

# BOARD OF ADJUSTMENT REPORT



Meeting Date: 11/3/2021

## ACTION

### Scottsdale Recovery Center - Accommodation 8-BA-2021

#### Request to consider the following:

1. Request by owner for a reasonable accommodation based on a disability, to the City of Scottsdale Zoning Ordinance, to allow a proposed sober living (Care Home) use at a property with Medium Density Residential (R-3) zoning, located at 7910 and 7920 E. Wilshire Drive.

## OWNER

Michelle Siwek  
Scottsdale Recovery II LLC  
Centered Living LLC  
480-414-2596

## APPLICANT CONTACT

Heather Dukes, Esq.  
602-320-8866

## LOCATION

[7910 E Wilshire Drive](#)  
7920 E Wilshire Drive

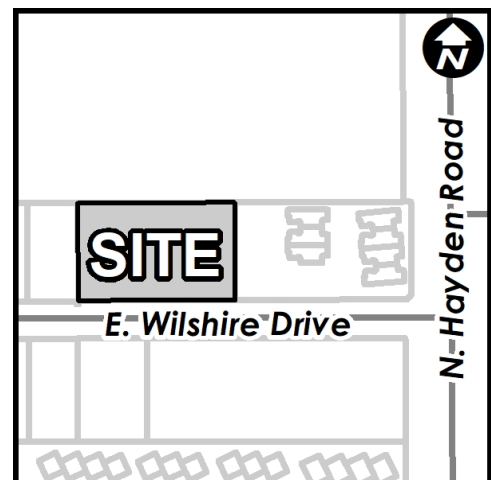
## BACKGROUND

### Context

This site is an existing 2-building (10-unit) condominium development located along the north side of E. Wilshire Drive, west of N. Hayden Road.

### Adjacent Uses and Zoning

- North Existing apartments; zoned Multiple-family Residential (R-5).



- South Existing residential dwellings and apartments; zoned Medium Density Residential (R-3) and Multiple-family Residential (R-5).
- East Existing condominiums, San Tropez; zoned Multiple-family Residential (R-5).
- West Existing residential dwellings; zoned Medium Density Residential (R-3).

### **History**

- April 9, 2021, Pre-Application request 325-PA-2021 was filed for the property at 7910 and 7920 E. Wilshire Drive, to discuss the potential use of the property as a sober living facility/recovery center.
- April 14, 2021, staff contacted applicant by email regarding identified zoning conflicts prior to scheduling the Pre-Application meeting.
- April 22, 2021, the associated Pre-Application meeting was held with staff regarding filed pre-application 325-PA-2021. Zoning conflicts regarding the proposed land use were identified.
- May 13, 2021, City staff received a Request for Zoning Interpretation regarding the potential use of the property at 7910 and 7920 E. Wilshire Drive.
- June 23, 2021, applicant acquired the property.
- June 23, 2021, the Zoning Administrator completed the Request for Zoning Interpretation confirming that the land use is a Care Home, which is not a permitted land use in the Medium Density Residential (R-3) zoning district applicable to that property.
- July 1, 2021, City staff received an Appeal of the Zoning Administrator's decision, case 6-BA-2021.
- September 1, 2021, the appeal request case 6-BA-2021 was granted a Continuance to the November 3, 2021 Board of Adjustment hearing.
- September 29, 2021, City staff received a Disability Accommodation request for the property at 7910 and 7920 E. Wilshire Drive, to seek an accommodation to use the property as a sober living facility/recovery center and for relief from the minimum separation requirement of twelve hundred (1200) feet.

### **Zoning/Development Context**

This site was included in an action in 1968 that rezoned several properties in the area from Single-family Residential (R1-7) to Medium Density Residential (R-3), via case 3-ZN-1968 and Ordinance 380. This site came through the Development Review Board in 1983, as case 81-DR-1983, and was approved for a 2-building (10-unit) residential development with its associated Condominium plat having been recorded in May of 1984 (via MCR 266-50).

The Medium Density Residential (R-3) zoning district is intended to fulfill the need for medium density residential development. The property development standards are designed to allow maximum flexibility while maintaining an environment compatible with single-family neighborhoods. This district generally serves as an integral part of the neighborhood, allowing for a variety of [uses](#). The density for R-3 developments is structured so that the minimum gross land area per dwelling unit shall be 3,370 square feet. For this approximately 35,300 gross square foot site, the maximum allowable density is 10-units.



## **Zoning Ordinance Requirements**

Care Homes are permitted land uses in Single-family Residential zoning districts subject to the following criteria:

- a. *Floor area ratio*: Is limited to thirty-five hundredths (0.35) of the net lot area.
- b. *Capacity*: The maximum number of residents, including up to ten (10) disabled persons, the manager/supervisor, property owner, and residential staff at the home is twelve (12) per residential lot.
- c. *Location*: A care home shall not be located within twelve hundred (1200) feet, measured from lot line to lot line, of another care home.
- d. *Compatibility*: The home and its premises shall be maintained in a clean, well-kept condition that is consistent in materials and design style with homes in the surrounding or adjacent neighborhood.
- e. *Criteria*: Care homes must be licensed by the State of Arizona and must provide proof of such licensing by the State of Arizona as a health care institution to the Director of Planning prior to the commencement of operations. All care homes must pass an initial and annual fire inspection administered by the Scottsdale Fire Department. Proof of such inspection and of correction of any noted deficiencies must be available at the care home at all times.
- f. *Accommodation*: A disabled person may request a disability accommodation from the above criteria or a development standard pursuant to [Section 1.806](#) of the Zoning Ordinance.

Care Home is not a permitted land use in the Medium Density Residential (R-3) zoning district applicable to this site.

## **Community Input**

Property owners within 750' of the subject site have been notified of the application via postcard. Staff has received several inquiries regarding the use of the property, relative to the application for an Appeal of the Zoning Administrator's decision on this site. Comments have included questions about the process and concerns over perceived impacts to the surrounding neighborhood.

## **Discussion**

Prior to purchasing the property, Michelle Siwek as the manager of Scottsdale Recovery II LLC and Centered Living LLC, submitted Pre-Application request 325-PA-2021 for the property at 7910 and 7920 E. Wilshire Drive to discuss the use of the property as a sober living facility/recovery center. City staff contacted the applicant in advance of scheduling a pre-application meeting and explained the proposed land use is classified as a Care Home, which is not permissible in the current zoning district. Additionally, staff explained the subject property did not meet the 1,200-foot separation requirements from an existing care home. At the applicant's request, the associated Pre-Application meeting was held on April 22, 2021. In that meeting staff reiterated that the proposed use would fall under the Care Home use designation as identified in the City's Zoning Ordinance and that the R-3 district does not allow a Care Home use. Staff discussed what land uses would be allowed on the site and presented alternatives,

which included finding a different location that had no zoning conflicts, or amending the zoning code to allow a Care Home at this location.

A request for interpretation was filed on May 13, 2021, for interpretation of the Zoning Ordinance by the Zoning Administrator, regarding the land use of the property at 7910 and 7920 E. Wilshire Drive. The request sought to find that the “sober living” use at this site was either viewed as Dwelling Unit(s) or a Group Home, which would be allowable uses in the Medium Density Residential (R-3) zoning district.

On June 23, 2021, after the pre-application meeting with staff and before the official response to the requested interpretation, Centered Living LLC acquired the subject property (Maricopa County Recorder’s document 2021/0689543).

The Zoning Administrator completed the Request for Zoning Interpretation on June 23, 2021, confirming that the land use is a Care Home, which is not a permitted land use in the Medium Density Residential (R-3) zoning district applicable to the property at 7910 and 7920 E. Wilshire Drive. The Zoning Administrator issued a written response to the interpretation request. In preparing the response, the Zoning Administrator reviewed the Zoning Ordinance definitions and specified land uses and the details of text amendment [2-TA-2017](#), which adopted Ordinance No. 4326 and associated Resolution No. 10963 identifying amongst other things that “sober living” is not a separately designated use in the Zoning Ordinance and was expressly included in the broader Care Home use designation by that [City Council](#) action in 2017.

- As a Care Home, the use is currently not permitted in the Medium Density Residential (R-3) zoning applicable to this site. The permitted land uses in the R-3 are found in [Sec. 5.703](#) of the Zoning Ordinance. The City Council, through the adoption of zoning ordinances, can determine which land uses may be allowed in each zoning district.
- Licensed sober living facilities have been considered Care Homes by the City for years. Since 2018, approximately 16 sober living facilities have sought and received approval by the City as a Care Home. This amounts to 42% of the 38 total care home applications approved over this time. The actual number may be slightly higher, as the type of care being provided is not always revealed in the application.

## **REQUEST ANALYSIS**

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In the submitted application materials filed September 29, 2021, the applicant requests that the Board of Adjustment grant one of the following accommodation requests:

1. An accommodation allowing two (2) to four (4) disabled, sober adults to live as a family in each dwelling unit on the property.

### **Staff Analysis:**

Based on the information provided in the Zoning Administrator’s response to the request for interpretation, provided June 23, 2021, so long as a license with the AZDHS

is not being sought as a component of the operations of this property, the R-3 zoning applicable to the site already allows this request whether the residents are disabled or not. If a license to provide care is being pursued, as identified, the use would fall under the Care Home designation and would then involve the same request posed as #2 below.

2. An accommodation allowing two (2) to four (4) disabled, sober adults to live in each dwelling unit on the property as a “Care Home” within the R-3 zoning district and within 1,200-feet of another licensed care home.

Staff Analysis:

This application for a reasonable accommodation seeks relief by the Board of Adjustment to the permitted land uses of the Medium Density Residential (R-3) zoning district as outlined in Sec. 5.102 (Table 5.102) of the Zoning Ordinance, as Care Home is not currently a permitted land use in that zoning district. Generally, the authority to alter zoning districts and the specified land uses of the Zoning Ordinance is within the power of the City Council.

The regulatory parameters for Care Home uses were last addressed by the City Council via text amendment [2-TA-2017](#), which adopted Ordinance No. 4326 and Resolution No. 10963 specifically identifying that “sober living” is not a separate use from Care Home. The separation requirement is also included in those parameters and was set at 1200-feet to align with the benchmarked buffering/separation parameters of other municipalities.

The current applicability of Care Homes in single-family residences sets up parameters for up to 10-residents with a separation between licensed care facilities of a minimum of 1200-feet. The requested accommodation to utilize a multi-family residential development for the same purpose increases the intensity and proximity beyond a comparable scenario. In application of numbers to this specific site configuration, the applicant is requesting 2-4 residents in each of the 10 dwelling units on this site. That amounts to 20-40 residents with as little as zero separation buffering between these 10 dwelling units, each being viewed as Care Homes. All 10 of these dwelling units are also in conflict with the 1200-foot buffer requirement of another existing Care Home location. Although the applicant in this request is specifically asking for 2-4 residents per dwelling within this development project, the argument of Care Home equivalency could lead to as many as 10 residents per dwelling being operated as a Care Home. More intense care facility uses, such as this, are specifically accounted for in the Zoning Ordinance as Residential Healthcare Facilities which are permitted in several commercial zoning districts and within multi-family districts through the Conditional Use Permit process (subject to the additional conditions outlined in [Sec. 1.403.P](#) of the Zoning Ordinance).

