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OWNERSHIP AND RESPONSIBILITY

Who is liable for the tree?

In Georgia, the owner of a tree is liable for damages and injuries from a falling tree ONLY if he has preexisting knowledge that a tree was diseased, decayed, or otherwise considered to be dangerous. If the owner has no reason to suspect a problem—the tree has leaves and its general appearance is normal—then, in general, the owner is not at fault. However, if the owner reasonably should have known, then he or she is responsible.

Is a landowner required to inspect trees?

Georgia law does not impose a general duty of inspection for potential problems. There are no laws outlining specific inspection times, number of annual inspections, or pruning requirements.

How do you know if the landowner knew there was an issue?

The landowner has actual knowledge of a potential issue when it can be shown by written form that an arborist, building tenant, or another third party reported that a problem existed before the tree fell. If actual knowledge cannot be shown or proven, it is very difficult to prove that the owner should have known there was a problem.

The maintenance responsibility and ownership of a tree or group of trees is not always clear. When a tree grows too large for its location or needs to be cut down, the question of ownership can cause stress and conflict among neighbors who begin to question who is responsible for the tree's care.

Ownership of the tree is determined by the property on which the trunk of the tree is located. If the tree trunk stands entirely on one property, the tree is entirely that property owner's responsibility—a simple property survey may answer the question of tree ownership.

Generally, ownership is obvious, but a tree trunk may be located on the property line, resulting in joint ownership. Once ownership has been established, neighbors may still have important issues to discuss and resolve such as:

- Branches hanging over surrounding properties;
- Leaning trees;
- Tree limbs breaking off and damaging property;
- Trees dropping debris like fruit and seeds; or
- Trees falling or threatening to fall on a neighbor's property.

For existing trees that are on or overhang property lines, communicate with neighbors to reduce the potential for disputes. Clearly identify the issues and develop an agreement regarding possible solutions or compromises. Be a good citizen and support neighborhood harmony.

Overhanging limbs can shade a neighbor's house, lawn, or garden. A neighbor may trim branches of a tree that cross onto his/her property, but it is always wise to talk with the tree owner before taking action. Neighbors may want discuss who should do the pruning—the tree owner may prefer to do it—the goals of pruning, and how often pruning should be done. Get a professional opinion before you take action, and always create a written agreement before hiring an arborist or doing any work on neighbors' trees.

Overhanging limbs are often a problem when a row of evergreens, planted for privacy, is close to the property line. Limbs from the privacy screen may encroach on the neighbor's property, and the neighbor may be tempted to remove overreaching limbs. Unfortunately, heavily pruning some types of evergreen trees can disfigure or harm them. It may be more appropriate to remove overreaching screen trees altogether. However, agreeing with the neighbor on a time frame may allow for a replacement screen to be planted and established prior to the removal of old, overhanging trees. This compromise allows both neighbors to enjoy the benefits of the screen and full use of their property.

Consider the neighbors when planting new trees. Evaluate the site and select the proper tree species for the site conditions. Select trees that will not overgrow the space limitations and grow out into the neighbor's property when mature. Place them within the bounds of your property line, allowing them adequate space to become full-grown specimens. There are trees and shrubs for all site situations, so do research and select good plants. Your local county Extension agent can help select an appropriate tree or large shrub for your site.

When a tree impacts the property and safety of others, consider your responsibility as a tree owner. Have your trees inspected by a certified arborist if there are concerns about the tree's health. Communicate often with your neighbors, ask for feedback, listen, and act on the feedback.

For more information on shade tree selection and planting consider consulting UGA Extension publication [Shade Trees for Georgia \(Circular 1013\)](#). For information on care, consult [Shade and Street Tree Care \(Bulletin 1031\)](#).



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