

Whisper Mountain

Homeowners Association

Mesa, Arizona



# **ARCHITECTURAL RULES AND GUIDELINES**

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## **COMMUNITY ORGANIZATION**

Every homeowner in Whisper Mountain Community is a member of the Whisper Mountain Homeowners Association (the “Association”)[CC&R 4.1, 4.2]. The Association is responsible for the management of all Common Areas and related homeowner facilities as well as the administration of the affairs of the community. The Association is established by the recording of the Declaration of Covenants, Conditions and Restrictions (the “CC&Rs”). The CC&Rs set forth procedures, rules and regulations, which govern the community.

The Board of Directors (the “Board”) is charged with the responsibility of overseeing the business of the Association. The powers of the Board are defined in Bylaws Article VII. The Architectural Review Committee (“ARC”) is appointed by the Board[CC&R 3.4]. Its responsibilities, defined in its Charter, include the review of all requests for architectural improvements and maintenance within Whisper Mountain, and to ensure compliance with the Whisper Mountain CC&Rs. The ARC has adopted a set of Architectural Rules and Guidelines. These Rules and Guidelines interpret and implement the CC&Rs by setting forth procedures for ARC review and standards for evaluation and approval of construction activities.

## **ARCHITECTURAL REVIEW PROCESS**

The CC&Rs require the written approval of the Architectural Review Committee before any change, addition to, or modification of a lot or building exterior of a residential property is made. These changes include remodeling and changing external color. A homeowner who proposes such changes to his property should contact the Managing Agent with whom the Association has contracted. The homeowner will be given the opportunity to review the applicable architectural guidelines and to obtain a design review application for submittal to the Architectural Review Committee.

The ARC will respond to any homeowner’s application within 30 days of submission.

Approval of a homeowner's application will be greatly facilitated if that homeowner obtains a written acknowledgment and approval from any neighbor whose property or view will be affected by the proposed change.

It is the homeowner's responsibility to ensure that any proposed construction is coordinated with, and where applicable, approved by all county, local, state and federal government agencies. The ARC, the Managing Agent and the Association assume no responsibility for obtaining these reviews and approvals.

Homeowners may appeal ARC decisions to the Board [Whisper Mountain CC&R 3.2].

## **General Principles**

The purpose of the Architectural Review Committee (ARC) is to ensure consistent and equitable application of the Architectural Rules and Guidelines. The ARC will monitor any portion of any Lot or parcel which is visible from other Lots or parcels, the street, or Association Common Areas. This may include portions of some backyards which are visibly open to other Lots or Association Common Areas. These Rules and Guidelines exist to promote those qualities which enhance the attractiveness and functional utility of the community, including a harmonious relationship among structures, vegetation, topography and architecture, itself.

### ***Architectural Compatibility***

Any proposed construction must be compatible with the architectural characteristics of the property itself, adjoining properties and the neighborhood. Compatibility is defined as harmony in style, scale, materials, color, and construction details. Approved color schemes and specifications are presented later in the Rules and Guidelines.

### ***Workmanship***

The quality of workmanship in any new construction must be equal to, or better than, that of the surrounding properties. In addition to being visually objectionable, poor quality construction can cause functional problems and create safety hazards. The ARC assumes no responsibility for safety or durability of new construction.

### ***Paint Schemes***

Approved exterior paint schemes are presented in Appendix II. A homeowner must seek approval of the ARC prior to any change in the home's existing paint scheme.

If a home is to be repainted with its existing paint scheme, no ARC approval is required.

### ***New Building Architecture***

Any exterior addition or alteration to an existing residence shall be compatible with the architecture of the original structure. Improvements and alterations of existing structures shall comply with Section 7.7 of the Whisper Mountain CC&R's.

### ***Patio Covers and Storage Sheds***

Backyard storage sheds detached from the house will be considered for approval provided they do not protrude above the home's surrounding wall or fence, so as not to represent an obstruction to the view from a neighboring property. Plans for storage sheds, as well as any permanent addition to a home, including patio covers and other buildings, must be submitted to the ARC for approval prior to initiating construction.