## CRITERIA ANALYSIS

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### Sec. 1.806 - Disability Accommodation:

**A. A disability accommodation from a development standard or separation requirement shall not be authorized unless the Board shall find upon sufficient evidence all of the following:**

**1. The requested accommodation is requested by or on the behalf of one (1) or more individuals with a disability protected under federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.);**

Staff Analysis:

Based on the materials provided with the application, the requested accommodation is being made by the property owner on behalf of tenants that will have a disability that is protected under federal and Arizona fair housing laws.

**2. The requested accommodation is necessary to afford an individual with a disability equal opportunity to use and enjoy a dwelling;**

Staff Analysis:

The City must grant a reasonable accommodation from limiting development standards to individuals with disabilities where the application of that/those development standard(s) would deprive those individuals the ability to enjoy the housing of their choice in a manner equal to that of other individuals. However, the permitted land uses within zoning districts are not development standards as set forth in Sec. 1.806 of the Zoning Ordinance, regarding Disability Accommodations. The requested accommodation would circumvent the zoning requirements established by the City Council and deprive the surrounding property owners of the ability to participate in the public hearing process associated with a change of land use (rezoning).

**3. The standard or requirement unduly restricts the opportunity for a person with a disability from finding adequate housing within the City of Scottsdale;**

Staff Analysis:

It does not appear that the application of the zoning ordinance would unduly restrict opportunity to find adequate housing within the City of Scottsdale.

**4. The requested accommodation does not fundamentally alter the nature and purpose of the Zoning Ordinance of the City of Scottsdale;**

Staff Analysis:

Staff finds that the requested accommodation is a fundamental alteration of the nature and purpose of the Scottsdale zoning ordinance by seeking a change to the permissible land uses within the Medium Density Residential (R-3) zoning district. Allowable land uses are established for different zoning districts to control operations and impacts of specific uses to the needs and character of areas as contemplated by the General Plan. The authority to alter General Plan designations, adopted Zoning districts, and the specific text of the Zoning

Ordinance is granted to the City Council to be executed through applicable public hearing processes for such changes. This request seeks such change through the Board of Adjustment.

The Zoning Ordinance specifically accounts for the ability to have a licensed Care Home (including sober living) as a permitted land use in a detached single-family residential home in a Single-family Residential zoning district. The State regulations direct the occupancy of up to 10 residents in a Care Home environment living in a single-family unit as being similar in use and impact as typical occupancy of a single-family dwelling, while allowing for local regulation on proximity of such Care Home locations so as not to create oversaturation and a disparity between the equivalency of impact of the two uses. The Zoning Ordinance also accounts for facilities providing care in Multi-family Residential zoning districts, which would fall under the Residential Healthcare land use designation, anticipating a greater intensity of residents in alignment with the context and intensity of other multiple-family dwelling developments in those districts. In the multi-family zoning districts, a Conditional Use Permit is included as part of the requirements in order to provide additional oversight on the operational impacts and fit of Residential Healthcare facilities with the context of the surrounding area. For situations where a group of more than 6 adults are living together with no licensed care provided or accounted for, the Zoning Ordinance accounts for a Group Home as a land use, which would be permissible in the R-3 zoning applicable to this site.

The applicant's assertion that the Zoning Ordinance is discriminatory against disabled residents overlooks facts that the Ordinance allows for all persons to reside in dwelling units, disabled or abled, within all residential zoning districts. The focus of regulation is instead on the level of licensed commercial/business operations that occurs within those residential districts and the anticipated impacts (or not) on the residential nature intended for those areas and their other residents.

**5. The requested accommodation will not impose an undue financial or administrative burden on the City, as "undue financial or administrative burden" is defined in federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.) and interpretive case law;**

Staff Analysis:

There is no anticipated undue financial or administrative burden on the City if the requested accommodation is granted.

## **CASE LAW ANALYSIS**

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Courts have unanimously applied the reasonable accommodations requirement of the Fair Housing Act (and its amendments) and ADA to zoning ordinances and other land use regulations and practices. *See Township of Cherry Hill*, 799 F.Supp. at 462–63; *Town of Babylon*, 819 F.Supp. at 1180; *United States v. Village of Marshall*, 787 F.Supp. 872, 878 (W.D.Wis.1991); *Oxford House–Evergreen v. City of Plainfield*, 769 F.Supp. 1329, 1344–45 (D.N.J.1991). Reasonable accommodation has been defined as “changing some rule that is generally

applicable so as to make its burden less onerous on the handicapped individual.” *Bangerter v. Orem City*, 46 F.3d 1491, 1502 (10th Cir.1995). In determining this often difficult question, a court must resolve the necessary tension between a municipality's right to control land uses through neutral regulation, and its duty to make reasonable accommodations for the handicapped under the Act. See *Bryant Woods Inn v. Howard County, Maryland*, 124 F.3d 597, 603 (4th Cir.1997).

In enacting the Fair Housing Act (“FHA”), Congress did not contemplate abandoning the deference that courts have traditionally shown to local zoning codes. See *Bryant Woods*, 124 F.3d at 603; *Village of Belle Terre v. Boraas*, 416 U.S. 1, 13, 39 L. Ed. 2d 797, 94 S. Ct. 1536 (1974) (Marshall, J., dissenting) (noting that zoning “may indeed be the most essential function performed by local government”). Thus, Congress required only that local government make “reasonable accommodation” to afford persons with disabilities “equal opportunity to use and enjoy” housing in those communities. 42 U.S.C. § 3604(f)(3)(B). The FHA thus requires an accommodation for persons with disabilities if the accommodation is (1) reasonable and (2) necessary (3) to afford handicapped persons equal opportunity to use and enjoy housing. See 42 U.S.C. § 3604(f)(3).

A requested accommodation is not reasonable, if it would: (1) “impose undue financial and administrative burdens;” (2) “impose an 'undue hardship' on the City;” or (3) “requiring a fundamental alteration in the nature and purpose of the City’s zoning ordinance.” Sec. 1.806; *Lapid-Laurel v. Zoning Bd. of Adjustment*, 284 F.3d 442, 462 (3d Cir. 2002).

## **SUMMARY**

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The accommodation sought by the applicant is not reasonable, as it would “require a fundamental alteration in the nature and purpose of the zoning ordinance.”

The purpose of the City's separation standard of 1200 feet is intended to ensure that there would be no more than one Care Home or state licensed drug and alcohol facility in close proximity to each other, maintaining continuity within single-family neighborhoods, and avoiding Care Home clustering within a multi-family residential district where other land uses are already accounted for to address more densely provided care environments. Therefore, approval of the accommodation request would result in a fundamental alteration of the City's zoning and would contribute to an overconcentration of care facilities in this multi-family residential neighborhood. A zoning accommodation may be deemed unreasonable if it is so at odds with the purpose behind the zoning rule that it would amount to a fundamental and unreasonable change.

Based on the information provided by the applicant the evidence does not support a finding that the requested accommodation is reasonable and does not fundamentally alter the City’s zoning program.

However, the decision about whether the criteria have been met and that a reasonable accommodation should be granted is for the Board to make after hearing all the evidence at the hearing.

Approved By



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Jeff Barnes, Report Author  
480-312-2376, jbarnes@scottsdaleaz.gov

10/18/2021

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Date



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Bryan Cluff, Board of Adjustment Liaison  
480-312-7713, bcarr@scottsdaleaz.gov

10/20/2021

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Date



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Tim Curtis, AICP, Current Planning Director  
480-312-4210, tcurtis@scottsdaleaz.gov

10/20/2021

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Date



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Randy Grant, Planning and Development  
Executive Director  
480-312-2664, rgrant@scottsdaleaz.gov

10/20/2021

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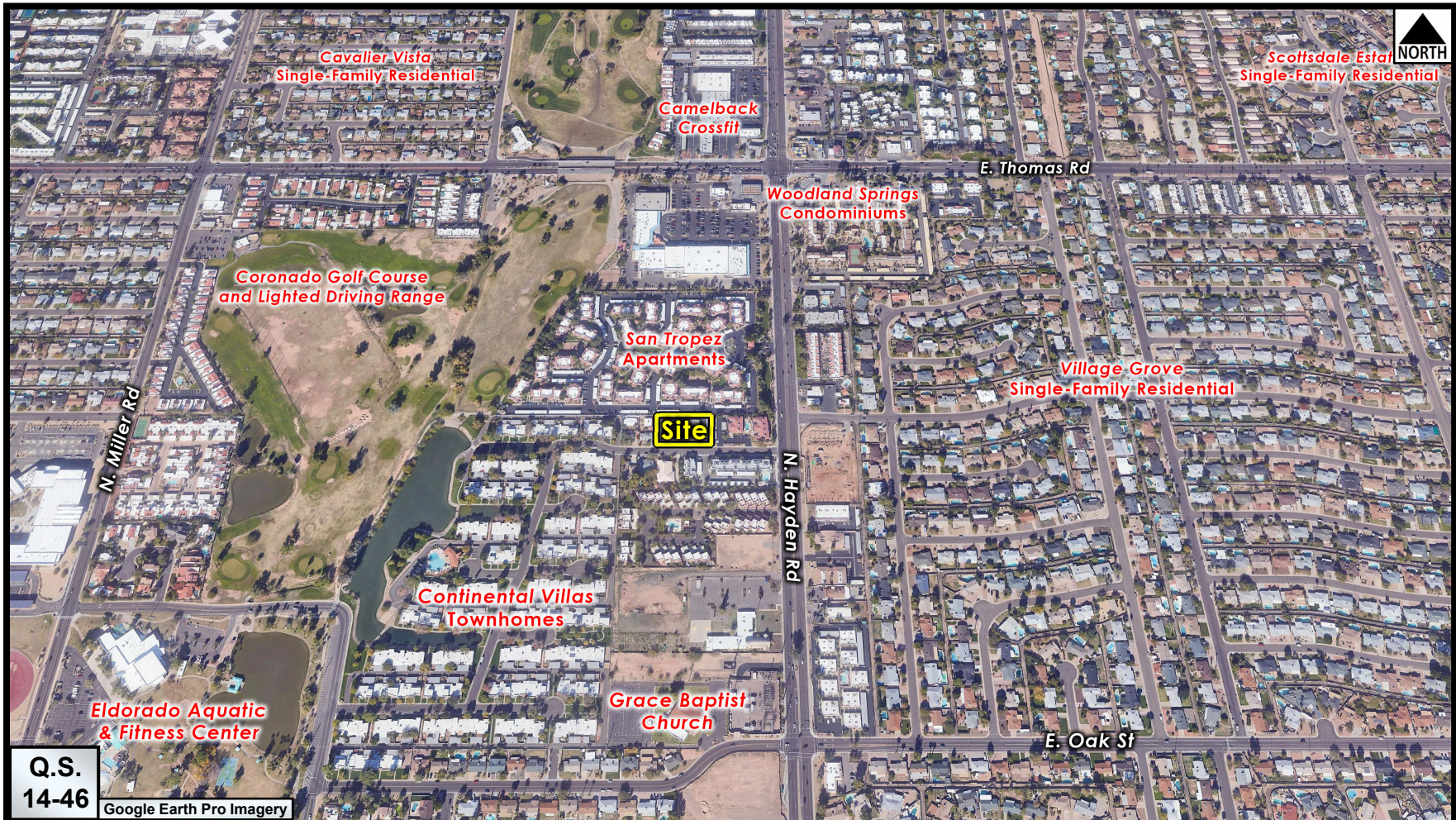
Date

