

PROPOSED ORDINANCE – PROPOSIT M

RANCHO PALOS VERDES

**COUNCIL OF HOMEOWNERS ASSOCIATIONS AND CITY COUNCIL
COOPERATIVE VIEW PRESERVATION AND RESTORATION ORDINANCE**

The People of the City of Rancho Palos Verdes Do Ordain as Follows:

SECTION 1. PURPOSES

The hillsides of the City constitute a limited natural resource in their scenic value to all residents of and visitors to the City. The hillsides provide potential vista points and view lots. The City's General Plan recognizes these natural resources and calls for their protection. The public health, safety and welfare of the City require prevention of needless destruction and impairment of these limited vista points and view lots. The purpose of this Ordinance is to promote the health, safety and general welfare of the public by accomplishing the purposes set forth below, and this Ordinance shall be administered in accordance with such purposes. Where this Ordinance is in conflict with other City ordinances, the stricter shall apply.

Specifically, this Ordinance:

1. Protects, enhances and perpetuates views available to property owners and visitors because of the unique topographical features of the Palos Verdes Peninsula. These views provide unique and irreplaceable assets to the City and its neighboring communities and provide for this and future generations examples of the unique physical surroundings which are characteristic of the City.
2. Defines and protects finite visual resources by establishing limits which construction and plant growth can attain before encroaching onto a view.
3. Insures that the development of each parcel of land or additions to residences or structures occur in a manner which is harmonious and maintains neighborhood compatibility and the character of contiguous sub-community development as defined in the General Plan.
4. Requires the pruning of dense foliage or tree growth which alone, or in conjunction with construction, exceeds defined limits.

SECTION 2. Section 17.02.040 of Chapter 17.02 of Title 17 of the Rancho Palos Verdes City Code is amended to read:

A. DEFINITIONS

When not inconsistent with the context, the words used in the present tense include the future; words in the singular number include the plural; and those in the plural number include the singular. In carrying out the intent of this Section, words, phrases and terms shall be deemed to have the following meanings ascribed to them:

1. **Building Setback Line.** "Building setback line" shall mean the minimum distance as prescribed by City code between any property line, or private easement boundary used for vehicular and/or pedestrian access, and the closest point on any building or structure above ground level on the property.

2. City. "City" shall mean the City of Rancho Palos Verdes and its employees and staff and those designated by the City Council to act for and on behalf of the City.

3. City Council. "City Council" shall mean the City Council of the City of Rancho Palos Verdes.

4. Coverage of Lot. "Coverage of lot" shall mean that portion of a lot or building site which is occupied by any building or structure.

5. Director. "Director" shall mean the Director of Environmental Services.

6. Foliage. "Foliage" shall mean natural growth of trees, shrubs and other plant life.

7. Intent and Purpose. The residents of the City of Rancho Palos Verdes by the adoption of this Section, have made a finding that the peace, health, safety and welfare of the community will be served by the adoption of this Section and by the regulations prescribed herein.

8. Neighborhood Character. "Neighborhood character" shall mean the existing characteristics in terms of the following:

(a) Scale of surrounding residences.

(b) Architectural styles and materials.

(c) Front yard setbacks.

9. Planning Commission. "Planning Commission" shall mean the Planning Commission of the City of Rancho Palos Verdes.

10. Privacy. "Privacy" shall mean reasonable protection from intrusive visual observation.

11. Scale. "Scale" shall mean the square footage and lot coverage of a residence and ancillary structures.

12. Shall and May. "Shall" is mandatory; and "May" is permissive.

13. Structure. "Structure" shall mean anything constructed or built, any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which is located on or on top of the ground on a parcel of land utilized for residential purposes, excluding antennas, skylights, solar panels, and similar structures not involving the construction of habitable area.

14. Style. "Style" shall mean design elements which consist of, but are not limited to:

(a) Facade treatments.

(b) Height of structure.

(c) Open space between structures.

(d) Roof design.

(e) The apparent bulk or mass of the structure.

(f) Number of stories.

15. View. On the Palos Verdes Peninsula, it is quite common to have a near view and a far view because of the nature of many of the hills on the peninsula.

A near view is defined as a scene located on the Peninsula, including, but not limited to, a valley, ravine, equestrian trail, pastoral environment, or any natural setting.

