

LAGUNA AUDUBON II MASTER ASSOCIATION

TREE TRIMMING, RELOCATION AND REMOVAL POLICY

ADOPTED MARCH 11, 2009

One of the objectives of the Association is to maintain landscaping throughout the community that is composed of a variety of trees, shrubs, and ground cover; while, at the same time, obtaining and spending necessary funding in a fiscally responsible manner. It is the Association's goal to balance its desire to enhance the landscape and stabilize the grounds of the common areas, and yet not allow the trees and shrubs to unreasonably encroach upon the properties of the Homeowners. The trees in the common area are an asset of the community for the benefit of every Homeowner.

The Laguna Audubon II Master Association ("Association"), specifically through the Board of Directors, has the authority to manage and maintain the common area, including the landscaping and slopes throughout the community. The CC&Rs empower the Board of Directors in this regard in Article VII, Sections 1, 3 (a), (f), (h), (i).

The Association does not, and has not, agreed to or guaranteed a Homeowner a view from their Lot or Condominium from trees, shrubs or plant material located in the Association common area.

According to the CC&Rs, Article III, Section 14 - View Obstructions:

"Each Owner by accepting a deed to a Lot hereby acknowledges that any construction or installation by Declarant may impair the view of such Owner and hereby consents to such impairment."

Thus, the original landscaping (including, but not limited to, trees and shrubs) or subsequent replacements or additions, is not subject to be maintained for the purpose of view preservation, regardless of whether a view was implied or stated by the seller at time of purchase or if landscaping matured after the time of purchase.

Although, according to the CC&Rs, Article III, Section 14 - View Obstructions:

"...the Architectural Control Committee shall ensure that the vegetation on the Common Area maintained by the Master Association is cut at such intervals so that the view of any Owner is not unreasonably obstructed."

Thus, the Association has the responsibility and authority to determine if the view of any Homeowner is being *unreasonably* obstructed by the common area trees and/or shrubs. The Association shall make a continuing effort to trim and otherwise maintain common area trees and shrubs in such a manner as to lessen the impact on views, while at the same time allowing them to grow to satisfy the original design intent.

With regard to any discussions relating to "view" herein, "view" is defined as that which exists across any lot line between the Homeowner's property and the Association's property, and the prolongations of the Homeowner's side lot line. In no event shall it include any side view that is directly behind another Homeowner's property.

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As a procedural matter, the responsibility for initial review and recommendation on all requests described in this document will be conveyed to the Association's Landscape Committee, so long as it is a viable entity. In the event the Landscape Committee is unable to carry out these duties, they shall revert to the Architectural Committee.

I. Maintenance

In order to conduct the obligated regular maintenance in a practical and reasonable fashion, the Association plans to obtain and continuously maintain a tree trimming schedule consistent with arboricultural industry standards as recommended by an arborist selected by the Association. Such tree trimming schedule will include the inventory of the trees throughout the common area and a guideline of the recommended season and frequency of trimming by tree species. As is the case with any other expense of the Association, the tree trimming schedule is subject to review and consideration of the Board of Directors to ensure that sufficient funds are available and such expense is incurred in a fiscally responsible manner.

The following policy shall apply to routine maintenance issues:

- a) In the event that a Homeowner has a concern with regard to a view obstruction or encroachment upon the Homeowner's property (intruding roots, overhanging limbs or dropping foliage), the Homeowner shall submit a written request along with pictures clearly depicting the Homeowner's concern(s) and location of such concern(s) to the Association's Property Management Company.
- b) The Association's Property Management Company will then determine when the concern(s) is/are scheduled to be addressed per the maintenance schedule, and will advise the Homeowner accordingly. If the concern is scheduled to be addressed within six (6) months of the written request, the Association's Property Management Company will forward a copy of the request to the Association's contractor for reference during the scheduled tree trimming maintenance. If the concern is scheduled to be addressed after six (6) months of the written request, the Association's Property Management will forward a copy of the request to the Landscape Committee for further review.
- c) The Landscape Committee may request that an appointment be scheduled at its discretion for further review before providing a recommendation for the Board of Directors. The Board of Directors will then make a final decision and the Homeowner will be advised accordingly.