## ATTACHMENTS

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1. Context Aerial
2. Aerial Close-Up
3. Zoning Map
4. Applicant's Narrative
5. May 13, 2021, Request for Zoning Interpretation/Decision
6. June 23, 2021, the Zoning Administrator's Interpretation/Decision
7. July 1, 2021, Appeal of the Zoning Administrator's Interpretation/Decision
8. April 14, 2021 Correspondence
9. June 23, 2021 Deed
10. Zoning Ordinance 5.700 – 5.707. Medium Density Residential (R-3) District
11. Case 2-TA-2017 Council Action Report
12. Ordinance 4326
13. Resolution 10963
14. A.R.S. § [36-2061.3](#)
15. A.R.S. § [36-401.22](#)
16. Arizona Administrative code [R9-10-102](#)
17. Arizona Administrative code [R9-12-201](#)
18. Applicant's supplemental materials received 10/20/2021





Context Aerial

ATTACHMENT #1

8-BA-2021





Close-up Aerial

ATTACHMENT #2

8-BA-2021





Zoning Aerial

8-BA-2021

ATTACHMENT #3

## Heather Dukes

5064 E. Yucca Street  
Scottsdale, AZ 85254  
602.320.8866

City Clerk  
CITY OF SCOTTSDALE  
3939 N. Drinkwater Boulevard  
Scottsdale, AZ 85251

September 29, 2021

RE: Disability Accommodation/Reasonable Accommodation Application to the City of Scottsdale Board of Adjustment – 7910 and 7920 E. Wilshire Drive, Scottsdale, Arizona 85257 (the “Property”)

Dear City Clerk,

On behalf of my clients, Scottsdale Recovery II, LLC, a Delaware limited liability company, and Centered Living, LLC, an Arizona limited liability company (collectively the “Applicant”), I submit the enclosed reasonable accommodation and disability accommodation application (the “Accommodation Application”) to the Board of Adjustment pursuant to the federal and Arizona Fair Housing Acts<sup>1</sup> and Sections 1.801, 1.806 and 1.920 of the City of Scottsdale Zoning Ordinance (the “Zoning Ordinance”). The purpose of this Accommodation Application is to allow up to four disabled, sober adults to live within each condominium dwelling unit at the above-referenced Property within the Medium Density Residential (R-3) zoning district. To achieve this purpose, the Applicant respectfully requests that the Board of Adjustment grant one of the following accommodations from the Zoning Ordinance:

1. An accommodation allowing two to four disabled, sober adults to live as a “family” in each dwelling unit on the Property within the R-3 zoning district, or
2. An accommodation allowing two to four disabled, sober adults to live in each dwelling unit on the Property as a “care home” within the R-3 zoning district and within 1,200 feet of another care home licensed as an assisted living facility for the elderly.

This Accommodation Application is supported by an enclosed email to Scottsdale Planning staff dated September 16, 2021.

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<sup>1</sup> This Reasonable Accommodation Application is being filed pursuant to Federal Fair Housing Act 42 U.S.C. § 3604(f)(3)(B) and Arizona Fair Housing Act, Ariz. Rev. Stat. § 41-1491, as well as relevant caselaw pertaining to reasonable accommodations of zoning ordinances.

We would request that this Accommodation Application be scheduled for the November 3, 2021 Board of Adjustment hearing. The Applicant previously submitted an appeal of a Zoning Administrator's Interpretation which determined that the proposed sober living use of the Property would constitute a "Care Home" and would not be permitted in the R-3 zoning district (the "ZA Interpretation"; 6-BA-2021). The appeal of the ZA Interpretation is currently scheduled for the November 3<sup>rd</sup> Board of Adjustment hearing. Thus, scheduling the Accommodation Application as an agenda item for the same November 3<sup>rd</sup> hearing would be ideal. In the event the Accommodation Application is granted for the Property, the appeal of the ZA Interpretation would no longer be necessary.

The Applicant shall submit additional evidence and written materials in support of this Accommodation Application at least 14 calendar days prior to the Board's hearing in accordance with Section 403 of the Rules of Procedure for the Board of Adjustment.

If you need additional information or documentation in order to process this appeal, please do not hesitate to contact me at [hdukesesq@gmail.com](mailto:hdukesesq@gmail.com) or by phone at 602.320.8866. Thank you.

Very truly yours,



**Heather N. Dukes**

602.320.8866 | [hdukesesq@gmail.com](mailto:hdukesesq@gmail.com)

**From:** Heather Dukes

**Sent:** Thursday, September 16, 2021 3:21 PM

**To:** Curtis, Tim

**Cc:** Cluff, Bryan; Barnes, Jeff

**Subject:** Reasonable Accommodation Application for 7910 and 7920 E. Wilshire Drive

Dear Tim:

As we discussed, I am sending this email to further explain our FHA reasonable accommodation application to be submitted for the Scottsdale Recovery sober living property at 7910 and 7920 E. Wilshire Drive. I am also sending this email to confirm a few dates and procedural items.

### **Overview of Reasonable Accommodation Application**

Currently, we have a pending interpretation appeal before the Board of Adjustment scheduled to be heard on November 3rd (Case No. 6-BA-2021 – requesting an interpretation that 2 to 4 sober, disabled individuals living in each dwelling unit would constitute a “family” and be permitted in the R-3 zoning district as a matter of right).

In addition to the pending interpretation appeal, my client will be filing an application requesting that the Board of Adjustment issue a reasonable accommodation to allow the proposed sober living use in the R-3 zoning district at this particular location pursuant to the federal Fair Housing Act [42 U.S.C. § 3604(f)(3)(B)] and the nearly identical protections set forth in Arizona’s Fair Housing Act [Ariz.Rev.Stat. § 41-1491]. The reasonable accommodation application should be scheduled at the same BOA hearing as the interpretation Case No. 6-BA-2021 (currently set for Nov 3, 2021).

The reasonable accommodation application will address both: (i) the disability accommodation tests set forth in Section 1.806 of the Zoning Ordinance and (ii) the reasonable accommodation tests identified in the 9<sup>th</sup> Circuit and Arizona case law.

The reasonable accommodation application will be supported by additional evidence that we are currently compiling. We will also be submitting information and evidence showing that the reasonable accommodation must be granted to Scottsdale Recovery and its disabled residents as result of the following:

- 1) The City’s Zoning Ordinance is facially discriminatory. The Ordinance prohibits care homes for the disabled in multifamily zoning districts but allows group homes and vacation rentals for non-disabled residents in multifamily zoning districts.
- 2) Scottsdale Recovery and its disabled residents have been subjected to disability-based disparate treatment as a result of the City’s implementation of the Zoning Ordinance and the interpretation issued in 6-BA-2021.
- 3) The Zoning Ordinance and the City’s implementation of the Ordinance have a discriminatory impact on persons with disabilities.



## **The Fair Housing Act Affords the Right to Request a Reasonable Accommodation in this Case**

To assist the City in reviewing our reasonable accommodation application and scheduling the Board of Adjustment hearing for November 3rd, I am provided this summary of our rights to request a reasonable accommodation in this matter.

You have mentioned that the Zoning Ordinance limits the scope of disability accommodations that may be granted by the City. In particular, you have noted that disability accommodations to the Zoning Ordinance are applicable to development standards and separation requirements, not land uses allowed by zone.

You are correct in that Section 1.806 provides a list of criteria that must be satisfied in order for the Board of Adjustment to authorize "a disability accommodation from a development standard or separation requirement." In addition, Section 1.920 of the Zoning Ordinance provides guidance as to when the Zoning Administrator may grant an administrative accommodation and requires that "all other requests for disability accommodation shall be submitted to the Board of Adjustment as a request for disability accommodation." But, neither Section 1.806 nor Section 1.920 specifically prohibit a reasonable accommodation request pertaining to land uses allowed in certain zoning districts. Any attempt to do so would be contrary to the reasonable accommodation rights we are afforded under the federal and Arizona Fair Housing Acts. It would also violate the Supremacy Clause.

The Fair Housing Act is a "broad mandate to eliminate discrimination against and equalize housing opportunities for disabled individuals." *Canady v. Prescott Canyon Estates Homeowners Ass'n*, 204 Ariz. 91, 93 (App.2002). "Because it is a broad remedial statute, its provisions are to be generously construed and its exemptions must be read narrowly." *Id.*

The 1988 amendments to the federal Fair Housing Act (the "**FHAA**") require cities and towns to accept and "make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such persons [with disabilities] equal opportunity to use and enjoy a dwelling." 42 U.S.C. § 3604(f)(3)(B). Across the country, the "reasonable accommodation requirement has been applied to zoning ordinances and other land use regulations and practices." *Canady*, 204 Ariz. at 94. The City's disability accommodation procedure and its regulation of care homes are not exempt from Fair Housing Act mandates and the requirement to make reasonable accommodations of certain zoning ordinance provisions on a case-by-case basis. In fact, I have found no caselaw which has upheld a City's right to preclude or reject a FHA reasonable accommodation request by disabled residents as a result of a local zoning ordinance limiting reasonable accommodation applications to only certain claims.

The application of the Supremacy Clause in this instance was also addressed in the 2016 Joint Statement issued by the Department of Housing and Urban Development and the Department of Justice titled "State and Local Land Use Laws and Practices and the Application of the Fair Housing Act" (the "**2016 Joint Statement**"). The 2016 Joint Statement advises cities and towns that the FHA makes it unlawful to refuse to accept and make reasonable accommodations to zoning ordinance provisions when such accommodations may be necessary to afford disabled persons an equal opportunity to use and enjoy a dwelling. The 2016 Joint Statement references the Supremacy Clause of the U.S. Constitution as the basis for enforcing federal laws such as the FHA regardless of scenarios when a city's zoning ordinance has conflicting rules and requirements.

As established by the Supremacy Clause of the U.S. Constitution, federal laws such as the Fair Housing Act take precedence over conflicting state and local laws. The Fair Housing Act thus prohibits state and local land use and zoning laws, policies, and practices that discriminate based on a characteristic protected under the Act. Prohibited practices as defined in the Act include making unavailable or denying housing because of a protected characteristic.

Emphasis added. See 2016 Joint Statement, pg. 2. As a result of the Supremacy Clause, the City of Scottsdale may not limit the scope of a reasonable accommodation under the Fair Housing Act. Scottsdale Recovery is entitled to request a reasonable accommodation to allow a sober living use in the R-3 multifamily zoning district because such prohibition is discriminatory against disabled individuals and denies housing because of a protected characteristic.

