

Draft of Revised Regulation

3. **Trees Obstructing Views, Sunlight or Air Circulation on Private Property.** Trees and views both provide significant psychological and tangible benefits for property owners and are essential to the character of our Port Ludlow community. However at times owners may come into conflict with each other. This regulation is written in recognition of the importance of scenic resources, views, trees, drainage and sunlight to properties and is intended to provide a fair mechanism for resolving issues relating to trees and views (as defined below) of LMC property owners.

This regulation applies only to those trees that are impeding the view, obstructing sunlight and/or air circulation of a neighboring property. Further, this regulation applies only to developed lots. A request to remove or alter trees or vegetation on an undeveloped lot can only be made by the owner of that lot.

The ACC recognizes that LMC regulations and rulings are subordinate to the Jefferson County Critical Area Ordinance and the State of Washington Shoreline Management Act and will inform the parties of this fact.

a. **Exempted Trees.** Since the first regulation ever written regarding trees impacting views in LMC was adopted in January of 1984, all trees whose age antedates the 1984 regulation shall be exempted from this regulation. It may be necessary to determine the age of the tree(s) in question by core sampling.

b. **Tree Obstruction.** All trees on private property unless exempted must be maintained so they do not unreasonably obstruct the view, sunlight or air circulation from a neighboring property. An obstruction can be resolved by windowing, wind thinning, topping to roofline height or complete removal. The exception to this restriction is if the tree(s) are classified as a “living fence” as defined in Regulation II, Article II (16) which must be maintained at a height not to exceed eight (8) feet.

c. Steps for **Obstruction Relief.**

i. The initial step in the process is for the complainant to make all reasonable efforts to find a voluntary solution with their neighbor. Both parties are urged to approach the discussion with rationality, reason and respect.

ii. If after exhausting all reasonable approaches as neighbors the obstruction is still unresolved, the complainant is required, with the voluntary concurrence of the tree owner, to seek the services of the Peninsula Dispute Resolution Center.

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iii. After all efforts to mediate a resolution of the unreasonable obstruction through the Peninsula Dispute Resolution Center have been exhausted a property owner who desires to take advantage of the provisions of this regulation to resolve the conflict between trees and view, sunlight or air circulation obstructions, shall submit a written description to the ACC stating with particularity the manner in which the view, sunlight or air circulation from her/his property is being unreasonably obstructed by the growth of one or more trees on the neighboring property. The complainant shall deposit with the LMC \$500.00 which shall be refunded in any amount not used, against the consulting expenses incurred by the ACC for arborists, foresters, geotechnical engineers, or other consultants. The complainant shall agree in writing to pay in full an additional amount he/she determines to be reasonable for such expenses.

iv. Upon receipt of the written description and deposit referred to in paragraph iii above, the ACC shall place the matter on the agenda at its next meeting. The ACC will render a decision on the matter within 30 days after that meeting unless that time period needs to be extended for good cause. ACC representatives shall visit the site of the complainant to gain a full and clear understanding of the issue. ACC representatives shall also attempt to visit the site of the tree owner. The decision will be based on, among other things, considerations of the amount of the view, sunlight or air circulation obstructed, drainage issues (soil structure, degree of slope and root system), the extent of the obstruction that existed when the complainant took possession of the property, and if deemed necessary, the opinions of professional consultants, including but not limited to, the Port Ludlow Drainage District. The ACC shall also determine the appropriate allocation of costs between the complainant and the owner. If the ACC determines that the entire costs should be borne by the owner, the owner may also be required to replace the complainant's initial deposited fee.

v., Unless it has been determined that the tree owner must pay 100% of the costs, the tree owner shall obtain at least two bids from licensed, bonded and insured tree service companies to have the prescribed work done, and shall present all bids to the complainant within 15 business days after the decision of the ACC becomes final. Within 15 business days after presentation of the bids, the complainant shall deposit with the LMC her/his proportionate share of the amount of the lowest bid. Failure by a complainant to deposit with the LMC the full amount required by the ACC within the 15 business days required shall constitute a withdrawal and abandonment of the claim. The tree owner shall, at her/his sole discretion, choose the company by which she/he wishes the work done and shall order the work done within 30 days after LMC receives the complainant's deposit or such other period of time as the ACC may determine to be reasonable and appropriate. The tree owner shall pay the difference

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between the amount deposited by the complainant and the bid amount of the company she/he has chosen. The ordered work shall be done by a licensed, bonded and insured tree service under the sole discretion and control of the tree owner. However, nothing in this section shall prohibit the tree owner from doing the work herself/himself.

d. **Pruning.** Once a tree or “living fence” has been brought into compliance with regard to these tree height regulations the necessary regular pruning required to maintain the tree height requirements does not need to be expressly approved by the ACC.

e. **Replacement Trees.** In order to maintain an environment where tree removal or tree topping does not negatively affect the drainage issues for the community at large, the ACC may require the replacement of the removed or topped tree(s) with new vegetation. A suggested list of trees is available at the LMC office. Replacement costs shall be shared according to the same allocation as the tree cutting.

f. **Debris Clean-up.** All debris resulting from approved request shall be disposed of within 2 months. Burning of yard debris is permitted only under Regulation I, Article I, 10 and is subject to Jefferson County and local Fire Department permitting process.

g. **Definitions**

View. A view of Puget Sound, Hood Canal, Port Ludlow Bay, Cascade Mountains, Olympic Mountains or a distant territorial view.

Fence. A fence shall be any barrier which is naturally grown or constructed. See paragraph 16.

Pruning and Limbing. “Pruning” and “limbing” are general terms for removing selected limbs for a tree in order to provide a relatively unobstructed view through a part of the tree canopy.

Windowing. “Windowing” is a term for the removal of selected limbs to provide a view window through the foliage.

Thinning. “Thinning” implies that selected limbs may be removed to allow a partial or filtered view through the canopy.

Topping. “Topping” implies that the upper trunk may be pruned or removed.

Cutting/Removal. The term “cutting” or “removal” implies that the tree may be cut at or near the base of the tree.

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