

**ADDENDUM A
to the
BYLAWS
of
THE TONTO HILLS IMPROVEMENT ASSOCIATION**



**42033 N. Old Mine Road
Cave Creek, AZ 85331**

**Architectural Control Committee
Design Review Process and Procedures**

**Approved by THIA Board of Directors – 1 March 2011
Revised – 5 December, 2018**

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Section 1 Introduction

The following design review process has been developed by the Tonto Hills Improvement Association (THIA) for the Architectural Control Committee (“ACC”) in carrying out the responsibilities pursuant to the Declaration of Restrictions (D of Rs) and Bylaws. The Tonto Hills Improvement Association Board of Directors has approved the process set forth in the following text. Any additions or deletions to the design review process must be approved by the THIA Board of Directors.

Any approval of plans, specifications or proposed construction given by the ACC shall not constitute any representation or warranty by the ACC or Tonto Hills Improvement Association that the approved construction or modification complies with applicable federal, state or local laws or ordinances. Each Owner must comply with all applicable federal, state and local laws, rules and ordinances and obtain such permits as may be required for the construction or modification of the improvement.

Neither the Association or any director, officer, the ACC, any member thereof, or employee or agent of the Association shall be liable to any Owner or other person for any damage, loss or prejudice claimed on account of (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings or specifications, (c) the development or manner of development of any property within Tonto Hills, or (d) the exercise of any of the powers, duties or responsibilities of the ACC.

All construction within Tonto Hills must comply with the D of R’s and Bylaws. The Lot Owner shall acknowledge these requirements and regulations by filling out and signing Appendix B.

Section 2 Design Review Process and Procedures

2.1 General

The purpose of the design review process and procedures is to ensure the process is consistent and understood by all property owners. The design review process and procedures document was developed to provide adequate checkpoints along the way, in an effort to minimize time and money spent on designs that do not adhere to the Tonto Hills Declaration of Restrictions. An attempt has been made to streamline this process to eliminate excessive time delays. Nevertheless, each Owner and the ACC are directly responsible for complying with the design review process and all other applicable provisions of the Declaration, as well as all rules and regulations of Maricopa County and any other governmental authority, in order to bring the design review process to a speedy and satisfactory conclusion.

The ACC will conduct reviews of projects during their regular scheduled meetings. The ACC will respond in writing to the Applicant in the time frame stated for each design review phase. Dates of monthly scheduled ACC meetings shall be posted no later than 24 hours before the scheduled meeting. A summary of each monthly meeting shall be made available for the next THIA Board business meeting. **Results of reviews will not discussed over the telephone with an Owner or his Architect or Builder by the ACC or any of its members. No verbal approvals shall be given in any phase of the review process.** Any responses an Owner may

wish to make in reference to issues contained in the ACC's notice following review of submittals should be addressed to the ACC in writing.

Each ACC member shall recuse themselves from the review and decision process if any professional relationship exists between themselves and the property owner or if an ACC member has a financial interest in a property under review.

The design review process is divided into five phases:

- Pre-Design Meeting
- Preliminary Submittal
- Final Submittal
- ACC and County Approval
- Construction Authorization

It is strongly recommended that an Owner retain competent professional services for planning and design. Owners should provide copies of the D of Rs and Bylaws and these Design Review Process procedures to their retained professional representatives. A thorough analysis and understanding of a particular Lot and the Owner's special needs and the skill to translate this into building form, as well as the ability to convey to the ACC the concept and design of a proposed Structure or other Improvements, are all important elements of the design review process. All plans submitted must be presented in a professional manner.

2.2 Pre-Design Meeting

The owner and retained professional representative shall attend the pre-design meeting. In the pre-design meeting, the ACC will cover pertinent sections of the D of R's and Bylaws in detail. They will cover problems encountered in the past. They will clarify any vague areas. This meeting will initiate the design review process prior to preparing any drawings for a proposed structure or improvement and the Owner may discuss the proposed effort and explore and resolve any questions regarding building requirements in Tonto Hills or the interpretation of the review and approval process and procedures and/or the D of Rs and Bylaws. This informal review is to offer guidance prior to the initiation of preliminary design. An appointment for the Pre-Design Meeting should be made at least two weeks in advance of the regularly scheduled meeting of the ACC. The ACC shall send a letter within five (5) working days of the meeting which summarizes the meeting and provides the owner, with Appendix C, Design Review Check-list for the Design Review Process.