Furthermore, the House Committee Report on the FHAA indicates that Congress intended the FHAA to apply to “local land use and health and safety laws, regulations, practices or decisions which discriminate against individuals with handicaps.” 1988 U.S.C.C.A.N. at 2185. In fact, the House Committee Report made it abundantly clear that any discriminatory rule or policy is not defensible simply because of the manner in which such rule or practice has traditionally been constituted or carried out. Instead, such rules, policies and practices must be modified in some instances to accommodate the needs of the disabled.

*New [FHAA] subsection 804(f)(3)(B) makes it illegal to refuse to make reasonable accommodation in rules, policies, practices, or services if necessary to permit a person with handicaps equal opportunity to use and enjoy a dwelling. The concept of “reasonable accommodation” has a long history in regulations and case law dealing with discrimination on the basis of handicap . . . A discriminatory rule, policy, practice, or service is not defensible simply because that is the manner in which such rule or practice has traditionally been constituted. This section would require that changes be made to such traditional rules or practices if necessary to permit a person with handicaps an equal opportunity to use and enjoy a dwelling.*

*Giebeler v. M&B Associates*, 343 F.3d 1143, 1148-49 (9th Cir.2003), citing H.R. REP. NO. 100-711, at 25 (1988), reprinted in 1988 U.S.C.C.A.N. 2173, 2186 (internal citations omitted). With this legislative history in mind, courts have interpreted “the FHAA’s accommodation provisions with the specific goals of the FHAA in mind: ‘to protect the right of handicapped persons to live in the residence of their choice in the community,’ and ‘to end the unnecessary exclusion of persons with handicaps from the American mainstream.’” *Giebeler*, 343 F.3d at 1149, internal citations omitted.

In this case, the City of Scottsdale must accept Scottsdale Recovery’s request for a reasonable accommodation of the City’s Zoning Ordinance provision which prevents care homes from operating within the R-3 multi-family zoning district. The City of Scottsdale has adopted discriminatory rules and policies that are not defensible simply because the City has precluded all care homes in multi-family residential districts since its 2017 text amendment. Furthermore, there are no limitations in the FHAA which prevent Scottsdale Recovery from making this reasonable accommodation request. As set forth in the House Committee Report referenced above, the City of Scottsdale is required to consider and make changes to traditional rules or practices when it is necessary to permit a person with disabilities an equal opportunity to use and enjoy a dwelling, such as a condominium dwelling unit with several amenities and benefits that are instrumental in assisting disabled individuals who are choosing sobriety.



### **Caselaw Supports the Right to Request a Reasonable Accommodation in this Case**

The following two cases support our request for a reasonable accommodation to allow the proposed sober living use at 7910/7920 E Wiltshire Drive in the R-3 zoning district:

In *Judy B. v. Borough of Tioga*, 889 F. Supp. 792 (M.D. Pa. 1995), the court held that requiring a local jurisdiction to either grant a use variance or waive requirements under the Zoning Ordinance, so that an entity could convert a former motel into residences for individuals with disabilities, constituted a reasonable accommodation under the FHA. In *Judy B. v. Borough of Tioga*, the motel property was located in a restricted commercial/industrial (CI) zone, that was surrounded on three sides by a medium-density residential district. The court emphasized that such relief would require an extremely modest accommodation in the borough's zoning rules, since the CI district where the property was located permitted uses such as professional and business offices, personal convenience services, and "other uses which shall be similar in character" as the proposed use. The court noted that the proposed use was consistent with the character of the surrounding neighborhood and would not adversely impact neighboring property owners, but rather would, if anything, subject the neighborhood to less traffic and fewer parking problems and disruptions than the former motel use or any/all of the uses expressly permitted in the CI zoning district.

In *Corporation of Episcopal Church in Utah v. West Valley City*, 119 F. Supp. 2d 1215 (D. Utah 2000), a church and association sought approval to build a residential treatment facility for recovery drug addicts and alcoholics in a residentially zoned area of the city. The Court granted summary judgment to the applicants because the city had refused to make a reasonable accommodation under the FHA after it denied a permit to build the facility because the zoning ordinance did not allow halfway houses and similar uses in the residential zoning district applicable to the property. The city argued that the accommodation requested by the applicants was unreasonable in that it would require a drastic change in policy, but the court responded that no evidence whatsoever had been established other than complaints of neighbors.

The facts in Scottsdale Recovery's case are very similar to the cases cited above, in which a local jurisdiction fails to make a reasonable accommodation for disabled individuals because a group living environment for disabled individuals is prohibited in a certain zoning district. The cases cited above confirm that a municipality's zoning ordinance is subject to the FHAA standards and is a proper subject matter for a reasonable accommodation request when such ordinances prevents disabled individuals from living in certain zoning districts.

### **The 2016 Joint Statement by HUD and Department of Justice Supports a Reasonable Accommodation in this Case**

The court decisions referenced above are reinforced by the 2016 Joint Statement, which provides several examples of local land use and zoning laws that may violate the Fair Housing Act, many of which are at issue in the case at hand:

- *"Prohibiting . . . housing based on the belief that the residents will be members of a particular protected class, such as race, disability, or familial status. . . ." See 2016 Joint Statement, pg. 3.*
  - In this case, the City of Scottsdale has interpreted 2 to 4 disabled individuals living in a sober living environment to be a "care home." Care homes are prohibited in all multi-family residential dwelling units throughout the City with the knowledge that such residents are members of a disabled class.

- *“Imposing restrictions or additional conditions on group housing for persons with disabilities that are not imposed on families or other groups of unrelated individuals . . . .” Id.*
  - In this case, the City of Scottsdale has imposed a zoning ordinance restriction on group housing for persons with disabilities by prohibiting all care homes in multifamily residential zoning districts. Meanwhile, this restriction is not imposed on group housing for persons without disabilities. Group homes are permitted in multifamily residential districts.
- *“Refusing to provide reasonable accommodations to land use or zoning policies when such accommodations may be necessary to allow persons with disabilities to have an equal opportunity to use and enjoy housing.” Id.*
  - In this case, the City of Scottsdale cannot refuse to accept or provide a reasonable accommodation of the zoning ordinance policy preventing care homes in all multifamily residential districts because such accommodation is necessary to allow persons with disabilities to have an equal opportunity to use and enjoy multifamily housing.
- *“Prohibiting . . . multi-family housing may have a discriminatory effect on persons because of their membership in a protected class and, if so, would violate the Act absent a legally sufficient justification.” Id. At 5.*
  - In this case, the City of Scottsdale is prohibiting all multi-family housing for persons with disabilities wanting to live in a group living situation that the City’s defines as a “care home”. Persons with disabilities, including those in alcohol and substance use recovery, are members of a protected class that are being negatively impacted by the discriminatory effects of the Zoning Ordinance. The City has presented no legally sufficient justification for making care homes or sober living uses a prohibited use in multifamily residential districts.
- *“Prohibiting group homes in single-family neighborhoods or prohibiting group homes for persons with certain disabilities.” Id. at pg. 8.*
  - In this case, the City of Scottsdale Zoning Ordinance prohibits certain group homes for persons with disabilities in multi-family neighborhoods, which is discriminatory as well.
- *“Enacting an ordinance that has an unjustified discriminatory effect on persons with disabilities who seek to live in a group home in the community.” Id. at pg 8.*
  - In this case, the City of Scottsdale has enacted a Zoning Ordinance with an unjustified discriminatory effect on persons with disabilities who seek to live in a care home or a sober living environment in a multifamily residential district.
- *“Local zoning and land use laws that treat groups of unrelated persons with disabilities less favorably than similar groups of unrelated persons without disabilities violate the Fair Housing Act. For example, suppose a city’s zoning ordinance defines a “family” to include up to a certain number of unrelated persons living together as a household unit, and gives such a group of unrelated persons the right to live in any zoning district without special permission from the city. If that ordinance also prohibits a group home having the same number of persons with disabilities in a certain district or requires it to seek a use permit, the ordinance would violate the Fair Housing Act. The ordinance violates the Act because it treats people with disabilities less favorably than families and unrelated persons without disabilities.”*

- In this case, the City's interpretation of its Zoning Ordinance violates the FHAA in exactly this manner. A family of 2-4 unrelated adults living together as a household unit are allowed to live in any zoning district without special permission from the City of Scottsdale. On the other hand, the same Zoning Ordinance prohibits 2 to 4 unrelated, disabled adults living together as a household unit in all multifamily residential districts. The Zoning Ordinance violates the FHAA because it treats people with disabilities less favorably than families and unrelated persons without disabilities. Therefore, a reasonable accommodation request is justified and proper.

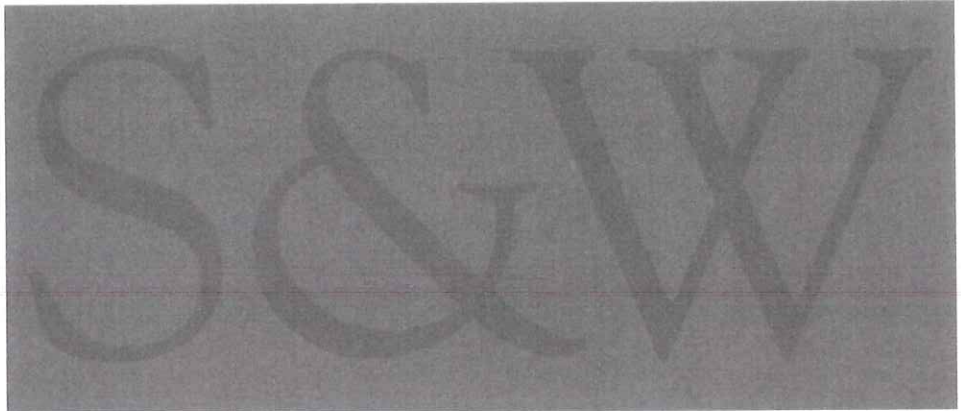
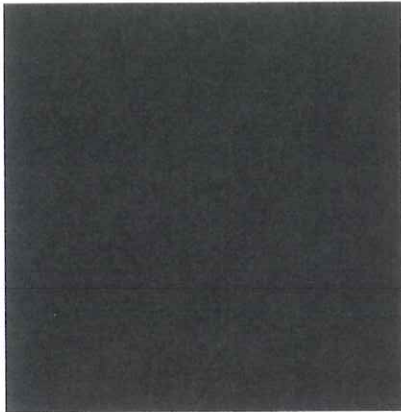
**Scottsdale Recovery will be submitting a formal reasonable accommodation application under the FHAA to allow a sober living use at 7910 and 7920 E. Wilshire Drive, within the R-3 zoning district.**

**Please confirm the deadline for submitting this reasonable accommodation application in order for it to be heard and decided by the Board of Adjustment at the November 3rd hearing.** Thank you.

