

LMC OPERATIONS COMMITTEE GUIDELINES
for
EVALUATION and ENFORCEMENT of
LMC Regulation I, Article I, Section 9
(Trees, Shrubs and Views)

(Approved by LMC Board of Trustees: March 12, 2005)

Introduction

This document provides guidelines for the LMC Operations Committee in the enforcement of LMC Regulation I, Article I, Section 9, “Trees, Shrubs, and Views.” It also provides written guidelines to the LMC members on the process used by the LMC Operations Committee in the enforcement of Regulation I, Article I, Section 9. These guidelines do not address the loss of view due to Greenbelt or other common area property owned by the LMC.

The North Bay region of Port Ludlow sits on the hillside overlooking the Puget Sound and the Ludlow Bay harbor. Both water views and trees are important to the residents of Port Ludlow as may be noted by requirements in the Regulations relating to “Trees, Shrubs and Views.”

Views have been an integral part of the North Bay community of Port Ludlow since the original development concept was published in 1967. Numerous references were made, such as...“Residential development, particularly single family housing, has been sited on the steeper, higher parts of the site to maximize view”... “Clearance is carefully planned to preserve views and the forest character...”

Covenants, Conditions, and Restrictions (CC&Rs) for the North Bay first appeared in 1968 and were revised in 1984 to include a reference to trees and their management. The current Regulation, while modified, highlights the policy that...“Views and sunlight are important to owners...”

Regulation I, Article I, Section 9

“Trees, Shrubs and Views---Views and sunlight are important to owners and occupants for reasons of enjoyment and property value; so, when landscaping their own lots, owners and occupants should select varieties of shrubs and trees which will not grow higher than the roof height limit set for their lots by the ACC. Hedges, shrubs and rows of trees planted by owners or occupants along property lines shall be pruned so as not to exceed a height of eight feet. A scattering of tall evergreens is encouraged, however, to enhance the beauty of the neighborhood as long as views from neighboring lots are not unduly impaired. Trees of six inches or more breast high diameter may not be cut, therefore, without authorization pursuant to Regulation II, Article I, Paragraph 2. When owners or occupants of developed or undeveloped lots elect to prune or remove hedges, shrubs or other brush, or trees from their lots, trunks and branches shall be removed or burned within a reasonable time not to exceed six months. If the trunks, branches, or other debris are gathered into a burn pile, the pile shall be removed or burned within two months. “

Responsibilities

Owner: When individuals purchase property in the North Bay of Port Ludlow they are required to fully comply with the LMC Governing Documents. The owner therefore has a prime responsibility to assure that their property is in compliance with the requirements of all of the governing documents.

LMC Operations Committee: The LMC Operations Committee is responsible for monitoring compliance with Regulation I, Article I.

Ludlow Maintenance Commission Board of Trustees: The LMC Board of Trustees (LMC Board) is responsible for ensuring that the LMC Operations Committee carries out its duties and responsibilities in accordance with the LMC governing documents and in hearing and making final determinations on any appeal of the LMC Operations Committee decisions.

Institution of Enforcement Proceedings

LMC Regulation I, Article II, Section 2 specifies that in the event of a violation of the terms of the LMC Regulation I any owner of any lot subject to the Restrictive Covenants of Port Ludlow Nos. 1, 2, 3, 4, 5, 6, 7, Ludlow Bay Village, and Oak Bay Short Plat or the LMC may institute enforcement proceedings as provided for in Regulation V.

For purposes of enforcement of Regulation I, Article I, Section 9, the LMC Operations Committee will initiate review and enforcement proceedings only after receipt of a detailed written letter directed to the LMC Operations Committee from any owner described above.

Guidelines for Evaluation and Enforcement

The following guidelines will be used to determine if a violation of Regulation I, Article I, Section 9 exists and, if so, the corrective action necessary to bring the violator's property into compliance. These guidelines can also be used by owners who wish to resolve problems relating to trees and views, without referral to the LMC Operations Committee.

