



What can I do when a neighbor's tree branch(s) overhang my property?

This is not intended to be legal advice. For a legal opinion, you will need to contact an attorney.

As a general rule a property owner who trims a tree that encroaches on their property may only trim up to the boundary line. If it is necessary to enter the other property for trimming, permission of that property owner must be obtained before entry, unless the limbs threaten to cause imminent and grave harm.

A property owner cannot cut the entire tree down and cannot destroy the structural integrity or the cosmetic symmetry and appeal of a tree by improper trimming.

The following Washington State law might be helpful in understanding the discussion above:

RCW 64.12.030 - Injury to or removing trees, etc.—Damages.

Whenever any person shall cut down, girdle, or otherwise injure, or carry off any tree, including a Christmas tree as defined in *RCW 76.48.020, timber, or shrub on the land of another person, or on the street or highway in front of any person's house, city or town lot, or cultivated grounds, or on the commons or public grounds of any city or town, or on the street or highway in front thereof, without lawful authority, in an action by the person, city, or town against the person committing the trespasses or any of them, any judgment for the plaintiff shall be for treble the amount of damages claimed or assessed.

The following questions and answers may also be helpful in understanding the above discussion.

They were taken from the following website: <https://realestate.findlaw.com/neighbors/conflicts-involving-trees-and-neighbors.html>

- **If my neighbor's tree branches hang over my yard, can I trim them?**
 - Yes. By law, you have the right to trim branches and limbs that extend past the property line.
 - However, the law only allows tree trimming and tree cutting up to the property line. You may not go onto the neighbor's property or destroy the tree. If you do harm the tree, you could be found liable for up to three times the value of the tree.
 - Most trees have a replacement value of between \$500 and \$2500. Ornamental or landmark trees can have a value of between \$20,000 and \$60,000.
- **If my neighbor owns a fruit tree, and the branches hang over my property, can I eat the fruit?**
 - No. The fruit of the tree belongs to the owner of the tree, so don't pick any of the fruit. Courts are divided on who can have fallen fruit, however, so check your local laws to see if you can eat any fruit that falls off the tree.
- **If my neighbor's leaves keep blowing into my yard, do I have a good nuisance claim?**
 - No. Leaves are considered a natural product. Even if the leaves cause damage, like clogging



- your gutters or pipes, you have no legal claims against the owner of the tree.
 - If, however, the tree branches that are shedding the leaves are hanging over your yard, or the tree trunk is encroaching on your property, then you have a right to trim those branches up to the property line.
- **Most of a large tree hangs over my yard, but the trunk is in the neighbor's yard. Who owns the tree?**
 - The neighbor owns the tree. So long as the tree trunk is wholly in the neighbor's yard, it belongs to the neighbor.
 - When the tree trunk is divided by the property lines of two or more people, it is referred to as a "boundary tree." In the case of a "boundary tree," all of the property owners own the tree and share responsibility for it. Tree removal without the consent of all the property owners is unlawful.
- **My neighbor dug up his yard, and in the process killed a tree that's just on my side of the property line. Am I entitled to compensation for the tree?**
 - Anyone who engages in tree removal, tree cutting, or injury to the tree without the owner's permission is liable for compensating the tree owner.
- **A storm knocked down my neighbor's tree limb onto my property, damaging my house/car/swimming pool/yard furniture. Are they responsible for the damages?**
 - The court will probably apply a reasonable care standard. If your neighbor took reasonable care to maintain the tree branch, and the tree branch did not seem to a reasonable person to be threatening to fall, then probably not. If a reasonable person could not have avoided this from happening in any way, then it will be deemed an "Act of God," and the neighbor won't be liable.
 - On the other hand, if the tree was not properly maintained and your neighbor knew or should have known that the tree or its branches posed a threat, then your neighbor could be liable for the damages caused.
- **My neighbor's tree looks like it's going to fall on my house. What should I do?**
 - Landowners are responsible for maintaining the trees on their property. Legally, they have two duties: make reasonable inspections and take care to ensure the tree is safe. If your neighbor doesn't remove the dangerous tree, and the tree does in fact cause damage, your neighbor can be held liable.
 - If you've spoken to your neighbor about the tree issue, and he hasn't done anything about it you do have laws that protect you. The tree may constitute a nuisance, by interfering with your use and enjoyment of your own property. You could file a nuisance claim, and if the court finds that the tree is a nuisance, the court may order the tree removed.
 - Most cities have ordinances prohibiting property owners from keeping dangerous conditions on their property. If you call your municipality, they may remove the tree themselves or order your neighbor to do it.
 - Utility companies may also have an interest in the tree's removal if the tree's condition threatens any of its equipment or causes a fire hazard. A simple call to a utility company may prompt them to remove the tree themselves.
 - You may seek a report of an arborists to determine if the tree is truly a hazard. If so, you may want to send that report certified mail to your neighbor as well as your home owner insurance provider. If damage was to occur, your home owner's insurance may have a claim against your neighbor.

- **The spreading of tree roots on my land damaged my neighbor's septic tank/swimming pool. Do I have to compensate my neighbors?**
 - In most states, the bothered neighbor can engage in the tree trimming or root cutting their self, and doesn't have a claim against the tree owner. Other states provide that neighbors may sue if the following conditions are met:
 - Regardless of if there is property damage, a landowner may sue there neighbor to make that neighbor trim the branches that encroach the landowner's property.
 - Serious harm caused by encroaching tree limbs or tree roots may give rise to a lawsuit. "Serious harm" usually requires structural damage.
 - If an encroaching tree was planted, not wild, the neighbor may sue.
 - A neighbor may only sue if the tree is noxious. "Noxious" means that the tree must be inherently dangerous or poisonous, AND the tree must cause actual damage.
- **Where can I go for expert legal advice with a conflict involving trees and neighbors?**
 - Resolving issues with neighbors and trees requires a delicate touch. A lawyer can review the facts and provide information tailored for your specific circumstances and local laws. Before taking action into your own hands, you may want to reach out to an experienced real estate attorney in your area.

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