Sincerely,

Heather Dukes  
602.320.8866

Sent from [Mail](#) for Windows



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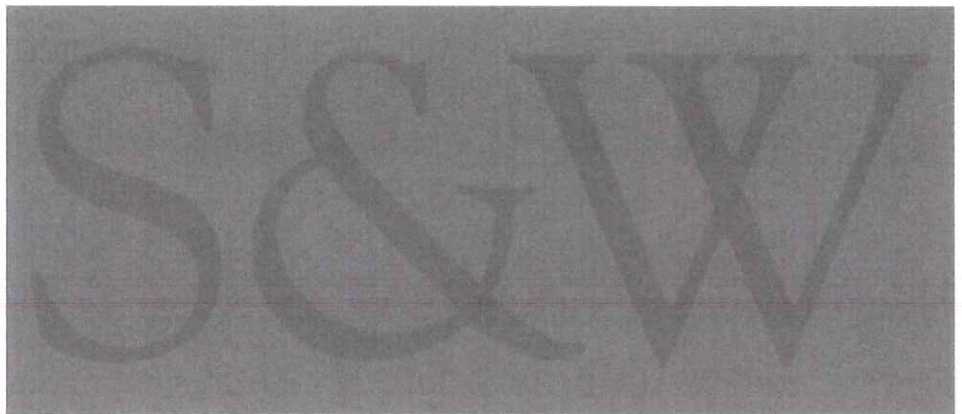
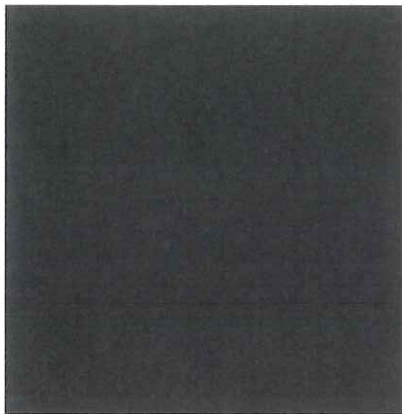
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Assistant Planner

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## Scottsdale Recovery II, LLC

### Interpretation Application





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## Scottsdale Recovery II, LLC

Narrative

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May 13, 2021

## VIA EMAIL

Randy Grant, Zoning Administrator  
City of Scottsdale  
Planning and Development Services  
3939 N. Drinkwater Boulevard  
Scottsdale, AZ 85251

**Re: Request for Zoning Interpretation for Condominium Property Located at  
7910 and 7920 E. Wilshire Drive (the "Property")**

Dear Mr. Grant:

On behalf of our client, Scottsdale Recovery II, LLC, a Delaware limited liability company ("SRII"), we submit this request for a zoning interpretation finding the proposed residential use of the above-referenced Property to be permitted in the Medium Density Residential (R-3) zoning district as "dwelling units" to be occupied by families or a "group home" pursuant to Table 5.703 and relevant definitions in Section 3.100 of the City of Scottsdale Zoning Ordinance (the "Ordinance").

Due to our client's pending purchase of the Property, we would respectfully request receiving an interpretation decision no later than Thursday, June 10, 2021.

### **I. ZONING ADMINISTRATOR'S AUTHORITY.**

Pursuant to Sections 1.202.A and 1.202.D of the Ordinance, the provisions of the Ordinance "shall be interpreted and applied by the Zoning Administrator" and "[t]he Zoning Administrator shall interpret uses within each district." This request seeks an interpretation of the allowable uses within the Medium Density Residential (R-3) zoning district and, thus, falls within the authority of the Zoning Administrator to interpret uses within each district.



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## II. BACKGROUND INFORMATION.

### A. Description of Condominium Property.

The Property is located approximately 300 feet west of the N. Hayden Road and E. Wilshire Drive intersection with an address of 7910 and 7920 E. Wilshire Drive. The Property is currently developed with 12 residential condominium units total. Each condominium unit includes a kitchen with floor plans offering two bedrooms and two bathrooms. The units are approximately 1,100 s.f. in size, allowing up to four persons to reside in each unit. A heavily landscaped common area with a pool, heated spa, gazebo and fireplace is located at the center of the Property.

In 1984, the Property was platted with condominium units<sup>1</sup> and construction was completed approximately the same year. The Property's condominium structure and its current R-3 zoning is compatible with the area, being predominantly developed with multi-family residential uses in the City of Scottsdale's R-3, R-4 and R-5 zoning districts. As shown by the aerial photographs attached as **Exhibit 1**, the Coronado Golf Course is also located to the west of the Property, offering an open space amenity to residents living in close proximity.

### **Photographs of Condominium Internal Courtyard and Pool Area**



<sup>1</sup> See Cortese Condominium plat recorded on May 9, 1984 in Book 266 of Maps, Page 50, MCR.

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City of Scottsdale  
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## Photographs of Condominium Units



### **B. Experience of Condominium Purchaser.**

The Manager of SRII, Michelle Siwek, is a long-time operator in the community and has significant expertise in owning and operating both state-licensed behavioral health residential facilities (where care is administered to residents) and sober living homes (where care is NOT administered to residents). Since 2011, she has provided various residential options and treatment programs for disabled individuals in recovery and has been a longstanding member of the Arizona Recovery Housing Association. Ms. Siwek is the current owner and operator of SRII with 5 locations in Scottsdale, including a residential behavioral health facility, an outpatient clinic, two sober living homes, and a corporate office building with plans to offer detoxification treatment in the future. SRII has Joint Commission accreditation and certification and complies with the highest national standards for safety and quality in behavioral health. As the owner and operator of these facilities, Ms. Siwek is well-versed in distinguishing between the varying levels of treatment offered in detoxification centers and behavioral health residential facilities. In contrast, sober living homes provide no such care, offering only a safe and supportive place for individuals



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to reside in a conventional family setting. *See* Declaration of Michelle Siwek attached hereto as **Exhibit 2**.

**C. Proposed Use of Property.**

The Property will be purchased by SRII to provide housing to adults who have completed several stages of recovery from substance use disorders and are using the tools they learned in treatment to live independently and reintegrate into the community. The Property will be licensed by the Arizona Department of Health Services (“ADHS”) as a sober living home, meaning that no care services will be provided to the residents. Treatment and care services are not necessary onsite. The individuals residing on the Property will have already received such services and completed necessary programs to progress along their path of recovery and reintegrate into the community. The goal is to provide individuals who have advanced far enough in their recovery to live more independently and practice independent living skills in a mutually supportive family setting. The site will not be licensed as a “health care institution” under Arizona law.

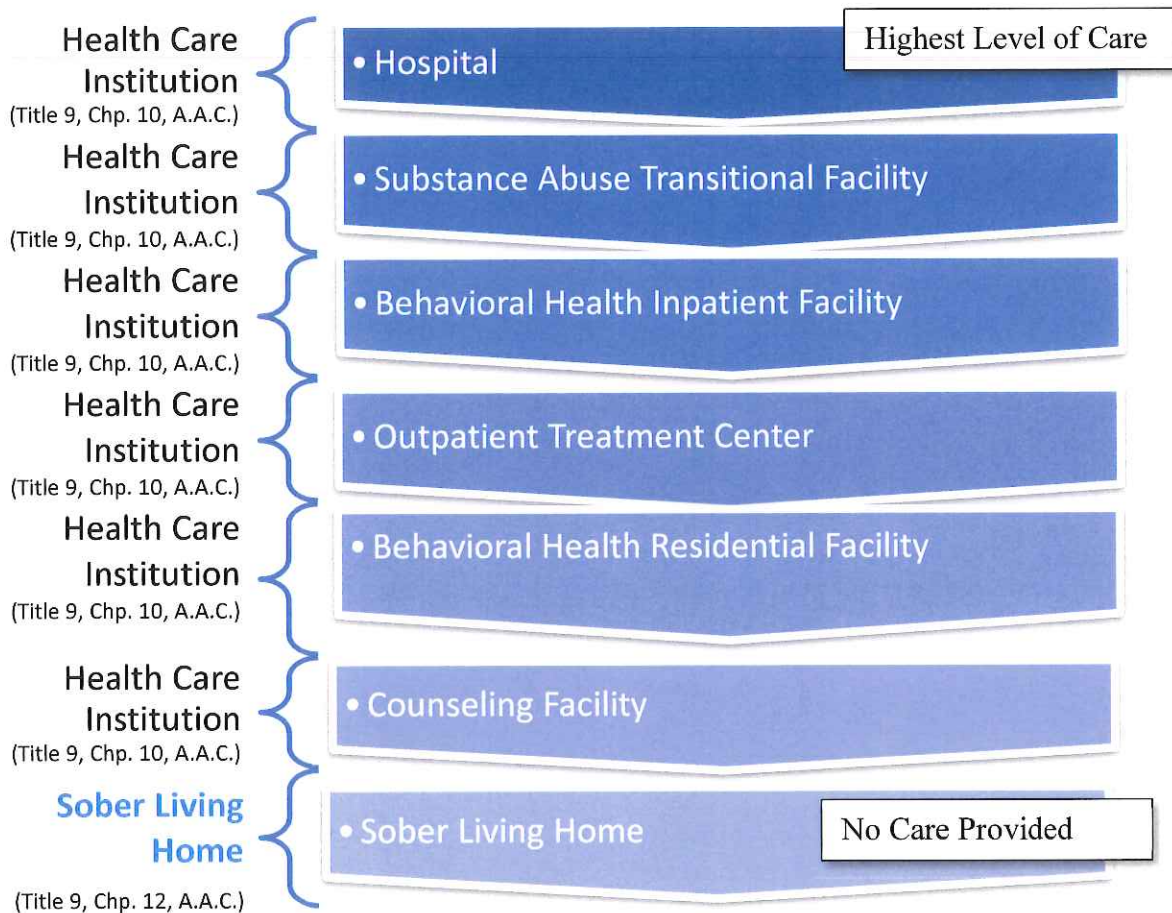
SRII proposes to rent each of the condominium units to two to four adults. Each condominium unit will operate as and emulate a family. In each unit, the residents will have access to a kitchen to cook their own meals and a washer and dryer to perform their own laundry. Cleanliness and upkeep of the unit is the responsibility of the individuals living in the condominium units. No care services will be provided to the residents. There will be no assistance with the self-administration of medication, no laundry services or cleaning services offered, and no full-service kitchen to serve meals to residents. Those responsibilities, once again, are the responsibility of the family living in each unit.

**D. Differences between Health Care Institution & Proposed Sober Living Units.**

It is important to note that each person recovering from a substance use disorder has an individual path to recovery. Yet, most individuals addicted to substances start their initial path to recovery by seeking treatment from or enrolling in “health care institutions” licensed by ADHS, which provide various levels of care. For purposes of understanding the differences between a health care institution and a sober living home, a flowchart of the health care institution options and associated levels of care is provided below. The flowchart, together with Title 9 of the Arizona Administrative Code, clearly demonstrate that ADHS regulates health care institutions in a different manner than sober living homes due, in part, to the administration of care offered in health care institutions.

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**PATH TO RECOVERY**  
*Compare “Health Care Institution” Definitions in A.A.C. Title 9, Chapter 10<sup>2</sup>  
vs. “Sober Living Home” Definition in A.A.C. Title 9, Chapter 12<sup>3</sup>*



<sup>2</sup> See Health Care Institution Definitions in Title 9, Chapter 10 of the Arizona Administrative Code (“A.A.C”), attached hereto as **Exhibit 3**.

<sup>3</sup> See Sober Living Home Definitions in Ariz. Rev. Stat. § 36-2061 and Title 9, Chapter 12 of the A.A.C., attached hereto as **Exhibit 4**.