II. Damaged and Dead or Diseased Trees

Occasionally, trees may damage fences, walkways and other landscape improvements, or may be declared as terminally ill or deceased by an arborist. In such instances, it may be necessary to remove the tree in the best interest of Association. If a tree is removed, the Association may determine whether or not a replacement tree is necessary.

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The following policy shall apply to such circumstances:

- a) In the event that a Homeowner has a concern with regard to a tree that may potentially damage fences, walkways and other landscape improvements or may be terminally ill or deceased as a result of natural causes, the Homeowner shall notify the Association's Property Management Company, who will then contact the Association's Landscape Contractor for further review and advise the Homeowner accordingly.
- b) The Association's Landscape Contractor may request that an appointment be scheduled at its discretion before providing a recommendation for the Board of Directors. The Board of Directors will then make a final decision and the Homeowner will be advised accordingly.
- c) The cost of removing trees or shrubs as described under this section shall be borne by the Association.

III. Landscape Modifications for Benefit of Homeowner

Homeowners are not permitted to install or remove trees or shrubs in common areas. However, instances may arise where a Homeowner requests, at the Homeowner's own expense, to modify the common area landscape to have additional trees or shrubs planted in the common area to (a) enhance the landscape adjacent to the Homeowner's property, (b) reduce the view of neighboring homes or other structures from the Homeowner's property or (c) reduce the noise from neighboring properties. Additionally, instances may arise where a Homeowner requests, at the Homeowner's own expense, to modify the common area landscape to remove trees or shrubs planted in the common area to enhance a view from the Homeowner's Property.

The following policy shall apply to such circumstances:

- a) In the event that a Homeowner wishes to have additional trees or shrubs planted in the Common area, the Homeowner shall submit a written request to the Association's Property Management Company stating the reason the Homeowner is requesting new trees or shrubs to be planted in the common area. Included with the request shall be a diagram and pictures detailing all trees in the surrounding area with indications of the tree(s) or shrub(s) the Homeowner is requesting and the proposed location(s) for the new tree(s) and/or shrub(s).
- b) In the event that a Homeowner wishes to have trees or shrubs removed from the common area, the Homeowner shall submit a written request to the Association's Property Management Company stating the reason the Homeowner is requesting to have trees or shrubs removed from the common area. Included with the request shall be a diagram and pictures detailing all trees in the surrounding area with indications of the tree(s) or shrub(s) the Homeowner is requesting to be removed.

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- c) The Homeowner shall submit with the letter an impact statement signed by the neighbors living either directly above or below, as well as the adjacent neighbors on either side. The impact statement must evidence that the neighbors agree with the request for new trees or shrubs or removal of existing trees or shrubs.
- d) The Association's Property Management will forward a copy of the request to the Landscape Committee for review. The Landscape Committee may request that an appointment be scheduled at its discretion for further review before providing a recommendation for the Board of Directors. The Board of Directors will then make a final decision and the Homeowner will be advised accordingly.
- e) The Board of Directors reserves the right to modify the request at its discretion, which includes adding replacement plant material such as replacement trees and shrubs. If the request is approved (with or without modification), the Association will prepare an agreement, obtain a proposal from its Landscape Contractor and advise the Homeowner accordingly.
- f) The cost of any additional trees and shrubs to be planted shall be paid by the homeowner(s) who requested the additions. In the event of the removal of a tree under this section, it will be the responsibility of the Homeowner to pay the cost of removal and for a replacement tree of similar type and size to be planted elsewhere in the community at the discretion of the Landscape Committee, as approved by the Board of Directors.
- g) If the Homeowner accepts and executes the agreement, the Association will proceed with the work provided that the Homeowner remits payment in advance of said work, and the work is contracted by the Association with its Landscape Contractor.
- h) A Homeowner may submit a maximum of one (1) request to modify the Common Area landscape in any twelve (12) month period.
- i) With regard to "diagrams" as required to accompany the above described requests to modify landscaping, they must include as a minimum the following: The location of all fences, drains, v-ditches, impacted neighbors' property lines and existing landscaping. Distances, in feet, shall be indicated between the required items, as well as the approximate height and drip line of existing trees, and the difference in elevation between slopes, when applicable. In addition, the Requester may, if Paragraph III e) above applies, indicate where the replacement planting would be acceptable.