Each request for investigation by the LMC Operations Committee will be considered on a case-by-case basis. Any decision will be based on the reasonable judgment of the LMC Operations Committee with consideration given to the following general principles.

1. In determining whether a view or sunlight is unduly impaired, the committee may consider several factors, which include, but are not limited to:
 - a. The extent to which the view or sunlight is allegedly obstructed, expressed as a percentage of total view;
 - b. The extent to which the tree(s) cause shadows or reduce air circulation;
 - c. The extent to which the tree(s) affect the real property value of the complainant's property;
 - d. The extent to which the tree(s) provide visual screening or soil stability (as measured by soil structure, degree of slope and extent of root system);
 - e. The extent to which the tree(s) affect neighboring vegetation;

- f. The extent to which the tree(s) materially affect the enjoyment of real property by all parties.
2. A scattering of evergreens will be deemed acceptable and not unduly impairing a view from neighboring lots if the evergreens' location provides a corridor or corridors of views from the main living level of nearby owner's lots.
3. Topping of Conifer trees is strongly discouraged as it may affect the health of the tree. It will be considered on a case-by-case basis if the owner prefers to top rather than remove a tree. The unsightly looks of a topped tree(s) is not an exemption from maintaining tree(s).
4. Limbing or thinning of evergreens is an acceptable means of providing a view corridor. Under no conditions shall limbing and thinning of trees exceed 50% of the tree height.
5. Deciduous trees contained within the property lines will be required to be maintained at or below roof height, unless special circumstances exist such as drainage or high bank stability.
6. It is recognized that surface water runoff, subterranean drainage, and slope stability are important issues. Each of these items will be given consideration by the LMC Operations Committee in determining compliance. If dispute shall arise as to the relevance of any of these qualifying conditions, then the Port Ludlow Drainage District and/or the Jefferson County Codes will be consulted. If dispute still exists, the owner may consult a professional and licensed civil engineering firm.
7. No trees will be removed if a professional and licensed civil engineering firm concludes that the removal of tree(s) would (1) create a significant drainage problem or worsen an existing problem or (2) create a stability problem with any high bank region. The burden of this analysis rests with the owner where the tree exists. In cases where drainage or bank stability problems preclude tree removal, consideration shall be given to liming, topping or selective thinning of the tree.
8. No action will be taken in Environmentally Sensitive Areas without the concurrence of Jefferson County Community Development Department. Environmentally Sensitive Areas are defined in the Jefferson County Uniform Development Code.
9. For purposes of enforcement of this regulation, historic trees are generally not to be removed from property unless the affected owner is in agreement with its removal or if it represents a hazard to an adjacent home. Historic trees may be limbed or thinned in order to provide a view corridor.
10. Hedges and rows of trees planted along property lines as defined herein shall be maintained at a height not exceeding eight (8) feet, except in cases of unusual topography.
11. In making the committee's decision, the personal attachment of a party to a particular tree shall not be compelling nor shall a minor obstruction of a view or sunlight be decisive.
12. Nothing in these guidelines shall be interpreted as requiring the Operations Committee or LMC board to hire independent experts in reaching their decision.

Enforcement Procedure

The LMC Board strongly encourages that tree and view issues are resolved between neighbors in an amicable and equitable manner. The CC&Rs state that all owners in the community have a responsibility to themselves and to the community to maintain their properties in compliance so all can enjoy Port Ludlow and the wonderful views that are provided to us.

The offending owner will normally be required to pay the costs to remedy any violation of the Regulation. However, owners are encouraged to share costs where view restoration is extensive and may improve views beyond the requirements of these guidelines.