2.3 Preliminary Submittal

Preliminary Submittals shall include:

- (a) The Tonto Hills Design Review Form attached hereto as Appendix B with all information completed.
- (b) Topographic drawing of site prepared by licensed civil engineer.
- (c) Site Plan (at a scale of no less than 1" = 20') showing all developments and disturbances of the site including but not limited to the Structure and all improvements or major structures, septic, leach field, drainage, and elevations (datums) of all building floors and patios, shown in relation to site elevations and hillside areas. driveway, general parking areas, patios, pools, walls, chimney flues, vents, gutters, downspouts, utility, railings, exterior stairways.

- (d) A Roof Plan (at a scale of no less than 1/8" = 1') showing areas and heights of flat and sloped roofs, location of crickets, and locations and heights of all roof mounted equipment (if allowed) and skylights.
- (e) Floor Plans (at a scale of no less than 1/8" = 1'-0"). Floor plans shall show vertical elevations for each floor level change including garages
- (f) Exterior Elevations (at a scale of no less than 1/8" = 1') of all sides of the Structure at the same scale as the floor plans and identifying all structure heights.
- (g) Any other drawings, materials, or samples requested by the ACC or necessary to explain the design.

All Improvements contemplated on the Lot must be shown on the Preliminary Submittal. Submittals must be made a minimum of ten (10) business days prior to the next regularly scheduled ACC meeting. The ACC will then review the submittal for conformance to the D of Rs and Bylaws and will provide a written response to the Applicant within 10 business days of the review meeting. This response shall stipulate any changes required by the ACC and reference the D of R paragraph requiring the change.

2.4 Pre Permit Submittal

After preliminary approval is obtained from the ACC, the following documents, which clearly comply with, or satisfactorily resolve, the stipulations for preliminary approval, are to be submitted to the ACC for approval. Pre Permit Submittals and any revised submittals must be made a minimum of ten (10) business days prior to the next regularly scheduled ACC meeting. A Design Compliance Deposit of \$1000 shall be part of the pre-permit submittal. This deposit will be refunded within 30 days after the ACC authorizes construction. The owner and retained professional representative shall attend this meeting. The ACC will then review the submittal for conformance to the Declaration of Restrictions and Bylaws and will provide a written response to the Applicant within 10 business days of the review meeting. At this time, the ACC may give authorization for the perk test.

Submittals shall include:

- (a) A set of complete construction documents for the structure including:
 - 1. All data noted in Section 2.3, Paragraphs (b) thru (g) and building sections as required to illustrate the Structure and Improvements
- (b) Letter from owner detailing all changes as stipulated by the ACC based on the Preliminary Design review.
- (c) In the event of disapproval by the ACC, of a Pre Permit Submittal, any resubmission of drawings must follow the same procedure as the original submittal.

Upon receipt of the complete Submittal, the ACC will review the submittal within 10 days for conformance to the Declaration of Restrictions, Bylaws, and these procedures, and to any stipulations by the ACC from the Pre Permit Submittal and will provide a written response to the Applicant. After the Pre Permit submittal is approved, it is the responsibility of the Owner to obtain plan check approval and permit from the Maricopa County.

2.5 Construction Authorization

Once county approval and permits are obtained, the Owner will present the permit and final plans to the ACC. The ACC will stamp these plans, authorize the construction, and refund the design compliance deposit. Construction shall be in accordance with the Pre Permit Submittal approved by the ACC. At this time, the owner shall provide an approximate Construction Duration Schedule indicating approximate dates for the start of construction and the completion of construction. Under no circumstances may a project begin without ACC approval. If the County request changes to plans that may not comply with the D of Rs and Bylaws, the owner shall request an emergency meeting with the ACC for assistance in resolving the issue.

2.6 Additional Construction and / or Exterior Changes

Any changes to the approved drawings during construction of a project must first be submitted for review to, and must be approved by, the ACC.

2.7 Commencement of Construction

Upon receipt of approval from the ACC, the Owner shall commence the construction pursuant to the construction authorization within six (6) months from the date of the county approval. If the Owner fails to comply with this Section 2.7, any approval given shall be deemed revoked unless, upon the written request of the Owner made to the ACC prior to the expiration of the six months period and upon a finding by the ACC that there has been no change in circumstances, the time for commencement is extended in writing by the ACC. The Owner shall, in any event, complete the construction within eighteen (18) months after commencing construction except when such completion is impossible or would result in great hardship to the Owner due to strikes, fires, national emergencies, or natural calamities. If the Owner fails to comply with this Section, the ACC may notify the Association of such failure and the Association, at its option, may complete the exterior in accordance with the approved drawings or remove the Improvement(s), and the Owner shall reimburse the Association for all expenses incurred in connection therewith. If construction ceases for a period of more than forty-five (45) days except when such construction is impossible or would result in great hardship to the Owner due to strikes, fires, national emergencies, or natural calamities, Owner shall resume such construction immediately or restore the Lot to its prior condition.