A far view is defined as a scene located off the Peninsula including, but not limited to, the ocean, Los Angeles basin, city lights at night, harbor, Vincent Thomas Bridge, shore line, or offshore islands.

View shall not include vacant land that is developable under the City Code, distant mountain areas not normally visible, nor the sky, either above distant mountain areas or above the height of offshore islands.

View may extend in any horizontal direction (360 degrees of horizontal arc) and shall be considered as a single view even if broken into segments by foliage, structures or other interference.

16. Viewing Area. "Viewing area" shall be that area of the structure (excluding bathrooms, hallways, garages, or closets) or lot (excluding the setback areas) where the owner and City determine the best and most important view exists. The finished floor elevation of any viewing area must be at or above existing grade adjacent to the exterior wall of the part of the building nearest to said viewing area. The determination shall be made by balancing the nature of the view to be protected and the importance of the area of the structure or lot from where the view is taken. Once finally determined for a particular application, the viewing area may not be changed for a subsequent application. In the event the City and the owner cannot agree on the viewing area, the decision of the City shall control. A property owner may appeal the determination of viewing area. In such event the decision on viewing area will be made by the body making the final decision on the application. A property owner may reserve his or her right to dispute the decision on viewing area for a subsequent application without disputing the decision on a pending application by filing a statement to that effect indicating the viewing area the property owner believes to be more appropriate. Said statement shall be filed with the City prior to consideration of the pending application by the City.

17. View Restoration Committee. The "View Restoration Committee" is a committee appointed by the City Council to consider applications for view restoration permits. The terms and qualifications of office shall be as established by the City Council. The Committee shall consist of seven members and three alternates, representing as diverse a geographical mix of members and alternates as is practical. The View Restoration Committee shall draft regulations and policies to guide the actions of the Committee, which shall be binding after approval by the City Council. In the event the workload of the View Restoration Committee declines to an extent deemed by the City Council to make the continuation of the View Restoration Committee impractical, the City Council shall disband the View Restoration Committee and transfer its work to the Planning Commission.

B. REGULATIONS

1. Bunding Height. Any individual or persons desiring to build a structure or an addition to an existing structure exceeding sixteen feet in height may apply for a Height Variation Permit, which, if granted pursuant to the procedures contained herein, will permit said individual to build a structure not exceeding twenty-six feet in height, except as provided in section B.1.(d), or such lower height as is approved by the City, measured as follows:

(a) For lots which slope uphill from the street of access, the height shall be measured from the existing grade at the highest point on the lot to be covered by the structure.

(b) For lots sloping downhill from the street of access, the height shall be measured from the average elevation of the property line abutting the street of access to the ridge line or the highest point of the structure.

(c) For lots sloping in the same direction as the street of access, lots with a building pad at a different level than the street, or lot configuration not previously discussed, the height shall be measured from existing grade at the highest elevation covered by the structure to the ridge line or highest point of the structure.

(d) For sloping lots, a structure which steps with the slope of the lot will be allowed; however, no portion of the structure shall exceed thirty (30) feet in height when measured from the point where the lowest foundation or slab meets the ground to the ridge line or high point of the structure. The thirty (30) foot height shall not exceed a horizontally projected sixteen (16) foot height line (from the high point of the uphill step of the structure).

2. Setbacks for Sloping Lots. On lots sloping uphill from the street level where the height of a structure is in excess of 16 feet above the point where the foundation or slab meets the ground, areas in excess of said height shall be set back an additional foot from the property line adjacent to the lowest foundation for every foot of height in excess of 16 feet above the point where the foundation or slab meets the ground.

3. Foliage Obstruction. No person shall impair a view from a viewing area of a lot by permitting foliage to grow to a height exceeding the height determined by the View Restoration Committee through issuance of a view restoration permit under section C.2. or, if no permit has been issued, the lesser of, (a) the ridge line of the primary structure on the property, or (b) 16 feet. If foliage on the property already exceeds subsections (a) and (b) on the effective date of this Section as approved by the voters on November 7, 1989, and impairs a view from a viewing area of a lot, then notwithstanding whether any person has sought or obtained issuance of a view restoration permit the owner shall not let the foliage exceed the height existing on said effective date.

