

ANCALA HOMEOWNERS ASSOCIATION

Tree Height / Trimming Policy

Revised at the June 19, 2012 Ancala Board Meeting

Purpose

The purpose of the Ancala Homeowners Association ("HOA") Tree Height / Trimming Policy is to ensure that (i) trees and landscaping do not affect the safety of the Ancala community, and (ii) Ancala homeowners' views of the surrounding mountain ranges (i.e. Camelback, McDowell, etc.), the city lights and other sights are not impeded by the height of trees on neighboring properties.

The policies set forth below apply to all homeowners in Ancala. It is each homeowner's responsibility to notify the HOA's Executive Director if such homeowner has any concerns regarding tree height or safety.

The HOA Board of Directors reserves the right, within the parameters set forth below, to apply these policies based on the facts and circumstances of each individual situation.

Policies for each area of concern:

I. Natural Area Open Space ("NOAS")

- This policy applies to trees located in NAOS areas (both individual lots and common areas)
- The City of Scottsdale NAOS ordinances specifically prohibit the trimming of trees located in NAOS areas, unless such trimming is warranted due to:
 - potential health or safety concerns,
 - the HOA's tree policies (as described in Section III below), or
 - other reasons expressly approved by the City of Scottsdale.
- If a homeowner believes that a tree in an NOAS area should be trimmed due to one or more of the above issues/concerns, then the homeowner (if the tree is located on the homeowner's lot) or the HOA (if the tree is located in a common area) shall notify the City of Scottsdale
- The City of Scottsdale will then determine whether the issue/concern warrants trimming of the tree, and if the City agrees with and so notifies the homeowner, the homeowner will be responsible, at such homeowner's cost, for trimming such tree.

II. Ancala Country Club Property

- The Ancala Country Club Tree Policy is attached hereto as Exhibit A. All homeowners must comply with such policy and must not trim any trees located on Club property.
- If a homeowner believes that a tree's height (i) poses a health or safety concern and/or (ii) impedes such homeowner's views, then such homeowner shall notify the HOA's Executive Director. The Executive Director will then contact the General Manager of the Ancala Country Club and request that the Club perform a courtesy trim of such tree

III. All Other Areas Within The Ancala Community

- The policy set forth below applies to all trees located in the Ancala community that are not located in NAOS areas or on Club property.

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- Trees affecting safety

- Each homeowner shall be responsible, at such homeowner's cost, for trimming any tree located on such homeowner's lot that poses a potential safety issue. Such safety issues include, but are not limited to, trees that block views of vehicular traffic, extend into any roadway, overhang a neighboring homeowner's home, or lean on such homeowner's own home.
- Trees affecting vehicular traffic or blocking the passage of motor vehicles must be trimmed to a height of 14 ft. off of street level.
- Trees overhanging a neighboring homeowner's home or lot must be trimmed so that such tree does not overhang such neighbor's home or lot.

- Trees impeding homeowner views

- For purposes of this policy, a tree is deemed to cause an "Impeded View" if:
 - (i) such tree is taller than 20 feet as measured from the tree's base or the finished first floor of the home of the lot on which the tree sits, whichever is higher (the "Allowable Height"), and
 - (ii) such tree impedes a homeowner's view of mountains, city lights or other sights (but not just the sky), with such view being the 180° view from the middle of such homeowner's front or back yard, and
 - (iii) such tree is not more than 750 feet from the middle of such homeowner's front or back yard.
- If a tree causes an Impeded View (as determined by the HOA):
 - The tree shall be trimmed to the Allowable Height; provided, however, that such tree shall not be trimmed below a height which would destroy or significant impair the tree's appearance (even if higher than the Allowable Height) unless the complaining homeowner has an easement protecting the applicable view.
 - The costs of the initial trimming of such tree shall be borne 75% by the homeowner with the Impeded View who requests such trim and 25% by the homeowner who owns the tree.

If and when the homeowner who owns the tree sells such homeowner's house, such selling homeowner must inform the homeowner purchasing such home (i) about the initial trimming (identifying the homeowner with the Impeded View and the tree at issue) and (ii) that subsequent trimmings of the tree at issue shall be borne 100% by the new homeowner.

- The costs of subsequent trimmings of such tree shall be borne 100% by the homeowner who owns the tree.

(For purposes of clarification, if, following the initial trimming, the homeowner who owns the tree sells such homeowner's house, subsequent trimmings of such tree shall be borne 100% by the new homeowner who now owns the tree.)

- If (i) the complaining homeowner has an easement protecting the applicable view and (ii) trimming the offending tree to the Allowable Height would serve to destroy or significant impair the tree's appearance, then the tree will be replaced, with the costs of the new tree

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(including planting) being borne 75% by the homeowner with easement and 25% by the homeowner who owns the tree.