2.8 Work in Progress - Observation for Design Conformance

The ACC may review all work in progress and give notice of any non-compliance with the Declaration, these procedures or the approval issued by the ACC. Absence of such review and notification during the construction period does not constitute approval by the ACC of work in progress or of compliance with these procedures and the Declaration. Should any non-compliance be found, work shall be halted until all non-compliant issues are resolved.

2.9 Non-Waiver

The approval by the ACC of any drawing or specification in any review phase does not constitute a waiver of the right to withhold, for cause, approval in a subsequent phase.

2.10 Right of Waiver

The ACC reserves the right to waive (streamline) these procedures for good cause shown. The reasons for the waiver will be documented and provided to the Owner.

Appendix A

DEFINITIONS

Unless the context otherwise specifies or requires, the following words or phrases when used in these procedures, shall have the following specific meanings. Terms used in these procedures, which are defined in the Declaration, shall have the meanings specified therein.

Adjacent	As referenced in the Declaration: A commercial or residential property within Tonto Hills that is situated near or close to, but not necessarily touching, other property or properties of the community.
Architect	A person appropriately licensed to practice architecture or landscape architecture in the State of Arizona.
Association	The Association, as defined in the Declaration.
Board	The Board of Directors of the Association.
Builder	A person or entity engaged by an Owner, including the Owner acting as Builder, for the purposes of constructing any Improvement on the Owner's Lot.
ACC	The Architectural Control Committee (ACC) established pursuant to the Declaration.
Bylaws	
Declaration	The recorded Declaration of Restrictions for Tonto Hills, as amended from time to time.
Excavation	Any disturbance of the surface of the land (except to the extent reasonably necessary for planting of approved vegetation), including any trenching which results in the removal of soil, rock other earth materials or other substance from a depth of more than 12 inches below the existing surface of the land, or any grading of the surface.
Final Submittal	All drawings and information required by Section 2.3 thru 2.7 of these procedures to be submitted to the ACC for final approval.
Finished Floor Elevation	The floor elevation of any portion of a Structure as measured from topographic elevations based on the Maricopa County datum.

High Class Business	As referenced in the Declaration Item #17: Character of operation and quality of appearance that is in keeping and consistent with the Tonto Hills community as a whole, while maintaining its natural setting, quiet environment, preserving the property values within Tonto Hills, and offering products or services that could benefit its residents.
Hillside	Tonto Hills is considered to be 100% Hillside Property. Total disturbance within the gross lot area is not to exceed 75,000 square feet and shall be located entirely within the buildable area of the lot, except that disturbance related to the driveway and the utility connections may extend outside the lots buildable area to the street lot line or other lot line.
Improvement	Any changes, alterations, or additions to a Lot, including any Structure, buildings, outbuildings, roads, driveways, parking areas, walls, retaining walls, stairs, patios, courtyards, roofs, poles, signs, exterior art and any structure or other modification of any type or kind.
Lot	A subdivided Lot or tract (residential or commercial) as shown on the Plat.
Property	Ground level on any part of any Lot or adjacent road.
Owner	The Owner (as defined in the Declaration) of a Lot. For the purposes herein, the Owner may act through his designated agent, provided that such agent is authorized in writing or by law to act in such capacity.
Preliminary Submittal	All drawings, models and information required by Section 2.3 of these procedures to be submitted to the ACC to obtain preliminary design approval.
Structure	Any building or buildings, including any garage, or other accessory building used for residential purposes, constructed on a Lot, and any Improvements constructed in connection therewith. Unless otherwise defined, "Structure" shall mean a single-family Structure.

Appendix B

TONTO HILLS DESIGN REVIEW ACKNOWLEDGEMENT FORM

I hereby acknowledge that I have read, understand, and will comply with the THIA Declarations of Restrictions and have received a copy of the Tonto Hills Architectural Control Committee's Design Review Process.

Lot Owner's Signature		Lot Owner's Signature

PLEASE PRINT OR TYPE ALL OF THE FOLLOWING INFORMATION

Owner's Name		Lot No.