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**E. Results of Pre-Application Meeting with City Staff.**

On Thursday, April 22<sup>nd</sup>, SRII held a pre-application meeting with staff to discuss the proposed residential use of each condominium unit on the Property by up to four disabled individuals in their later stages of substance use recovery. At that meeting, City staff opined that, at first impression, the sober living proposal would likely be best defined as a “care home” and, if so, would not be typically permitted in the Medium Density Residential (R-3) zoning district. In support of their opinion, staff also stated that it was the intention of the City to exclude sober living homes from multifamily residential districts during the last Zoning Ordinance amendment addressing such uses. We respectfully disagree with this initial opinion and offer more specific details regarding the operational characteristics of the use proposed herein.

**III. INTERPRETATION REQUEST.**

**A. Question.**

Whether the proposed residential use of the 12-unit condominium buildings would be permitted as of right in the Medium Density Residential (R-3) zoning district under the permitted use of “dwelling units” and/or “group home” in Table 5.703?

**B. Analysis.**

Since the pre-application meeting, our firm has evaluated the Zoning Ordinance definitions and have aligned them with the applicable state statutes and regulations. In summary, the definition of “care home” in the City of Scottsdale Zoning Ordinance neither defines nor applies to SRII’s use of the Property as sober living dwelling units being occupied by a family of two to four disabled individuals in each unit. Below is a summary of our findings and research for the Zoning Administrator’s consideration and interpretation.

Ultimately, SRII is seeking an interpretation from the Zoning Administrator finding that the proposed residential use of the Property is permitted within the Medium Density Residential (R-3) zoning district as either a:

1. “dwelling unit” occupied by a “family,” or
2. a use analogous to a “group home.”

In contrast, the proposed use of the Property does not meet the definition of “care home” for two reasons: (i) the Property will not be licensed as a health care institution under Arizona law, and (ii) no on-site supervisory or other care services will be provided to the residents. Furthermore, the City cannot characterize the proposed use of each condominium unit as a care home prohibited in the R-3 district when the City’s definition of “family” allows up to six adults to reside in a dwelling unit. When the proposed use fits within the cap of six adults in the

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Ordinance's definition of "family," the use must be allowed as of right in all residential zoning districts the same as any other family or single housekeeping unit. To prevent such use in the R-3 zoning district would be discriminatory on its face, imposing a different standard for disabled occupants based solely on them having a disability.

## **1. The proposed use is not a care home.**

Section 3.100 of the Ordinance defines a "**care home**" as a "dwelling shared as a primary residence by no more than 10 adults with a disability that is licensed as a health care institution under Arizona law, and in which on-site supervisory or other care services are provided to the disabled residents." Emphasis added. For purposes of this definition, "a person must live in the dwelling a minimum of thirty (30) consecutive days for this dwelling to be considered a primary residence" and "a care home is a principal, not an accessory, use."

The proposed use of the Property does not meet the definition of a "care home" because the condominium units will not be licensed as a "health care institution" under Arizona law. SRII will obtain a sober living home license from ADHS, however, such license is not a "health care institution." Health care institution licenses are governed by Title 9, Chapter 10 of the Arizona Administrative Code. Sober living home licenses are separate and apart from the health care institution licenses, being set forth in Title 9, Chapter 12 of the Arizona Administrative Code. The differences between a health care institution license and a sober living home license are significant, given the fact that care is administered by professionals in a health care institution. Again, no such care is provided in a sober living home.

The state definition of health care institution includes several services involving the administration of care that would not be provided by SRII as a sober living facility.<sup>4</sup> A.R.S. § 36-401.A(22) defines a "health care institution" as:

*[E]very place, institution, building or agency, whether organized for profit or not, that provides facilities with medical services, nursing services, behavioral health services, health screening services, other health-related services, supervisory care services, personal care services or directed care services and includes home health agencies as defined in section 36-151, outdoor behavioral health care programs and hospice service agencies. Health care institution does not include a community residential setting as defined in section 36-551.*

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<sup>4</sup> The Ordinance does not define "health care institution." Therefore, the statutory definition from Ariz. Rev. Stat. § 36-401.A(22) is provided.



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No medical services<sup>5</sup>, behavioral health services<sup>6</sup>, health screening services<sup>7</sup> or other health related services<sup>8</sup> will be provided at the Property. There will be no supervisory care services<sup>9</sup>, personal care services<sup>10</sup> or directed care services<sup>11</sup> offered to the residents. The two to four residents living in each dwelling unit will operate as a family and will not be monitored or supervised by a doctor, physician or other nursing staff. There will be no assistance with activities of daily living, no general supervision on a daily basis, and no assistance with the self-administration of prescribed medications. Altogether, none of the care services listed in the definition of “health care institution” will be provided at the Property, and SRII will not be seeking a license as a health care institution (or any class or subclass thereof). In fact, the Arizona Administrative Code provides a list of uses requiring a health care institution license from the state in Section R9-10-102 titled “Health Care Institution Classes and Subclasses; Requirements.” Notably, sober living homes are not included in that list.<sup>12</sup>

The City’s definition of “care home” in the Ordinance also includes the requirement that the health care institution provide “on-site supervisory or other care services.” The term “supervisory care services” is defined in both Ariz. Rev. Stat. Section 36-401.A(47) and Section 3.100 of the Ordinance as “general supervision, including daily awareness of resident functioning and continuing needs, the ability to intervene in a crisis and assistance in the self-administration

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<sup>5</sup> “‘Medical services’ means the services that pertain to medical care and that are performed at the direction of a physician on behalf of patients by physicians, dentists, nurses and other professional and technical personnel.” *See* Ariz. Rev. Stat. § 36-401.A(31).

<sup>6</sup> “‘Behavioral health services’ means services that pertain to mental health and substance use disorders and that are either: (a) Performed by or under the supervision of a professional who is licensed pursuant to title 32 and whose scope of practice allows for the provision of these services, (b) Performed on behalf of patients by behavioral health staff as prescribed by rule.” *See* Ariz. Rev. Stat. § 36-401.A(11).

<sup>7</sup> “‘Health screening services’ means the acquisition, analysis and delivery of health-related data of individuals to aid in the determination of the need for medical services.” *See* Ariz. Rev. Stat. § 36-401.A(24).

<sup>8</sup> “‘Health-related services’ means services, other than medical, that pertain to general supervision, protective, preventive and personal care services, supervisory care services or directed care services.” *See* Ariz. Rev. Stat. § 36-401.A(23).

<sup>9</sup> “‘Supervisory care services’ means general supervision, including daily awareness of resident functioning and continuing needs, the ability to intervene in a crisis and assistance in the self-administration of prescribed medications.” *See* Ariz. Rev. Stat. § 36-401.A(47); *see also* Section 3.100 of Ordinance.

<sup>10</sup> “‘Personal care services’ means assistance with activities of daily living that can be performed by persons without professional skills or professional training and includes the coordination or provision of intermittent nursing services and the administration of medications and treatments by a nurse who is licensed pursuant to title 32, chapter 15 or as otherwise provided by law.” *See* Ariz. Rev. Stat. § 36-401.A(38).

<sup>11</sup> “‘Directed care services’ means programs and services, including supervisory and personal care services, that are provided to persons who are incapable of recognizing danger, summoning assistance, expressing need or making basic care decisions.” *See* Ariz. Rev. Stat. § 36-401.A(16).

<sup>12</sup> *See* Health Care Institution Classes and Subclasses in A.A.C. R9-10-102, attached hereto as **Exhibit 3**.

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City of Scottsdale  
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of prescribed medications.” General supervision of the residents will not be provided on-site. There will be no manager living in the individual units to monitor daily resident functioning, to intervene in a crisis and to assist in the self-administration of prescribe medications.

The term “other care services” in the definition of “care home” is not a defined term under our state statutes, regulations or the City’s Ordinance. It would be reasonable to interpret the phrase “other care services” to include all of the care services listed under the definition of “health care institution,” as referenced above in the footnotes on page 8 of this letter.

Again, there will be no care services offered at the Property. Instead, the residents will be provided a safe and supportive environment in a family setting within each unit. At most, the residents will be provided the information and services required in the sober living home regulations in A.A.C. Section R9-12-205, such as:

1. The location of all exits in the home and the route to evacuate in an emergency,
2. The location of the first aid kit,
3. The use of the kitchen in the home, including operation of the appliances, use of the food storage areas, and removal of garbage and refuse,
4. The use of the washing machine and dryer,
5. The dates, time and location of house meetings,
6. The prohibition of possession of alcohol or illicit drugs, and
7. Review and discussion of specific resident requirements and policies specific to the home.<sup>13</sup>

Notably, Title 9, Chapter 12 of the Arizona Administrative Code (applicable to sober living homes) does not use the term “care” throughout the regulations to describe any aspect of or the services provided by a sober living home. In fact, not only are “health care institutions” and “sober living homes” regulated by two different chapters in Title 9 of the Arizona Administrative Code, the sober living home regulations in Title 9, Chapter 12 identify “sober living homes” and “health care institutions” as being two entirely different uses. Specifically, A.A.C. Section R9-12-201.B.3.o.ii states that a sober living home must have policies and procedures established for terminating a residency, including “coordinating the relocation of a resident to a health care institution or another sober living home.”<sup>14</sup> Thus, the state regulations

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<sup>13</sup> See A.A.C. Section R9-12-205 attached hereto as **Exhibit 4**.

<sup>14</sup> Emphasis added. See A.A.C. Section R9-12-201.B.3.o.ii attached hereto as **Exhibit 4**.



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City of Scottsdale  
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clearly distinguish a health care institution from a sober living home use due to the care services provided in a health care institution.

In conclusion, the proposed use by SRII cannot be deemed a “care home” because: (i) the dwelling units on the Property will not be licensed as a health care institution under Arizona law, and (ii) no on-site supervisory or other care services are being provided which would require such a license by the state.

## **2. The use of the Property is allowed as a “family.”**

The proposed use of the Property (two to four disabled individuals living in each dwelling unit) satisfies the definition of “family” and “single house-keeping unit” and is, therefore, permitted in the Medium Density Residential (R-3) zoning district as of right.

A “dwelling unit” is defined in Section 3.100 of the Ordinance as “one (1) or more rooms in a dwelling designed for occupancy by one (1) family for living purposes and having its own cooking and sanitary facilities.” Each of the 12 condominium units on the Property constitutes a dwelling unit designed for occupancy by one family for living purposes.

Section 3.100 of the Ordinance also defines a “**family**” as “one (1) to six (6) adults and, if any, their related dependent children occupying a premise[s] and living as a single housekeeping unit.” In this case, the two to four adults living in each dwelling unit (condominium unit) will be living as a single housekeeping unit. A “**single housekeeping unit**” is defined in the Ordinance as:

*[A] group of one (1) or more persons residing together in a dwelling who share use of and responsibility for common areas, household activities, and responsibilities such as meals, chores, household maintenance, and expenses. This term excludes living situations where an entity or individual other than a resident provides job training or life skill development services on-site, or provides supervisory, medical, personal, or custodial care services to more than six (6) adults residing in the dwelling.*

The two to four individuals living in each condominium unit will reside together and share use of and responsibility for common areas, household activities and the responsibilities listed in the definition above (meals, household maintenance, etc). Job training or life skill development services will not be provided on-site, and none of the care services listed above will be provided to the two to four individuals living as a family in each dwelling.

