

HOMEOWNER PROCESS FOR REQUESTING TREES TO BE TRIMMED OR REMOVED TO ENHANCE VIEWS

Purpose of Document: To define a process for a homeowner to make a formal request to LSCA, to have trees trimmed or removed to enhance their views of the city, valley or mountains. The LSCA Board has delegated its duties to Management to oversee this process. It should be understood that a request using this process may be accepted or denied, depending on the unique facts and circumstances, and LSCA and its Management shall not be liable to any homeowner or third party for any claims or damages arising out of or related to implementing this policy.

Scope: This process will typically be used for requesting tree trimming or removal in the “natural” Common Areas of the LSCA. However, in some cases, this process may be used to address (a) trees in the “maintained” Common Areas or (b) even trees on other homeowners’ properties which are in violation of ARC Guidelines regarding tree height limits. Management and the Board of Directors have already adopted a policy to trim/remove trees to address “fire control.” This process is not defined for fire control, rather only for enhancing views.

Background and Intent: Although there is no right to a view in the LSCA’s governing documents, views are a unique attribute to Las Sendas. Similarly, there is no right in the LSCA governing documents to utilize the Common Area trees to preserve the privacy of Lots. By adopting this policy, LSCA attempts to balance the desires of owners who would like to have Common Area trees trimmed to enhance their views with the desires of owners who would like to have the trees shielding their Lots trimmed or removed to the minimum extent possible. Requests will be evaluated on their merits and the intent is to treat all homeowners in an equitable and fair manner. With the modified tree policy, homeowners still do not have a “right” to have trees in the Common Areas trimmed/removed for views. What homeowners now have is an option to make a request to Management.

Process: The following is a summary of the process that primarily involves homeowners, Management and possibly the Architectural Review Committee (ARC).

1. **Making the Request:** It is the sole responsibility of a homeowner to make a formal written request to trim/remove trees on a form provided by LSCA. A separate “Homeowner Request Form” must be submitted by the homeowner making the request and will include provisions stating that: (i) LSCA and its Management shall not be liable to any homeowner, resident or other person or party for any damages, claims or injuries arising out of or related to the tree trimming request, approval or performance of the tree trimming or tree removal in accordance with the request; (ii) the homeowner agrees to waive and release LSCA and its Management from all claims or causes of action arising out of or related to the submission, including without limitation, any decision to disapprove the request; and (iii) any tree trimming undertaken by LSCA at the request of a homeowner will be at the sole expense of the requesting homeowner. The following information must be submitted with the request:
 - a. Current picture(s) from the vantage point of the homeowner’s home that support the need for tree trimming or removing to enhance views.
 - b. Clear identification of the specific tree(s) to be trimmed and extent of trimming and/or specific tree(s) to be removed.
 - c. Confirmations in writing from other nearby homeowners, who would reasonably be affected if the requested trees were trimmed/removed, that they either support, have no objections to or oppose the request. This would typically include homeowners on both sides and homeowners either downhill or uphill, depending on the location of the tree(s) to be trimmed/removed. Depending on the situation this could include input from several nearby homeowners.

2. Evaluating the Request: Management will review the request for completeness, accuracy and a determination whether other overriding issues would prevent approving the request. This could include trees in areas over which LSCA has no control (such as 404 Washes or trees on *production* home property); or other issues which are deemed to be clearly not in the best interest of the community as a whole. Management will need to determine if the tree(s) in question are within Common Areas or on homeowner's property. This due diligence will almost always require a Management site visit to verify the information provided and evaluate the request. In evaluating the request, Management's decision will be influenced by the following facts and circumstances. After a site visit, Management may require homeowners be contacted, who in the opinion of Management may be potentially be affected by the request.
 - a. No dissenting neighbors: Assuming no other major issues exist, Management would be predisposed to view this request favorably and grant approval.
 - b. A single or a small minority of dissenting neighbors: Assuming no other major issues exist, Management will apply its judgment in evaluating the request. If the dissenting neighbor(s) has a mitigating option(s) for addressing their concerns, Management will take this into consideration in its evaluation and approval.
 - c. There is a majority of dissenting neighbors: Unless there are extenuating circumstances, Management would be predisposed to view this request negatively and not grant approval.

Management will use its best efforts to evaluate all requests in a non-arbitrary, fair and consistent manner. Management may also consult with the Architectural Review Committee and/or an arborist at any time during the evaluation process. This request process will be facilitated though the use of a Management Checklist.

3. Approving the Request: Management has the sole responsibility to approve or disapprove the submitted request. It is the intent of Management to either approve or disapprove a homeowner's request within a reasonable period of time, which is typically not to exceed 45 days from the time of the request. However, the failure to respond to a request within 45 days shall not be considered an approval of the request. The approval may include all or only a portion of the trees identified by the homeowner. All approvals and disapprovals will be in writing and communicated to the homeowner making the request. Any disapproval must include the reason(s) why the request was denied. If the request is not approved and if the homeowner believes the facts and circumstance have subsequently changed, a new request may be submitted after a six-month period of the initial disapproval.
4. Executing on the Approved Request:
 - a. Common Areas: For approved requests for trees in the Common Areas, it is the sole responsibility of Management to trim/remove the tree(s). Per CC&R's, homeowners are still not allowed to trim/remove trees in the Common Areas. After approval, Management will secure a competitive bid(s) from a vendor(s) of its choice for the approved work. The requesting homeowner can decide if they wish to proceed based on all or a portion of the bid if multiple trees are involved. It is the responsibility of the requesting homeowner to pay for the work to be done in advance of the work commencing. Management will make its best efforts to trim/remove the tree(s) on a timely basis. This may typically be within a three month period from the approval date. This extra time will allow a more efficient and coordinated schedule with multiple tree trimming efforts, as well with other planned fire prevention efforts in the area.

- b. Custom Homeowner Property: For approved requests for trees on *custom* home property, (which are in non-compliance with ARC Guidelines on the maximum 20 feet tree heights), Management will work with the homeowner in violation of the ARC Guidelines to have tree(s) trimmed/removed. As currently is the case, it is the sole responsibility of the homeowner to pay the cost to trim/remove the tree(s) in violation of ARC Guidelines. As is the existing compliance violation procedure, fines will be levied, if the violations are not addressed on a timely basis.