## ***Satellite Dishes and Antennas***

Satellite dishes or other devices for the transmission or reception of television or radio signals or any other form of electromagnetic radiation are subject to approval by the ARC. Any dish larger than one meter (39.11 inches) is prohibited. Satellite dishes of one meter or less in diameter must be submitted to the ARC for approval. Approval will be subject to the Association's right to regulate such device in accordance with FCC rules. A diagram of proposed location must accompany the application.

## ***Roof & Wall-Mounted Equipment***

Roof or wall-mounted machinery, such as evaporative coolers and air conditioning units, are prohibited. Outside electrical boxes that are attached to the home shall be painted to match the color of the home. Telecom and irrigation boxes that are freestanding or attached to the home need not be painted the color of the home. However, every effort must be made to conceal these units from view from the street and neighboring property. Landscaping used for such concealment must be approved by the ARC.

An application for approval of solar energy devices must be submitted to the ARC prior to installation. The application must include a diagram of the proposed location. Approval will be made subject to the right of the Association to regulate such devices in accordance with Arizona law.

## ***Outdoor Fireplaces***

Planned outdoor fireplaces must be approved by the ARC prior to beginning construction. Only gas fireplaces will be approved. Wood burning fireplaces are prohibited. Height of outdoor fireplaces must not exceed fence height.

## ***Outdoor Lighting***

Use of concealed outdoor lighting is encouraged. Unconcealed lighting including coach lights must be submitted for approval. The ARC may place a maximum wattage limit on such lighting. Directed landscape lighting shall not be directed toward any street, Common Area or neighboring property.

# **LANDSCAPING**

## ***Plantings***

In order to maintain the City of Mesa desert upland theme, inappropriate trees and plants are prohibited. Preferred planting and acceptable plantings are presented in Appendix I.

Planting of Palm Trees in front yards is prohibited. Back yard plantings are limited to those which do not exceed 10 feet in height at maturity, including the following:

- **Mediterranean Fan Palm**
- **Pygmy Date Palm**

- **Sago Palm**

All Owners that have previously installed palm trees in the front and rear yards before August 11, 2015 will be grandfathered in as approved.

### ***Ornamentation***

Utilization of non-living objects as ornaments in the landscape must be harmonious with the character of the neighborhood and must be approved by the ARC. Individual expression is permissible as long as it does not detract from this goal. Temporary holiday decorations are permitted. Removal of these decorations is required within 25 days following the specific holiday.

### ***Maintenance***

All landscaping shall be maintained in a neat and attractive condition. Maintenance requirements include watering, mowing, edging, pruning, removal and replacement of dead or dying plants, removal of weeds and noxious grasses, and removal of trash.

### ***Easements***

Some homeowners (particularly those on corner Lots) have side yards which were originally landscaped by the developer. These easements generally lie between the exterior sidewall and the street. They remain a portion of the homeowner's Lot. Maintenance of easements, including the replacement of plants and weed control is the responsibility of the homeowner. Any landscaping changes to an easement area require the approval of the ARC. A homeowner with questions regarding his lot boundaries in an easement area may contact the Managing Agent for clarification.

EASEMENT FOR ENCROACHMENTS: If landscaping or other approved improvement on a Lot or Common Area encroaches upon another Lot or Common Area, and such encroachment is inadvertent and has no significant adverse impact on the adjacent property, an easement for such encroachment is granted by CC&R 8.2. Determination whether such encroachment causes a significant adverse impact will be made by the ARC upon request by either of the parties. That determination by the ARC will be binding on both parties.

## **MISCELLANEOUS ITEMS**

### ***Swimming Pools***

When planning the installation of a new swimming pool, or major reconstruction of an existing one, the homeowner must contact the Managing Agent in order to file an application for ARC approval. The application must include a diagram of the pool layout, including the location of pool machinery and any planned water features.

