

## **Requirements for approving tree removal**

### **OHE Declaration of Restrictive Covenants**

#### **Article X-Use Restrictions**

#### **Section 20: Trees**

*Except as approved by the Architectural Review Board in writing, no tree greater than five (5") Inches in diameter shall be cut, removed, or intentionally damaged unless such tree interferes with the construction of improvements, is dead or diseased, or presents a hazard to persons and/or property.*

#### **Board Policy**

##### **A. For Trees in place prior to the construction of a new home**

These trees can only be removed if the ARB Determines:

1. the tree is in the building footprint for construction or
2. the tree is in the septic field or
3. the tree is blocking access to the building pad or
4. the tree is close enough to the proposed foundation that the tree is likely to be compromised by the construction activity or
5. the tree is clearly dead or dying or
6. the tree presents a clear and present danger

##### **B. For Trees installed at the time of the construction of a new home (or anytime thereafter)**

These trees can be removed by the owner subject to:

1. Certification that the tree is no older than the house and
2. Replacement with a new (preferably native) tree (at least 6-feet tall) (at a location on the owner's property of the owner's choice) and
3. Written approval by the ARB

*See [ohe.com/contractors](http://ohe.com/contractors) for a list of "Native trees and shrubs"*

##### **C. Owners have the right to appeal adverse decisions**

#### **OHE "Declaration", Article IX-Architectural Review: Appeals**

*An Owner ruled upon has the right to appeal the decision of the Architectural Review Board to the Board of Directors of the Association provided that all parties involved comply with the decision of the Architectural Review Board until such the decision of such appeal had been made by the Board of Directors of the Association.*

*Appeals must be legibly written, state the grounds for the appeal and be submitted to the Association or its designee within ten (10) days of the date of the notification of the Architectural Review Board.*

*The Board of Directors shall act upon the appeal by amending, reversing, or confirming the decision of the Architectural Review Board within thirty (30) days of receipt of appeal petition.*

*The Board of Directors decision shall be by majority vote and any Owner must exhaust this avenue of appeal prior to resorting to a court of law or equity for relief.*

### **Certified Arborist**

1. The Board will abide by the recommendation of an International Society of Arboriculture (ISA) Certified Arborist who is hired to represent the interests of the Association
  - a) The board currently uses Kevin Millar (Red Tail Tree Service)
  - b) The cost of the assessment (\$150) will be charged towards the Owners ARB fee balance (for new construction) or to the Owners account
2. Owners have the right to meet with the Arborist when they are onsite to make their assessment
3. If the Arborist certifies that a tree meets OHE requirements for removal, then it will be approved. If not, the appeal will be denied and final.

**D. Please note that the ARB cannot approve the removal of trees for purely esthetic reasons unless the membership first votes to allow us to do so.**

This would require an amendment to the **OHE Declaration of Restrictive Covenants** which must be approved by 51% (20) of the owners

**E. Removal of a protected tree without ARB approval**

It is a violation of the Declaration if a protected tree is removed without ARB approval

Violations of the Declaration are subject to an assessment of \$100 per day until the matter is resolved to the Board's satisfaction

1. The maximum assessment (per tree) is \$3,000.
2. Assessments will be charged daily, starting on the day the tree is removed
3. The Board will hold a formal hearing 30 days after the violation occurs. The owner will have the opportunity at that time to present any evidence as to why they should not be assessed the maximum amount
4. The Board will consider the size and economic value of the tree to the neighborhood in determining the final assessment