Address		Address

City, State, Zip Code		City, State, Zip Code

Architectural Firm		Contractor

Project Architect or Designer		License Number

Address		Address

City, State, Zip Code		City, State, Zip Code

Appendix C
Pre-Design Meeting
Design Review Check-list

Preliminary Submittal:

- Application / Acknowledgement Form
- Narrative describing complete scope of work for project
- Topographic drawing of site (prepared by licensed Civil Engineer) at scale no smaller than 1"=20'. ...clearly reflecting Hillside areas and calculations of disturbances.
- Site Plan at a scale no smaller than 1":20' (including septic system) Tonto Hills Building Set back lines. If project is a remodel / addition etc. Clearly define / identify existing and new construction. Roof Plan at a scale no smaller than 1/8"
- Floor Plans at a scale no smaller than 1/8"
- Exterior Elevations at a scale no smaller than 1/8". Showing heights of all roof structures
- List any additional drawings, photos, samples, etc. included in your submittal

Pre Permit Submittal:

- Narrative identifying any changes to preliminary submittal. Include response to any previous ACC stipulations.
- Design Compliance Deposit of \$1000

ACC / County Approval:

- 2 Complete sets of all 'Maricopa County Approved "construction documents including Site, G & D, and Building plans.
- Anticipated Construction Schedule

Construction Authorization:

Appendix D

Schedule of Deposits and Penalties

New Build – Amount to be \$2.50 per square foot of under-roof construction. Payment of New Build Deposit due at ACC Construction Authorization meeting and prior to application of ACC Approval stamp to County Approved Construction plans.

Deposit to be refunded within 7 days of the issuance of Certificate of Occupancy by County and copy provided to the ACC.

Remodel – (addition of a structure or structural change to a residence that requires a County Permit). Amount to be \$2.50 per square foot of under-roof construction. Payment of Remodel Deposit due at ACC Construction Authorization meeting and prior to application of ACC Approval stamp to County Approved Construction plans.

Deposit to be refunded within 7 days of the issuance of final Inspection Certificate by County and copy provided to ACC.

Other Improvement – (paving, fencing, walls, pool, etc. that require a County Permit). Amount to be \$2,000. Payment of Other Improvement Deposit due at ACC Construction Authorization meeting and prior to application of ACC Approval stamp to County Approved plans.

Deposit to be refunded within 7 days of the issuance of final Inspection Certificate by County and copy provided to the ACC.

Request for Pre-build Lot Disturbance - (including but not limited to perc testing, grading for equipment access, etc.). Request and accompanying plans on topo map to be made at ACC Review meeting prior to the ACC Construction Authorization meeting. Amount to be \$5,000.

Deposit required upon ACC approval to proceed at the ACC Review meeting.

Deposit to be refunded within 7 days of the ACC granting approval for construction at the ACC Construction Authorization meeting.

In the event the property owner does not move forward with a build, and the property owner revegetates with the same desert vegetation, upon ACC inspection and approval, their deposit will be refunded.

Deposit not refunded in the event that the lot owner abandons the project.

Existing Lot Disturbance - (that does not require a County Permit; e.g. expansion of horse corral, parking lot, driveway, etc.). Amount to be \$2,000. To be requested at an ACC Review meeting other than the ACC Construction Authorization meeting.

Deposit refunded upon ACC approval at inspection.

Penalty for Lot Owner Proceeding without approval of build, disturbance, no County permitting, violation of ACC policies and Procedures and/or THIA DoR's. Amount to be \$10,000.

Lot owner will be notified in writing of the violation and given 60 days to remedy.

Penalty amount refunded upon ACC review and approval of remedy.

Conditions Of Note:

- All deposit checks will be deposited immediately into an Escrow account held by the THIA.
- Refunds will be issued from this Escrow Account.
- Refunds will not include interest.
- Refunds will be issued upon written approval from the ACC and forwarded to the THIA BOD.
- In the event that a lot owner refuses to pay a deposit or penalty levied by the ACC following written notice from the ACC to the lot owner, the penalty amount will result in a lien being executed against the lot in question by the THIA following written notice of violation (1) delivered via First Class Mail and/or (2) via email to the address/email address last provided by lot owner.

All terms herein effective immediately; shall apply to all current and future Tonto Hills property owners. These terms and conditions are not retroactive. Tonto Hills property owners are responsible for the actions of their contractors, agents, lessees and third parties acting on the property owner's behalf.

The terms outlined herein will be available on the Tonto Hills website for all residents, and a copy of this document will be provided by the ACC to TH property owners upon presenting plans for builds or remodels.

Approved by THIA Board of Directors

Dec. 5, 2018