- If a homeowner believes that a tree causes an Impeded View, such homeowner shall submit a tree trimming request to the HOA's Executive Director. The Executive Director will evaluate the request and determine what, if any, action should be taken with respect to such tree.
- If a homeowner disagrees with the Executive Director's decision, such homeowner may appeal the decision to the HOA's Board of Appeal. Such appeal will be considered at the next regularly scheduled Board of Appeal meeting. The Board of Appeal's decision will be final and binding upon both homeowners.
- Trees not affecting safety or impeding views
 - Trees that do not present a safety concern or impede a homeowner's view in violation of the above policies will not be required to be maintained at a height of 20 feet and may grow to their natural height (which will provide shade for the surrounding property and offer a picturesque view for the Ancala community).
- Right to Request Hearing
 - Permitted Appellants. Only Ancala property owners and residents may request a hearing to appeal the HOA imposed fine or penalty pursuant to this policy.
 - Board of Appeal
 - (i) Number and Term of Office. The Board of Appeal shall consist of (A) three (3) individual members of the HOA as appointed by the HOA's Board of Directors or (B) a former judge selected by the three (3) individuals set forth in clause (A) above. Each member of the Board of Appeal shall continue to serve until such time as his/her successor is duly appointed.
 - (ii) Meetings. Meetings of the Board of Appeal shall be held at the request of (A) any member of the Board of Appeal or the HOA Board of Directors or (ii) the HOA's Executive Director, following his/her receipt of a request for hearing in accordance the "Request for Hearing" section set forth below. Notwithstanding the foregoing, in no event shall the Board of Appeal be required to meet more than twelve (12) times during any calendar year.
 - (iii) Compensation. No member of the Board of Appeal shall be entitled to receive compensation for the performance of his/her duties hereunder.
 - (iv) Non-Liability. Neither the Board of Appeal nor any member, agent, representative, successor or assign thereof shall be liable to the HOA or to any Ancala property owner or other person for any damage, loss, or prejudice suffered or claimed on account of the Board of Appeal's (or the individual member's agent's, representative's, successor's or assign's) performance or non-performance of its duties under this "Right To Request Hearing" section.

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○ Request for Hearing

Any Ancala property owner or resident who has received notice concerning a directive or fine in accordance with this policy may request a hearing before the Board of Appeal for the purpose of challenging the legitimacy of such directive or fine. A request for hearing shall be submitted (in writing) to the HOA's Executive Director within fifteen (15) days following the aggrieved property owner or resident's receipt of such notice. Following the Executive Director's receipt of a request for hearing (the "Hearing Demand"), the Executive Director shall notify each member of the Board of Appeal and shall schedule a hearing within thirty (30) days. A notice containing the time, date and place of the hearing shall be delivered (either telephonically or in writing) to the aggrieved property owner or resident no less than ten (10) days prior to the scheduled hearing.

- Cancellation and Rescheduling of Hearing. The aggrieved property owner or resident may, if necessary, request that the Board of Appeal reschedule the hearing by providing written notice to the HOA's Executive Director at least twenty-four (24) hours in advance of the scheduled hearing. In the event the Executive Director receives the required written notice within the applicable time period, the Executive Director shall notify the aggrieved property owner or resident and members of the board of Appeal of the cancellation and shall reschedule the hearing for a date not less than thirty-one (31) days after the currently scheduled hearing. The Executive Director shall thereafter notify the aggrieved property owner or resident of the rescheduled hearing time and date (either telephonically or in writing) no less than ten (10) days prior to the rescheduled hearing date. Written notice received by the Executive Director less than twenty-four (24) hours prior to a scheduled hearing shall be deemed void and ineffective, and the hearing shall proceed as scheduled. Notwithstanding the forgoing, an aggrieved property owner or resident shall only be allowed to reschedule a hearing for a particular violation twice. Any attempt by the aggrieved property owner or resident to reschedule the hearing more than twice shall be deemed void and ineffective, and the hearing shall continue on as scheduled.

- Failure to Attend Scheduled Hearing. Failure by the aggrieved property owner or resident to attend any scheduled hearing (which has not been properly cancelled or rescheduled as provided herein), shall be deemed such aggrieved property owner or resident's election to waive his/her right to a hearing for that violation.

- Hearing. The aggrieved property owner or resident shall have not more than fifteen (15) minutes to present his/her case concerning why the directive or fine should not be imposed. The aggrieved property owner or resident may present written as well as other evidence (including eyewitness testimony) at the hearing; however, the aggrieved property owner or resident shall not be entitled to the representation or participation of an attorney at the hearing.

- Notification of Decision. At the conclusion of the hearing, the Board of Appeal shall meet and discuss whether the imposed directive or fine should remain. In the event the members of the Board of Appeal are not in unanimous agreement concerning whether to impose the directive or fine, the members shall vote upon the matter. A majority vote of all members of the Board of Appeal (i.e., 2 of 3 members) shall carry the decision. The Board of Appeal shall communicate its decision to the HOA's Executive Director within thirty (30) days following the conclusion of the hearing, and the Executive Director

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shall notify the aggrieved property owner or resident of the Board of Appeal's decision within fifteen (15) days following the Executive Director's receipt of the Board of Appeal's decision.

- Final Decision. All decisions of the Board of Appeal shall be final. The aggrieved property owner or resident shall not be entitled to additional hearings before either the Board of Appeal, the Board of Directors, the Security Committee or the HOA's Executive Director. Furthermore, any decision of the Board of Appeal shall not be subject to challenge in any court or other administrative forum.
