

## HGHOA Tree Management

Texas Law specifies actions property owners may take with respect to unwanted tree limbs or roots intruding from another's property.

**Unwanted tree limbs or tree roots crossing from the tree owner's property into another homeowner's property may be trimmed anywhere at or inside that second homeowner's property line without notice to the tree owner.**

*(Note: the above allows for action but does not require action.)*

Tree encroachment response, unless it also includes a rule violation (see below), is paid for by the homeowner addressing the unwanted intrusion. Communication with the tree owner, although not required, will likely contribute to a positive cooperative relationship.

An important caveat to the above:

**All trimming of another's tree must be conducted in a non-negligent manner.**

If the tree work completed by the non-owner is so excessive that it could reasonably be considered the cause of the future death of the tree (the work is challenged for being done "negligently"), the tree owner can sue the presumed negligent individual for damages. Consulting an arborist if significant tree work is desired is prudent.

*We believe the following is accurate but your specific insurance carrier should be contacted for specifics.*

Damage caused by falling branches/trees are normally covered by the damaged property owner's comprehensive insurance after the deductible is assessed.

If, however, the tree owner is aware of "distress" to his/her tree but has not corrected it, the owner may be liable (damage caused by an owner's tree is paid by the tree owner).

By being part of this homeowner association, all agree to comply with recorded rules and regulations.

*For specific agreements concerning front yard or back yard trees, see the Architectural and Landscaping Rules & Regulations (filed 6/17/2022) Article 3. Section 2. for detailed accountabilities of homeowners.*

One specific rule (applicable to both association-owned and neighbor-owned trees) states that *"trees shall be maintained such that branch contact is never made with the neighbor's house or roof."*

Most likely this excessive tree branch reach issue will first be noticed by the property owner experiencing the branch intrusion. That owner is expected to contact either clubhouse staff or the tree's owner to communicate the tree issue.

Compliance costs associated with routine tree management are borne by the tree owner.

Once a tree owner is notified of either an existing rules violation (= current house contact) or a likely future rules violation due to close-to-house branch reach, the expected response is immediate branch reach correction.

If a common area tree (or tree component) damages a homeowner's property, the Association would be liable for that damage only if it was found negligent in that tree's maintenance (meaning the Association knew the tree was damaged in some way but took no corrective action).

To support the mowing amenity for homeowner front yards, the Association maintains a minimum six-foot (6') under-canopy working space for mowing crews.

If it appears a tree owned by someone else may be dying or a danger, such tree health should be immediately reported to clubhouse staff so that a timely response may be taken. This prompt reporting will minimize the chance of injury or property damage.

### **Specifics concerning Tree Canopy Maintenance of Association-owned Trees**

The Association is responsible for the management of Common Areas, and this includes the routine tree canopy trimming required to maintain an aesthetically pleasing community wide standard appearance of common trees. Scheduled work will be driven by the recommendations of the Association's landscaper or arborist, as well as the requirements for tree maintenance provided in the Association's Architectural and Landscaping Rules and Regulations.

To minimize homeowner assessments, this routine work will be done in project groupings that minimize contractor move-in costs; therefore owners should not expect "spot maintenance" of trees outside of the Association's regularly scheduled program (except for safety or rules violation issues). Work done at these scheduled times might include tree additions or removal (if required). Tree maintenance likely includes branch trimming for tree canopy raising and thinning and to maintain the health and normal (symmetrical) tree canopy appearance.

Some of this tree canopy work will likely need to be performed from private back yard enclosures, so notice (likely no more than one week in advance) will be given so as to perform the tree canopy work in a cost effective manner.

Please note that tree canopy maintenance work does not address a tree's root intrusion onto another's property, general tree canopy reach over a property line, or normal "leaf drop."

Homeowners are free to make tree "management" suggestions (in writing to the clubhouse desk) if desired. These suggestions might cover a full spectrum including addition or deletion of specific trees, or different homeowner suggestions concerning the same tree. Tree team members are charged, however, with maintaining a community wide presentation, and that will likely take precedence.

This updated guideline was ratified by a majority Board vote on 9/11/23.

  
Board Secretary  
**Jim Ireland**

*Previous versions of this guideline were ratified on 9/13/21 and 6/12/23.*