4. Removal of Foliage as Condition of Permit Issuance. The City shall issue no conditional use permit, variance, height variation, building permit or other entitlement to construct a structure, or to add livable area to a structure on a parcel utilized for residential purposes, unless the owner removes all foliage on said lot exceeding 16 feet in height, or the ridge line of the primary structure, whichever is lower, that impairs a view from the viewing area of another parcel. The owner of the property is responsible for maintaining the foliage so that

the views remain unimpaired. This requirement shall not apply where removal of the foliage would constitute an unreasonable invasion of the privacy of the occupants of the property on which the foliage exists and there is no method by which the property owner can create such privacy through some other means allowed within the Development Code that does not impair a view from a viewing area of another property. The initial decision on the amount of foliage removal required or the reasonable degree of privacy to be maintained shall be made by the Director, the Planning Commission or the City Council, as appropriate for the entitlement in question. A decision by the Director on either of these matters may be appealed to the Planning Commission, and any decision of the Planning Commission may be appealed to the City Council.

C. PROCEDURES AND REQUIREMENTS

1. Preservation of views where structures are involved.

(a) Any person proposing to construct a structure above 16 feet shall submit a height variation permit application to the City. The applicant shall take reasonable steps established by the City Council to consult with owners of property located within 500 feet. The applicant shall obtain and submit with the application the signatures of the persons with whom the applicant consulted. Where a homeowners' association exists in the neighborhood affected and has provided written notice to the Director of its desire to be notified of height variation applications, the applicant shall mail a letter to the association requesting their position on the application. A copy of this letter and the response of the association, if any, shall be submitted with the application. A fee shall be charged for the application as established by resolution of the City Council.

(b) The City shall, by written notice, notify property owners within a five hundred (500) foot radius and the affected homeowners' associations, if any, of the application and inform them that any objections to the proposed construction must be submitted to the City within thirty (30) days of the date of the notice.

(c) The applicant shall construct on the site at the applicant's expense as a visual aid a temporary frame of the proposed structure.

(d) An application to build to a maximum height permitted in section B.1. may be granted, with or without conditions, if the Director finds as follows:

(1) The applicant has complied with the early neighbor consultation process established by the City.

(2) The structure does not significantly impair a view from public property (parks, major thoroughfares, bike ways, walkways, equestrian trails) which has been identified in the City's General Plan, Coastal Specific Plan or City designated viewing areas.

(3) The proposed structure is not located on a ridge or a promontory.

(4) The structure is designed and situated in such a manner as to minimize impairment of a view.

(5) There is no significant cumulative view impairment caused by granting the application. Cumulative view impairment shall be determined by: (a)

Considering the amount of view impairment caused by the proposed structure, and (b) Considering the amount of view impairment that would be caused by the construction on other parcels of structures similar to the proposed structure.

(6) The proposed structure, when considered exclusive of existing foliage, does not significantly impair a view from the viewing area of another parcel located in a portion of a structure which was constructed without a height variation or variance, or which would not have required a height variation or variance when originally constructed had this Section as approved by the voters on November 7, 1989, been in effect at the time the structure was constructed.

(7) The proposed structure complies with all other code requirements.

(8) The proposed structure is compatible with the immediate neighborhood character.

(e) Written notice of the Director's decision shall be sent to all parties who responded to the original notice.

(f) The decision of the Director may be appealed to the Planning Commission by the applicant or any person who responded to the Director prior to Director's decision. The appellant shall pay an appeal fee as established by the City Council.

(g) The Planning Commission shall grant the application and cause a permit to be issued only if it finds that all of the requirements of section C.1.(d) have been met.

(h) Notice of the public hearing shall be mailed thirty (30) days prior to the hearing to property owners within 500 feet of the structure in question as well as any additional property owners previously determined by the City to be affected by the proposal.

(i) The decision of the Planning Commission may be appealed to the City Council by the applicant or any person who commented orally or in writing to the Planning Commission. In order to grant a permit, the City Council must determine that all of the requirements listed in section C.1.(d) have been met.

2. Restoration of Views Where Foliage is a Factor.

(a) Any resident owning a residential structure with a view may file an application with the City for a view restoration permit. The applicant shall file with the application proof that the applicant consulted, or attempted to consult, the property owner whose foliage is in question. The City shall charge a fee for the view restoration permit as the City Council shall establish by resolution.

