

Newington Community Association Tree and Shrub Maintenance Policy

PURPOSE

The purpose of this policy is to establish a fair and reasonable procedure for determining which trees and shrubs in the common area will receive maintenance. An additional purpose of this policy is to establish who may authorize that maintenance and under what conditions.

AUTHORITY

In accordance with Article VIII, Section 1, paragraphs (a) and (b) of the By-Laws, the Board of Directors is empowered to “adopt and publish rules and regulations governing the use of the common area and facilities” and “exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration”. Under this authority, the Board of Directors has established the following rules for maintenance of trees and shrubs in the common area.

AUTHORITY AND RESPONSIBILITY OF THE COMMUNITY MANAGER AND DESIGNATED BOARD MEMBER

As a result of community inspections or resident communications, either the Community Manager or a designated Board member may authorize maintenance under the following conditions:

Common grounds shrubs are overgrown and/or block sidewalk, steps, mailboxes, signs, parking spaces, etc., or if tree branches are actually touching a resident’s house.

Common grounds trees are dead and are easily visible in general common areas (not in the woods)

Limbs are down on common ground or a common grounds tree is uprooted due to severe weather or other event.

In addition, the Community Manager will work with a professional contractor to determine priorities for removal, pruning, and other maintenance for common grounds trees that have dead branches that are damaging, or are likely to damage, community property or private property, or are deemed unhealthy. The Community Manager will present this list of trees to the Board for approval.

For cases beyond the authority of the Community Manager, a majority vote of the Board will be required to authorize maintenance. When needed, the Community Manager will obtain and submit a professional contractor’s proposal to the Board for approval. This restriction specifically applies to, but is not limited to, cases that meet the following conditions:

1. Request(s) to remove a healthy tree. As certified by a professional contractor, a common grounds tree is healthy but is causing, or is likely to cause, serious damage to community property (e.g., sidewalks, curbs, paths, etc.) or private property.
2. Request(s) to remove a dead or leaning tree in wooded areas

HOMEOWNER RIGHTS AND RESPONSIBILITIES

1. Homeowners are not authorized to perform any form of maintenance on any part of any tree or shrub rooted in common ground *except* on those parts of said plants that may extend over their private property line. For example:

Homeowners have the legal right to prune branches from a tree rooted in common ground where those branches extend over their property line.

Homeowners have the legal right to grind roots from a tree rooted in common ground where those roots extend over their property line.

2. For requests beyond the Community Manager's or Designated Board Member's authority listed above, homeowners may formally petition the Board in writing with regard to any tree/shrub maintenance. Such petition must include the location of the affected trees/shrubs, the work to be done, the reason for doing the work, and a clear photo of the affected trees/shrubs.

Unless the same, or substantially the same, project has been rejected previously by a Board vote within the past three years, the Community Manager will obtain an estimate from a qualified professional (if necessary) and present the project to the Board for a vote. The homeowner shall have the right to address the Board in open meeting and make a case (of no more than five minutes) for this project prior to the vote.

3. Owners may request in writing that the Board approve the removal (or pruning) of trees and/or shrubs at the expense of the owner. The request must include a clear photo of the affected trees/shrubs, a statement of the proposed action, and a signed statement accepting all liability for any damages which may result from this proposed action. The request must also include a statement signed by neighbors within 50 yards of the trees or shrubs in question acknowledging their understanding of and consent to the proposed action. Once all of these conditions are met, the Board will vote on the request, and, depending on the specifics of the request, require that a licensed, insured contractor must be used. The owner is responsible for payment directly to any contractor.

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