Based upon the City’s definitions for “dwelling unit”, “family” and “single housekeeping unit” in the Ordinance, the proposed use would constitute a family living in each condominium unit and would be permitted within the Property’s R-3 zoning district as of right. Like any other

Randy Grant, Zoning Administrator  
City of Scottsdale  
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dwelling, when a sober living home fits within the cap of six adults in the Ordinance's definition of "family," it must be allowed as of right in all residential districts the same as any other family or housekeeping unit. The City may not impose any additional zoning requirements or prevent residences for six or fewer people with disabilities from locating within the R-3 zoning district or any other district where dwellings are allowed. If the City were to impose additional zoning requirements or prevent this use in the R-3 zoning district, it would be doing so solely on the basis that the occupants have disabilities. Legally, two to four individuals living together in each condominium unit constitutes a family like all other families in Scottsdale, and preventing those individuals from living in a condominium unit in the R-3 zoning district would constitute housing discrimination on its face.<sup>15</sup>

The Joint Statement issued by the Department of Housing and Urban Development and the Department of Justice dated November 10, 2016 addresses the particular issue in this case. Section 13 of the Joint Statement cautions municipalities to adopt, interpret and enforce their zoning ordinances uniformly when applying restrictions to a family of unrelated persons with or without disabilities.

***13. Can a state or local government limit the number of individuals who reside in a group home in a residential neighborhood?***

*Neutral laws that govern groups of unrelated persons who live together do not violate the Act so long as (1) those laws do not intentionally discriminate against persons on the basis of disability (or other protected class), (2) those laws do not have an unjustified discriminatory effect on the basis of disability (or other protected class), and (3) state and local governments make reasonable accommodations when such accommodations may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling.*

***Local zoning and land use laws that treat groups of unrelated persons with disabilities less favorably than similar groups of unrelated persons without disabilities violate the Fair Housing Act. For example, suppose a city's zoning ordinance defines a "family" to include up to a certain number of unrelated persons living together as a household unit, and gives such a group of unrelated persons the right to live in any zoning district without special permission from the city. If that ordinance also prohibits a group home having the same number of persons with disabilities in a certain district or requires it to seek a use permit, the ordinance would violate the Fair Housing Act. The ordinance violates the Act***

---

<sup>15</sup> See Declaration of Daniel Lauber attached hereto as **Exhibit 5**.



Randy Grant, Zoning Administrator  
City of Scottsdale  
May 13, 2020  
Page 12

*because it treats persons with disabilities less favorably than families and unrelated persons without disabilities.*<sup>16</sup>

The Joint Statement reflects the majority opinion of the courts and an interpretation that, under Scottsdale's zoning, two to four disabled adults living as a single housekeeping unit in each condominium on the Property needs to be permitted as of right in the R-3 zoning district, just like any other family unit in Scottsdale that consists of two to four unrelated adults *without* a disability.

### 3. The proposed use could be analogous to a group home.

A “group home” is defined in Section 3.1000 of the Ordinance as a “dwelling shared by more than six (6) adults as their primary residence in which no supervisory or other care is provided.” For purposes of this definition, the Ordinance also requires “a person must live in the dwelling a minimum of thirty (30) consecutive days for this dwelling to be considered a primary residence.”

In this case, each condominium unit is not being shared by more than six adults, but the dwellings will serve as their residence in which no supervisory or other care is provided. Thus, in comparing the “care home” and “group home” definitions in Section 3.100 of the Zoning Ordinance, the proposed use of this property would be more analogous to a group home, and therefore would be permitted as of right in the Medium Density Residential (R-3) zoning district.

### C. Conclusion.

We respectfully request your review and consideration of this supplemental information regarding the proposed use of the Property and the Fair Housing concerns inherent in this request to allow up to four disabled individuals to live as a family in a condominium unit within the Medium Density Residential (R-3) zoning district. Alternatively, we would request that you find the proposed use of the Property to be a group home allowable in the R-3 zoning district as of right.

If you have any questions or need additional information to process this interpretation, please do not hesitate to contact me at [hdukes@swlaw.com](mailto:hdukes@swlaw.com) or at 602.320.8866. You may also contact Senior Urban Planner, Noel Griemsmann, at [ngriemsmann@swlaw.com](mailto:ngriemsmann@swlaw.com). Due to our client's pending purchase of the Property, we would respectfully request receiving an interpretation decision no later than **Thursday, June 10, 2021**. Thank you in advance.

---

<sup>16</sup> Emphasis added. See Joint Statement of the Department of Housing and Urban Development and the Department of Justice titled “State and Local Land Use Laws and Practices and the Application of the Fair Housing Act” dated November 10, 2016, attached hereto as **Exhibit 6**.

# Snell & Wilmer

Randy Grant, Zoning Administrator  
City of Scottsdale  
May 13, 2020  
Page 13

Very truly yours,

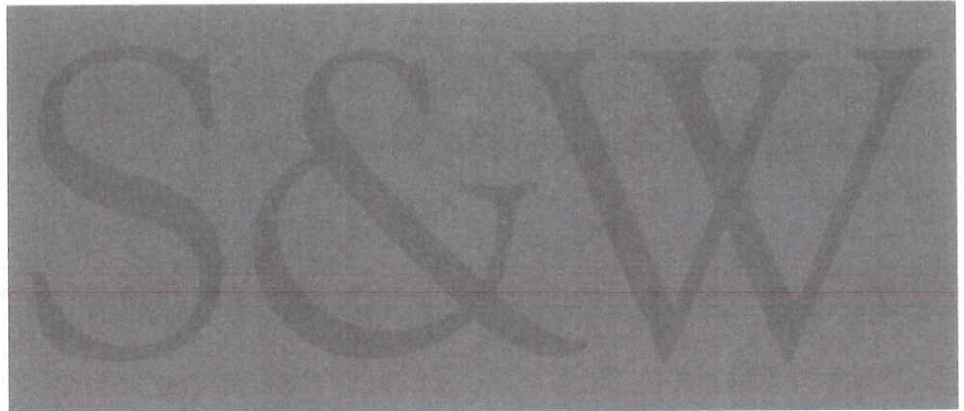
Snell & Wilmer L.L.P.

*/s/ Heather N. Dukes*

Heather N. Dukes

Enclosures

Cc: Joseph Padilla, Esq.



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Ryan McCann  
Assistant Planner

# Scottsdale Recovery II, LLC

## Authorization Letter

May 13, 2021

**VIA EMAIL**

Randy Grant, Zoning Administrator  
City of Scottsdale  
Planning and Development Services  
3939 N. Drinkwater Boulevard  
Scottsdale, AZ 85251

**Re: Authorization Letter for Zoning Interpretation Request for Condominium  
Property Located at 7910 and 7920 E. Wilshire Drive (the "Property")**

Dear Mr. Grant:

As the manager of Scottsdale Recovery II, LLC, a Delaware limited liability company, I authorize the law offices of Snell & Wilmer to submit and process the enclosed interpretation request on my behalf.

Sincerely,

Scottsdale Recovery II, LLC, a Delaware limited  
liability company

By: Milano Holdings Arizona, LLC, a Delaware  
limited liability company

Its: Manager

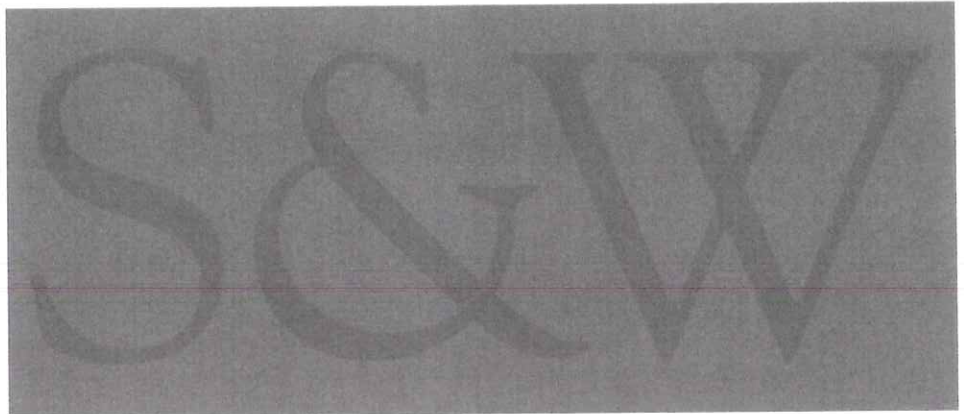
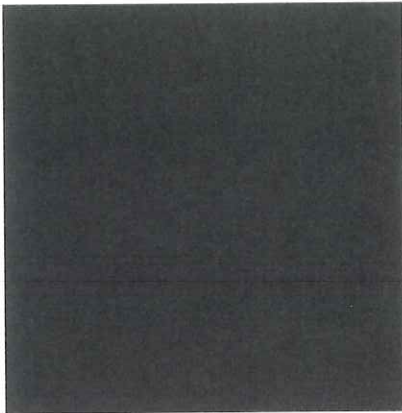
By: \_\_\_\_\_

Michelle Siwek

Its: \_\_\_\_\_

Manager





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## Scottsdale Recovery II, LLC

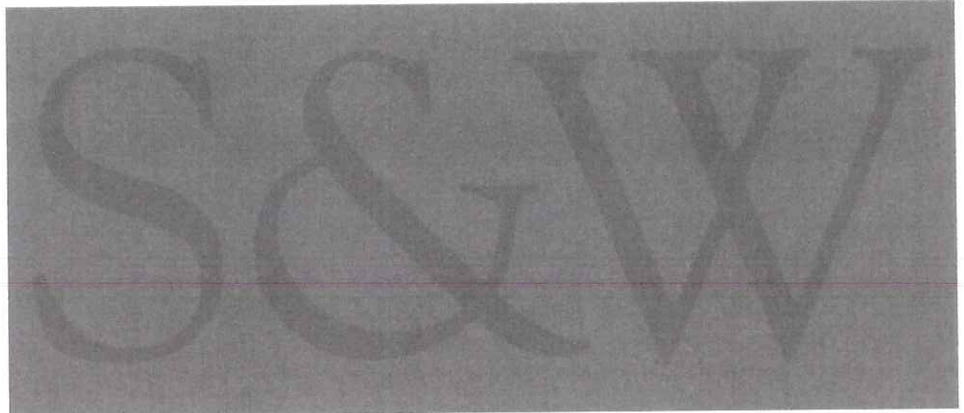
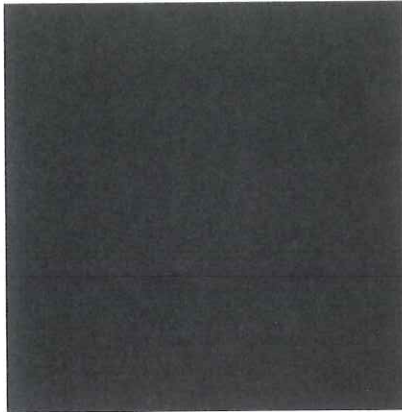
### Exhibit 1 – Aerial Photographs

Context Aerial Photograph of 12-Unit Condominium Development  
7910 and 7920 E. Wilshire Drive









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Attorney

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Paola Jaramillo  
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## Scottsdale Recovery II, LLC

### Exhibit 2 – Declaration of Michelle Siwek



## DECLARATION OF MICHELLE SIWEK

I, MICHELLE SIWEK, declare as follows:

1. I am over the age of 18 years and have personal knowledge of the facts contained in this Declaration. If called upon to testify, I could and would testify competently as the truth of the facts stated herein.

