

**Rules and Regulations  
for  
Big Hill Property Owners Association, Inc.**

**Maintenance of Trees**

- A. This rule pertains only to trees located in common areas shared by the residents and owners of property in the Big Hill community including roads, designated green space and lots. Excluded are trees located within the owners' property that do not abut another owner's property and private roads. Specifically excluded are Lightening Path, Bear Paw, and Twisted Tree.
- B. For reference, The Big Hill Property Owners' Association will be referred to as The Association.
- C. In North Carolina, if a tree hangs over a neighbor's property, the neighbor can trim the tree back to the property line insuring that the tree is not killed or damaged while trimming.
- D. The law of fallen trees in North Carolina is based largely on the legal theory of negligence. According to principles of negligence, the owner of the property from which the fallen tree originated will be liable **ONLY** if the owner knew that the tree was hazardous, or such hazard was obvious.
  - a. If the affected property owner or The Association notices a hazardous condition, the property owner will be notified in writing of said condition or concern.
  - b. If the property owner does not remedy the situation, the property owner is then liable for damages incurred.
  - c. If a tree is alive and appears to be healthy and is not leaning towards another's property, and the tree falls because of an "Act of God" e.g. hurricane, storm, lightening, etc. then the owner of the lot from which the tree fell is probably not liable for any damage the fallen tree causes.
  - d. If a tree falls from an owner's lot onto The Association's common area or road right-of-way, The Association will notify the owner and clear the obstruction to allow passage. If the road is blocked the Association has the right to remove the tree to allow passage prior to notification. The tree will be cleared or cut back to no further than the road right-of-way line. The debris cleared will be the property of The Association.
  - e. If a tree located on The Association property falls onto an owner's lot and causes damage, liability will depend upon the legal theory of negligence.
  - f. If a tree located on one owner's lot falls on another owner's lot and thus not affecting any common areas or roads, it is not The Association's responsibility.

Reference: Article By: Justin M. Lewis (<http://wardandsmith.com/attorneys/justin-lewis>)

<http://communityassociationmanagement.com/c49-legal-compliance/c57>

**Approved by the Board of Directors – August 2, 2018**