The application must also include a diagram representing the mode of access to the homeowner's rear yard for excavating and construction machinery during the time of construction. If this access requires penetration of existing walls or removal of fence sections, a deposit of \$500 must accompany the application. This deposit will be refundable after walls, fences, and landscape features that were disturbed have been restored to their original conditions.

Any additional wall, fence, or landscaping repairs that are found to be necessary by the Association after construction will be performed and charged to the homeowner.

During construction, all openings in walls and fences must be securely covered to prevent unauthorized access to the construction site.

Swimming pool backwash into drainage ditches, natural washes, Common Areas, drainage-ways, or streets is prohibited. The homeowner is expected to make provision for retention and absorption of backwash efflux on his lot.

Pool fence requirements are dictated by the City of Mesa. Free standing pool fencing must be painted the same color as the exterior perimeter wall. If the fencing is attached to the home, the homeowner may paint the fence the same color as the body of the home

Any swimming pool feature that protrudes above the exterior perimeter wall (e.g. slides) will require a separate application for ARC approval

All pool machinery shall be screened from view of neighboring property, streets and Common Area with walls which match the architectural character and color of the house or the existing wall. If pool machinery is to be placed near view fencing, space must be provided to accommodate a solid screening wall.

## ***Flagpoles***

Residential Lot flagpoles are allowed with the following provisions:

1. Flagpoles may not exceed twenty (20) feet in height.
2. Pole location must adhere to the following:
  - a. Pole must be at least ten (10) feet from any perimeter wall
  - b. Front yard pole must be at least ten (10) feet from the property line
3. Flagpoles must be made of a weather resistant material such as anodized aluminum or fiberglass, and if painted be consistent with the color scheme of the home.
4. Noise abatement hardware must be included in the flagpole.
5. Flagpole lighting must be directed toward the flag itself, and not toward any Common Area or neighboring residence.
6. Limit of one (1) flagpole per Lot.

## ***Flags***

1. The Association allows the flying of the following flags as provided for in ARS 33-1808:
  - a. The American Flag



- b. United States Army, Navy, Air Force, Marine Corps or Coast Guard flag
  - c. POW/MIA flag
  - d. An Arizona Indian Nations flag
2. Flags must be proportional to pole height:
  - a. Pole height 20' flag size no greater than 4'x6'
  - b. Pole height 15' flag size no greater than 3'x5'
3. All flags, whether on poles or house mounted, must adhere to standard flag etiquette, e.g. flags must fly only between sunrise and sunset unless properly lighted.

Flagpole, flag, illumination hardware and installation are subject to prior ARC approval. Any violation of flag etiquette will be considered a violation of the rules of Whisper Mountain Homeowners Association and subject to Association violation enforcement.

### ***Basketball Goals***

A homeowner must submit an application for approval to the ARC prior to the installation or erection of a basketball goal. The permanent installation of a basketball goal is permitted in a driveway area, as long as it adheres to the restrictions noted below. Portable basketball goals in front yards or driveway areas are prohibited.

A basketball goal placed anywhere on a homeowner's lot is restricted as follows:

1. Backboards must be transparent or painted consistent with the color scheme of the home.
2. Use of equipment with highly visible logo material is prohibited.
3. The rim (or top of the net) shall not exceed ten (10) feet in height.
4. Construction or placement of a basketball goal must be at least seven (7) feet from any perimeter wall or Lot line.
5. Any lighting designed to illuminate a basketball goal must have ARC approval via a separate application.

### ***Driveways***

Any planned driveway expansion will require prior approval of the ARC. The Design Review Application must include a scale drawing as well as the stated purpose of the expansion. All driveways must be kept clean and clear of debris, oil, rust and other stains.

### ***Clotheslines***

Outside clothes drying facilities, including clotheslines must be positioned inside of a fenced yard, and must not be visible above the surrounding block wall.

### ***Window Coverings***

The Board has given blanket approval to all white or off-white shutters, horizontal and vertical blinds, and roller shades. All others will require ARC approval.

The ARC discourages reflective materials on outside window surfaces, including foil, reflective screens and glass. Temporary window coverings visible from the outside, such as paper or sheets, must be pre-approved. Exterior window treatments, such as enclosures and awnings, which can affect the external appearance of a house must be pre-approved.