(b) The application shall be submitted to the View Restoration Committee. Written notice of the time and place for the hearing on the application shall be sent at least thirty (30) days prior to the meeting of the Committee. Committee members shall inspect the site prior to the public hearing. Only View Restoration Committee members who make a site inspection may participate in the public hearing.

(c) In order for a view restoration notice to be issued, the Committee must find:

(1) The applicant has complied with the early neighbor consultation process and has shown proof of cooperation on his/her part to resolve conflicts.

(2) Foliage exceeding sixteen feet or the ridge line of the primary structure, whichever is lower, impairs a view from the applicant's viewing area, whether such foliage is located totally on one property, or when combined with foliage located on more than one property.

(3) The foliage to be removed is located on property, any part of which is less than one thousand (1,000) feet from the applicant's property.

(4) The foliage impairing the view did not exist when the lot from which the view is taken was created.

(5) Removal or trimming of the foliage will not cause an unreasonable infringement of the privacy of the occupants of the property upon which the foliage is located.

(6) For property located within the boundaries of the Miraleste Recreation & Park District, the Committee shall also find that removal or trimming of the foliage strikes a reasonable balance between meeting the purposes of section 17.02.040 set forth in Section 1 of the Ordinance approved by the voters on November 7, 1989, and preserving the historical development of the Miraleste Recreation & Park District area with large numbers of trees.

(d) Should the Committee make findings requiring issuance of a view restoration permit, the Director shall send a notice to the property owner to trim, cull, lace or otherwise cause the foliage to be reduced to 16 feet or the ridge line of the primary structure, whichever is lower, or such limit above that height which will restore the view. The property owner will have ninety (90) days to have the foliage removed. The applicant shall be responsible for the expense of the foliage removal only to the extent of the lowest bid amount provided by contractors licensed to do such work in the City of Rancho Palos Verdes and selected by the applicant. If after ninety (90) days the foliage has not been removed, the City of Rancho Palos Verdes will authorize a bonded tree service to trim, cull, lace or remove the identified foliage at the owner's expense. After the initial trimming, culling, lacing or removal of the foliage, the owner, at the owner's expense, shall be responsible for maintaining the foliage so that the view restoration required by the view restoration permit is maintained.

(e) To the extent legally permissible, trees or foliage on property owned by the City or any other governmental entity, except the Miraleste Recreation & Park District, shall be subject to view restoration control, as per the provisions of this section, except the foliage shall be trimmed or removed thirty (30) days following issuance of the Notice.

SECTION 3. SEVERABILITY

If any provision of this Ordinance is held invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be held invalid and shall not be affected thereby.

SECTION 4. EFFECTIVE DATE

This Ordinance shall take effect ten (10) days after the vote on this Ordinance at the November 7, 1989, election is declared by the City Council as provided in Section 4013 of the California Elections Code.

SECTION 5. AMENDMENTS

To the extent the City Council finds that changes to this Ordinance are necessary to effectuate or enhance the purposes of this Ordinance as stated in Section 1, the City Council may amend this Ordinance, following the procedures, including all required public hearings, for amending zoning ordinances. The City Council is empowered to adopt such procedures and rules or regulations as are necessary to implement this Ordinance.

SECTION 6. CONFLICTING ORDINANCES

This Ordinance is inconsistent with and is intended as an alternative to any initiative ordinance on the subject of view preservation. If this Ordinance and any other such ordinance are both passed by a majority voting thereon, then the one with the most affirmative votes shall prevail.

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF PROPOSITION M RANCHO PALOS VERDES COUNCIL OF HOMEOWNERS ASSOCIATIONS AND CITY COUNCIL COOPERATIVE VIEW PRESERVATION AND RESTORATION ORDINANCE

Existing Rancho Palos Verdes Municipal Code provisions permit construction of, or additions to, residences of up to sixteen (16) feet in height, as measured in a specified manner. Existing Municipal Code provisions further allow residential structures of up to thirty (30) feet in height, as measured in a specified manner, upon issuance of a discretionary height variation permit. Before a height variation permit can be issued under existing Municipal Code provisions, the City must determine, among other things, that defined view lots are protected from significant view impairment and that no significant cumulative view impact will result from the height variation.

