurred by complainant and tree owner for mediation, arbitration, litigation
9) Cost apportionment	- Commission determines and requires Complainant to pay for replacement trees or plantings to provide privacy, shade, integrity of landscaping	- Complainant pays costs of initial remediation - Cost may be distributed based on the relative benefits the parties may derive		- Complainant pays all costs of mediation - Both parties pay 50% of arbitration - Complainant pays 100% of both parties reasonable attorney fees if they lose - Complaining party pays for all restorative actions - Tree owner compensated for tree: fair market value, replacement value, or "trunk formula," per	- Complainant pays 100% of costs of restorative actions and replacement plantings - Tree owner bears all costs of removal if they receive an adverse judicial decision.	As determined by agreement, mediation, arbitration, or litigation Future maintenance determined by agreement, mediation, arbitration, or litigation	As determined by agreement, mediation, arbitration, or litigation Future maintenance determined by agreement, mediation, arbitration, or litigation	Not defined

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				Council of Tree and Landscape Appraisers, <u>Guide for Plant Appraisal</u> - The Complainant is responsible for future maintenance of trees & plantings				
10) Maintenance of cut-back trees and plantings	Tree Owner pays for future maintenance of cut-back tree or planting	Vegetation owner pays for future maintenance		Complainant (view-seeker) pays for future maintenance of cut-back tree or plantings	Complainant (view seeker). pays for future maintenance of cut-back tree or plantings	Cost apportioned between Complainant and Tree Owner based on burdens and benefits enjoyed by each	Cost apportioned between Complainant and Tree Owner based on burdens and benefits enjoyed by each	As determined by agreement, mediation, arbitration, or litigation
11) Tree Trimming by Public Utility and on City Owned land	8000 trees regularly maintained by Public Works. Permits and supervision of utility easement trimming by Public works	Must comply with Standard Pruning Practices	Tree Trimming Standards for City Trees included in Tree Ordinance PVE maintains all street and park trees on a 3 year cycle	Controlled by Urban Forest Management Program, and "Tree Pruning Guidelines," International Association of Arbiculture.	Covered under Tree Ordinance. Permits required to remove a City tree or a protected tree All trimming must be done by a certified Arborist	- Pruning methods are defined by City in Tree and View Preservation Ordinance - Topping of trees not permitted - Work performed under daily supervision of an Arborist - Work performed by an Arborist or Certified Tree Worker	Tree Ordinance covers Trimming Standards for City Trees in parklands and easements	

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