The following steps will be taken in enforcement of Regulation I, Article I, Section 9:

1. If an owner subject to the CC&Rs suspects a violation, he/she shall bring the apparent violation to the LMC Operations Committee in the form of a detailed written letter.
2. The LMC Operations Committee will acknowledge receipt of the letter no later than 14 calendar days after the next scheduled committee meeting. The LMC Operations Committee will review the alleged violation and, within one month of sending the acknowledgement letter, make a determination as to whether a violation exists.
3. If the determination of the LMC Operations Committee is that a violation has occurred, a member of the LMC Operations Committee will, if possible, contact the violator in person or by phone and advise him/her of the violation and request compliance and corrective action. The specific corrective action should be determined jointly, with the owner, considering the evaluation criteria. The general time period for review with the owner shall be sixty (60) days. In some cases, if the owner is absent from the residence for a significant period of time, the review with the owner may exceed the 60 day period. All parties will be notified, in writing, of the specific corrective actions to be taken.
4. If agreement cannot be reached with respect to compliance, or if the violator fails to comply as agreed, the LMC Operations Committee will write the violator a letter that (1) summarizes the position of both sides and states a time limit for compliance, (2) notifies the violator that the matter is being referred to the LMC Board, (3) informs the violator of the specific corrective action required to provide compliance and (4) explains to the violator his/her rights of appeal and transmits to the violator any appeal form that may be required. The committee will make a report of the unresolved violation to the LMC Board.
5. If the violator wishes to appeal the determination of the LMC Operations Committee to the LMC Board, such action must be taken within sixty (60) days after the date of the committee letter in (4.) above. The appeal must be in writing and must be delivered in person or deposited in the U. S. Mail addressed to the President or Secretary of the LMC Board.
6. The LMC Board will meet and act on the appeal within 60 days after delivery of the appeal to the LMC Board. The LMC Board shall notify the appellant and the committee of the place and time the LMC Board's meeting will be held.

7. Before the meeting, and at its discretion, the LMC Board may appoint a Review Board composed of a chairperson and two other owners not involved in the request. This Board, if appointed, will meet with the appellant, other affected owners and the LMC Operations Committee. The Board will hear factual and legal reasons from the appellant and LMC Operations Committee on why the decision of the LMC Operations Committee should be upheld reversed or modified. The Board shall determine the facts of the matter and, if so directed by the LMC Board, make an attempt to arrive at a solution acceptable to all parties. The Review Board will report to the LMC Board whether it has been able to reach a resolution agreeable to all parties and if not, its recommendation of a solution.
8. The LMC Board may elect to meet directly to hear the appeal. In that case the appellant and the LMC Operations Committee shall each present factual and legal reasons as to why the decision of the LMC Operations Committee should be upheld, reversed or modified. The LMC Board will then proceed to make a final decision to affirm, reverse, or modify the decision of the LMC Operations Committee. A copy of the LMC Board's final decision shall be delivered in person to the appellant or deposited in the U. S. Mail addressed to that appellant's address shown on the records of the LMC Board.
9. The LMC Board may elect to take legal action should the appellant refuse to comply with a final decision of the Board of Trustees within the described time limits set by the LMC Board.

Definitions

The following definitions are provided to assist in the interpretation and enforcement of Regulation I, Article I, Section 9:

OWNER: Individual(s) having legal ownership of a developed lot with an approved house or an undeveloped lot which is subject to the CC&Rs of Port Ludlow Nos. 1, 2, 3, 4, 5, 6, 7, Ludlow Bay Village, and Oak Bay Short Plat.

VIEW: A vista of Puget Sound, Admiralty Inlet, Hood Canal, Ludlow Bay, Cascade Mountains, and/or the Olympic Mountains.

SCATTERING OF EVERGREENS: A random distribution of Conifers whose location provides a corridor or corridors of views from the main living level of nearby owner's lots. Evergreens shall be deemed Conifers that are of native species to include Alaskan Redcedar, Douglas Fir, Grand Fir, Native Spruce and Hemlock. Holly, Rhododendrons, and Pine, not native, are not included as evergreens.

ALONG PROPERTY LINES: That area which is parallel to the actual property line within a reasonable distance from that line.

HISTORIC TREE: Native species Conifers that are evaluated as being well established by 1968.