The proposed measure would modify the existing height variation permit requirements in several ways. The maximum height allowed with a height variation permit would be reduced to twenty six (26) feet. An early neighborhood consultation process would be created to require the person seeking the height variation permit to take reasonable steps to consult with property owners within five hundred (500) feet. If an interested neighborhood homeowners' association exists, the applicant would be required to request its position on the application. The proposed measure would require height variation permits to be supported by a finding that a proposed structure would not significantly impair views from the viewing area of other parcels.

The proposed measure requires height variation permits to be supported by a finding that the proposal is compatible with the immediate neighborhood character, as defined to include the scale of development of surrounding residences, architectural styles and materials, and front yard setbacks.

The proposed measure would add provisions allowing any resident owning a residential structure with a view to file a view restoration application to cause the removal of view impairing foliage from other property. A view restoration committee with seven (7) appointed members and three (3) alternates would be created to decide view restoration matters. Upon findings that the foliage in question is taller than either sixteen (16) feet or the ridgeline of the primary structure, whichever is lower, and that the foliage-bearing property is less than one thousand (1000) feet from the applicant's property, the City would be required to send a notice to the foliage-bearing property owner(s) ordering the trimming or other removal of such view obstructing foliage within ninety (90) days at the applicant's expense. Upon failure to remove such view obstructing foliage within ninety (90) days at the applicant's expense, the City will authorize a bonded tree service to undertake any trimming or removal at the foliage-bearing property owner's expense.

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CITY ATTORNEY'S IMPARTIAL ANALYSIS OF PROPOSITION M
(Continued)

The proposed measure requires a finding that foliage removal will not cause an unreasonable infringement of the privacy of the occupants of the property upon which the foliage is located. The proposed measure also requires a finding that, for property located within the Miraleste Recreation & Park District, the foliage removal strikes a reasonable balance between the measure's purposes and the Miraleste area's historical development with large numbers of trees.

ARIEL PIERRE CALONNE
City Attorney
City of Rancho Palos Verdes

ARGUMENT IN FAVOR OF PROPOSITION M

The City of Rancho Palos Verdes and the Council of Homeowners Associations have **COOPERATIVELY DRAFTED THIS ORDINANCE** and urge its passage to achieve the following purposes:

1. Insure the development of any parcel of land or addition to a structure occurs in a manner that maintains neighborhood compatibility.
2. Protect, enhance, perpetuate, and restore views available to residents and visitors to our City. These views provide unique and irreplaceable assets to the Community.
3. Define and protect visual resources which can be obscured by construction or plant growth.
4. Restore and preserve views by requiring the pruning or removal of foliage or tree growth which alone or in conjunction with construction obstructs views.

The widespread concern for the loss of valuable views and the desire for protection and restoration of those views has resulted in a **COOPERATIVE EFFORT BETWEEN THE CITY AND HOMEOWNERS** to develop this ordinance.

THIS ORDINANCE IS:

A cooperative effort between the Council of Homeowners Associations and the City Council

Supported by homeowner associations

Reasoned and balanced

Legally defensible

Unanimously approved by the Rancho Palos Verdes City Council

Endorsed by the Rancho Palos Verdes Council of Homeowners Associations

THIS ORDINANCE WILL:

Establish permanent view protection

Encourage neighborhood cooperation

Protect the legal rights of all parties

Provide for the orderly evolution of established neighborhoods

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ARGUMENT IN FAVOR OF PROPOSITION M (Continued)

Reduce the maximum height of new residential construction

Establish a View Restoration Committee to resolve disputes resulting views lost to foliage growth

Provide equity for all sides

Give the community the tools to achieve these goals. Vote YES on Proposition M.

WARREN J. SWEETNAM – President,
RPV Council of Homeowners Associations

STEPHEN PERESTAM – Seaview Representative
to RPV Council of Homeowners Associations

EUGENE B. VEEK – President,
El Prado Estates Homeowners Association

JOHN C. McTAGGART – Mayor Pro Tem,
RPV City Council

MELVIN W. HUGHES – Councilman,
RPV City Council

NO ARGUMENT AGAINST PROPOSITION M WAS SUBMITTED