### ***Planters and Walkways***

Planters, paved walkways and other hardscape features visible From Neighboring Property must be approved by the ARC. Surface textures and colors must be compatible with the color and materials of the house.

### ***Detached Garages***

Detached garages must receive prior written approval by the ARC. A detached garage must match the home in construction, style and appearance, and must be placed seven (7) feet from nearest wall.

### ***Free-Standing Permanent Yard Structures***

This section refers to ramadas, gazebos, pergolas, palapas, and any similar structures. Application for approval must be submitted to the ARC prior to beginning construction. The application must include a blueprint, including footprint location, materials and colors to be used.

The following guidelines will apply:

1. Location is restricted to rear yard only.
2. Maximum square footage (under roof area) is 120 square feet.
3. Maximum roof height is ten (10) feet at the highest point.
4. The structure must be positioned a minimum of seven (7) feet from any perimeter wall.
5. The structures must be maintained in good condition at all times.
6. Roof tiles, if applicable, must match the tile of the house roof.
7. Lighting of the structure, both integral and external, must be approved by the ARC prior to installation.

### ***Play Structures***

Play structures, including trampolines, jungle gyms, tetherball poles, volleyball nets and similar equipment used on playgrounds are subject to approval by the ARC.

The following guidelines will apply:

1. May be erected in rear yards\* only.
2. Must be positioned a minimum of seven (7) feet from any perimeter wall.
3. Maximum height allowed to the top support bar or highest point of structure is ten (10) feet.
4. The distance from the ground elevation to the top of the perimeter fence must be measured and submitted with plans.

5. Any shade canopy must be a solid tan or earth tone color.

\* Rear Yard refers to an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest line of the main building.

### ***Gates***

Installation of double gates to replace an existing single gate must be approved by the ARC . The new gates must be of the same type, design and color as the originally installed single gate.

### ***Gutters and Downspouts***

Installation of gutters and downspouts where none previously existed must be approved by the ARC. The application must include a diagram describing the location of downspouts and water efflux pathways. High quality, low maintenance materials will be given preference. The finish on these structures must match the color of the adjacent surface of the home.

### ***Screen Doors***

Screen doors and security doors must be approved in advance by the ARC. Submittals should include pictures, brochures, or diagrams of the proposed installation. Preference will be given to high quality iron in a color that is compatible with the color scheme of the house. Overly ornate designs are discouraged.

### ***Trash Containers and Collection***

No garbage or trash shall be placed or kept on any property except in covered containers of a type, size and style which are approved by the Architectural Committee. In no event shall such containers be maintained so as to be Visible From Neighboring Property except to make the same available for collection and then, only for the shortest time reasonably necessary to effect such collection. In the event the City of Mesa does not provide municipal trash collection service, The Board shall have the right to require all Owners to subscribe to a particular trash collection service. All rubbish, trash, and garbage shall be removed from the Lots and shall not be allowed to accumulate thereon. No incinerators shall be kept or maintained on any Lot. No garbage or trash containers shall be kept or placed on any grass or other landscaped area.

Homeowners who wish to store trash containers in rear yards must screen such containers from view from neighboring properties and common areas. Such screening may consist of a block wall or landscaping. A block wall must be painted to match either the house or the adjacent perimeter wall.

Screening walls and landscaping must be submitted to the ARC prior to installation.

## ***Pets***

Pet restrictions are defined in Whisper Mountain CC&R's, Section 7.3.

Dog runs and other pet enclosures must be located so as not to be visible from neighboring property. ARC approval must be obtained prior to installation. Written approval from immediate neighbors will facilitate approval by the ARC.

## **Apendix**

### ***I. Desert Uplands Preferred & Prohibited Plant List\****

\*07/01/2010 [www.mesaaz.gov/home/showdocument?id=5118](http://www.mesaaz.gov/home/showdocument?id=5118)

### ***II. Exterior Paint Color Schemes and Specifications***