



VILLAGE PARK COMMUNITY ASSOCIATION

A Planned Unit Development of 636 Homes

A California Corporation

**VILLAGE PARK COMMUNITY ASSOCIATION
POLICY ON TREE ROOTS
Adopted July 26, 2018**

Damage to Homeowner Property Attributed to Association Tree Roots

1. Damage to Patios, Walkways, Foundations, and Slabs.

The Association is not responsible for repairing damage to patios, walkways, foundations, slabs, or the like caused by Association tree roots in the absence of Association negligence. The presence of an Association maintained tree in the vicinity of the damage does not automatically mean the Association is responsible for the damage.

The Association will accept financial responsibility for the reasonable and necessary costs of repairing damage to patios, walkways, foundations, slabs, and the like caused by Association tree roots only if:

- A. The Association actually knew, or through the exercise of a reasonable inspection of the common area should have known, that the tree's roots exposed the homeowner's property to an unreasonable risk of harm; and
- B. The Association failed to take reasonable action to address the condition given the information which was actually known or which should have been known; and
- C. The Association's failure to take reasonable action was a proximate cause of the damage to the homeowner's property.

The Board of Directors will determine, on a case-by-case basis, given the facts and circumstances presented by the homeowner, whether these three elements have been met. The Board of Directors will choose whether to accept financial responsibility for all or part of the repair costs, whether to deny financial responsibility for the repair costs, and/or whether to notify the Association's general liability insurance company of the homeowner's request for payment.

In order to prove why and where roots infiltrated under a patio, walkway, foundation or slab, it may be necessary to excavate to expose the roots. Excavation shall be performed by the owner, or by the owner's contractor, at the owner's expense. Once the roots are exposed, it is the homeowner's responsibility to ensure Association representatives are provided with a reasonable opportunity to inspect the exposed roots. No repairs should be made, no roots should be cut or removed, and no backfilling should occur before the Association has an opportunity to make an inspection because it is critical for the Association's representative to see how the roots have grown. The Board of Directors reserves the right to deny any and all requests for reimbursement or

payment in the event a homeowner does not provide the Association with reasonable advance notice and a reasonable opportunity to make an inspection. Backfilling of the excavated area shall be performed by the owner, or by the owner's contractor, at the owner's expense.

Regardless whether the Association accepts or denies responsibility for the repair costs, the Association may choose, at the Association's expense, to have the tree removed, or to install root barriers. No Association tree may be removed by a homeowner.

2. Damage to, or obstruction of, Sewer Laterals.

Generally, a sewer lateral is 4 to 6 inches in diameter and is made of vitrified clay, PVC, ABS or iron pipe. The sewer lateral is anywhere from 2 to 6 feet underground and runs from the owner's house to a main line connection in the street. There are various joints along the lateral, and there are joints where the lines connect to the house and the main line under the street. These joints generally use rubber or other soft material to seal the connections.

The homeowner is responsible for maintaining the sewer lateral from the connection at the house to the connection at the main line under the street. Maintenance includes periodically clearing the line of roots and other possible obstructions.

Trees, bushes and plants need water and nutrients in order to survive and will seek out the easiest source of water and nutrients. Generally, when roots encounter the sewer lateral, nothing will happen because they will grow over and around the lateral. However, if there is a leak, no matter how small, tiny hair like roots will enter the lateral and rapidly grow on the nutrient rich material inside the pipe. Eventually, these roots may block the lateral and back-up the system.

Earth movement, normal expansion and contraction of the soil, defective construction, and roots from homeowner landscaping can cause the sewer lateral to misalign, allowing roots from an Association tree to enter the lateral at the joint or connection. If Association tree roots entered at the joint due to the sewer lateral being misaligned for any of these reasons, the homeowner is responsible for the resultant repairs.

The Association is not responsible for sewer lateral repair or the repair of damage caused by a sewer back up in the absence of Association negligence. The presence of an Association maintained tree in the vicinity of the sewer lateral does not automatically mean the Association is responsible.

Should the roots of an Association tree actually misalign the pipe or wrap around the pipe and break or crush the pipe itself, the Association will accept financial responsibility for the reasonable and necessary costs of repairing the portion of the damaged lateral and/or costs related to a back-up of the system only if:

A. The Association actually knew, or through the exercise of a reasonable inspection of the common area should have known, that the tree's roots exposed the sewer lateral to an unreasonable risk of harm; and

B. The Association failed to take reasonable action to address the condition given the information which was actually known or which should have been known; and

C. The Association's failure to take reasonable action was a proximate cause of the damage to the sewer lateral.

The presence of an Association maintained tree in the vicinity of the sewer lateral does not automatically mean the Association is responsible for the damage. The Board of Directors will determine, on a case-by-case basis, given the facts and circumstances presented by the homeowner, whether these three elements have been met. The Board of Directors will choose whether to accept financial responsibility for all or part of the repair costs, whether to deny financial responsibility for the repair costs, and/or whether to notify the Association's general liability insurance company of the homeowner's request for payment.

In order to prove why and where the roots entered, it is necessary to excavate the sewer lateral. Excavation of the lateral shall be performed by the owner, or by the owner's contractor, at the owner's expense. Once it is exposed, it is the homeowner's responsibility to ensure Association representatives can inspect the sewer lateral and determine exactly why and where the roots entered. No repairs should be made, no roots should be cut or removed, and no backfilling should occur before the Association has an opportunity to make an inspection because it is critical for the Association's representative to see how the roots have grown. It is also recommended that the homeowner videotape the lateral to determine the location of the damage, and the Association may, at its request, obtain a copy of the video for the Board to review. The Board of Directors reserves the right to deny any and all requests for reimbursement or payment in the event a homeowner does not provide the Association with reasonable advance notice and a reasonable opportunity to make an inspection. Backfilling of the excavated area shall be performed by the owner, or by the owner's contractor, at the owner's expense.

If the Board of Directors accepts financial responsibility for lateral damage, the Association will pay for the reasonable cost of replacing the portion of the line damaged. If the homeowner has the entire lateral replaced, the homeowner is responsible for paying for the balance of the replacement.

Regardless whether the Association accepts or denies responsibility for the repair costs, the Association may choose, at the Association's expense, to have the tree removed, or to install root barriers. No Association tree may be removed by a homeowner.