2. I am the Manager of Scottsdale Recovery II, LLC, a Delaware limited liability company ("SRII").

3. I have substantial experience owning and operating sober living homes and state-licensed behavioral health residential facilities serving the disabled population of individuals recovering from alcoholism and substance use since 2011.

4. I am the current owner and operator of SRII and own the following 5 locations in Scottsdale:

A. a residential behavioral health facility licensed with the Arizona Department of Health Services ("ADHS") located at 11024 N. Miller Road (License No. BH5753),

B. an outpatient clinic licensed by ADHS located at 10446 N. 74<sup>th</sup> Street (License No. OTC9512),

C. a sober living home licensed and certified with ADHS located at 13402 N. 60<sup>th</sup> Street (License No. SLH10142),

D. a sober living home licensed and certified with ADHS located at 7838 E. Shea Boulevard (License No. SLH10209), and

E. corporate offices with a potential detoxification treatment center use located at 10227 N. Scottsdale Road.

5. SRII has Joint Commission accreditation and certification and complies with the

highest national standards for safety and quality in behavioral health.

6. The proposed sober living use within the 12 residential condominium units located at 7910 and 7920 E. Wilshire Drive (the "Property") will emulate a conventional family setting.

7. The disabled residents who will live at the Property will either attend outpatient services, work or attend school and must abide by a curfew, and are responsible for daily tasks such as cleaning, personal hygiene, budgeting and cooking.

8. The household functions as the equivalent of a family and allows the recovering persons to provide one another with continual mutual support as well as mutual monitoring to prevent relapse.

9. The potential recovery of people who are handicapped or disabled by reason of alcoholism or drug abuse is greatly enhanced by the mutual support and mutual monitoring provided by living with other recovering persons.

10. It is often critical that a person in the stages of recovery share a bedroom with another recovering addict for mutual support and monitoring.

11. The quality and nature of the relationship among the residents are akin to that of a family. The emotional and mutual support and bonding experienced by each resident enhances and promotes recovery from drug addiction and alcoholism and is the equivalent of the type of love and support received in a traditional family.

12. It has been found that individuals who decide to live in sober housing programs, such as that offered by SRH, are allowed to engage in the process of recovery at their own pace, and that the effects of the disease are greatly ameliorated as a result. By living with other persons who are in recovery, the residents should never have to face an alcoholic's or addict's deadliest enemy: loneliness and isolation.

13. In addition, the residents live at SRII by choice. The choice is usually motivated by the individual's desire not to relapse into drug and/or alcohol use after that individual has bottomed out, i.e. lost jobs, their home or their family. It is also motivated by the desire that one must change their lifestyle, the manner in which they conduct their affairs, and the need to become a responsible, productive member of society.

14. SRII will not provide care or treatment at the Property which would require licensure by the Arizona Department of Health Services as a health care institution.

15. SRII will obtain a sober living license and certification by ADHS.

16. Due in part to the opioid crisis in the State of Arizona and nationwide, the need for sober living homes and licensed behavioral health residential facilities has increased in recent years.

17. Since 2011, both the entities I have owned and/or managed and our disabled residents have not contributed to crime in the areas in which the sober living homes are located.

18. SRII has not received a complaint or a notice of violation from the City of Scottsdale relating to its use of its properties or any alleged nuisances, with the exception of a dead tree in the front yard of 11024 N. Miller Road (which has since been removed).

19. The care, treatment, and services provided by a health care institution (such as a licensed behavioral health residential facility) are drastically different and require professional oversight when compared to the supportive living environment offered in a sober living home, which provides no care, treatment or supervisory services to its residents.

I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge.

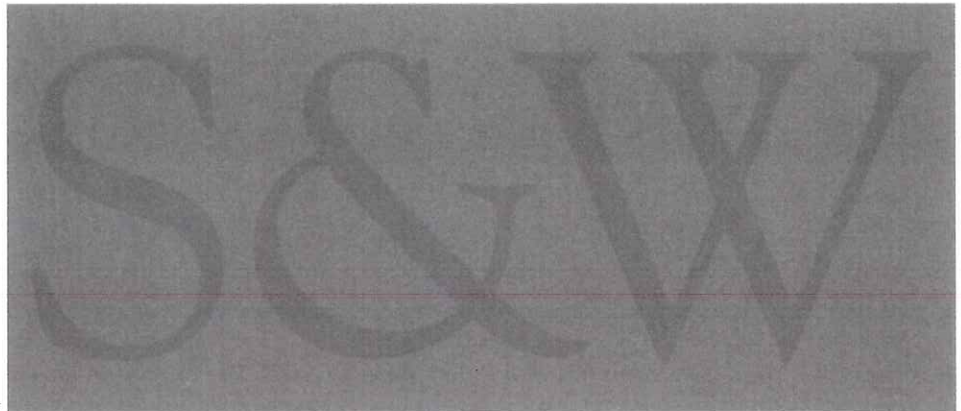
Dated this 13<sup>th</sup> day of May, 2021.



---

Michelle Siwek





**Zoning Group**

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Paola Jaramillo  
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# Scottsdale Recovery II, LLC

## Exhibit 3 – A.A.C. Title 9, Chapter 10 Health Care Institutions

## **TITLE 9. HEALTH SERVICES**

### **CHAPTER 10. DEPARTMENT OF HEALTH SERVICES - HEALTH CARE INSTITUTIONS: LICENSING**

This Chapter contains rule Sections that were filed to be codified in the *Arizona Administrative Code* between the dates of October 1, 2020 through December 31, 2020.

#### **Supp. 20-4**

##### **Questions about these rules? Contact:**

Name: Kathryn McCanna, Branch Chief

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Health Care Institution Licensing  
150 N. 18th Ave., Suite 450  
Phoenix, AZ 85007

Telephone: (602) 364-2841

Fax: (602) 364-4808

E-mail: [Kathryn.McCanna@azdhs.gov](mailto:Kathryn.McCanna@azdhs.gov)

or

Name: Robert Lane, Chief

Address: Arizona Department of Health Services  
Office of Administrative Counsel and Rules  
150 N. 18th Ave., Suite 200  
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## CHAPTER 10. DEPARTMENT OF HEALTH SERVICES - HEALTH CARE INSTITUTIONS: LICENSING

## TITLE 9. HEALTH SERVICES

## CHAPTER 10. DEPARTMENT OF HEALTH SERVICES - HEALTH CARE INSTITUTIONS: LICENSING

*Editor's Note: The heading for 9 A.A.C. 10 changed from "Licensure" to "Licensing" per a request from the Department of Health Services (Supp. 03-4).*

*Editor's Note: The Office of the Secretary of State publishes all Chapters on white paper (Supp. 01-2).*

*Editor's Note: This Chapter contains rules which were adopted, amended, and repealed under exemptions from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1993, Ch. 163, § 3(B); Laws 1996, Ch. 329, § 5; Laws 1998, Ch. 178 § 17, and Laws 1999, Ch. 311. Exemption from A.R.S. Title 41, Chapter 6 means that the Department of Health Services did not submit these rules to the Governor's Regulatory Review Council for review; the Department may not have submitted notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department was not required to hold public hearings on these rules; and the Attorney General did not certify these rules. Because this Chapter contains rules which are exempt from the regular rulemaking process, the Chapter is printed on blue paper.*

## ARTICLE 1. GENERAL

Section		
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R9-10-103.	Licensing Exceptions .....	16
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## ARTICLE 2. HOSPITALS

*Article 2, consisting of Sections R9-10-201 through R9-10-233, adopted effective February 23, 1979.*

*Former Article 2, consisting of Sections R9-10-201 through R9-10-250, renumbered as Sections R9-10-301 through R9-10-335 as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days.*

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R9-10-202.	Supplemental Application, Notification, and Documentation Submission Requirements .....
R9-10-203.	Administration .....



## CHAPTER 10. DEPARTMENT OF HEALTH SERVICES - HEALTH CARE INSTITUTIONS: LICENSING

**R9-10-102. Health Care Institution Classes and Subclasses; Requirements****A. A person may apply for a license as one of the following classes or subclasses of health care institution:**

1. General hospital,
2. Rural general hospital,
3. Special hospital,
4. Behavioral health inpatient facility,
5. Nursing care institution,
6. Intermediate care facility for individuals with intellectual disabilities,
7. Recovery care center,
8. Hospice inpatient facility,
9. Hospice service agency,
10. Behavioral health residential facility,
11. Adult residential care institution,
12. Assisted living center,
13. Assisted living home,
14. Adult foster care home,
15. Outpatient surgical center,
16. Outpatient treatment center,
17. Abortion clinic,
18. Adult day health care facility,
19. Home health agency,
20. Substance abuse transitional facility,
21. Behavioral health specialized transitional facility,
22. Counseling facility,
23. Adult behavioral health therapeutic home,
24. Behavioral health respite home,
25. Unclassified health care institution, or
26. Pain management clinic.

- B.** A person shall apply for a license for the class or subclass that authorizes the provision of the highest level of physical health services or behavioral health services the proposed health care institution plans to provide.
- C.** The Department shall review a proposed health care institution's scope of services to determine whether the requested health care institution class or subclass is appropriate.
- D.** A health care institution shall comply with the requirements in Article 17 of this Chapter if:
1. There are no specific rules in another Article of this Chapter for the health care institution's class or subclass, or
  2. The Department determines that the health care institution is an unclassified health care institution.

**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 24 A.A.R. 3020, effective January 1, 2019 (Supp. 18-4). Amended by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

**R9-10-103. Licensing Exceptions****A. A health care institution license is required for each health care institution facility except:**

1. A facility exempt from licensing under A.R.S. § 36-402, or
2. A health care institution's administrative office.

**B. The Department does not require a separate health care institution license for:**

1. A satellite facility of a hospital under A.R.S. § 36-422(F);
2. An accredited facility of an accredited hospital under A.R.S. § 36-422(G);
3. A facility operated by a licensed health care institution that is:
  - a. Adjacent to and contiguous with the licensed health care institution premises; or
  - b. Not adjacent to or contiguous with the licensed health care institution but connected to the licensed health care institution facility by an all-weather enclosure and:
    - i. Owned by the health care institution, or
    - ii. Leased by the health care institution with exclusive rights of possession;
4. A mobile clinic operated by a licensed health care institution; or
5. A facility located on grounds that are not adjacent to or contiguous with the health care institution premises where only ancillary services are provided to a patient of the health care institution.

**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws

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## Scottsdale Recovery II, LLC

Exhibit 4 – A.A.C. Title 9, Chapter 12  
Sober Living Homes and  
A.R.S. Section 36-2061



# VIEW DOCUMENT

The Arizona Revised Statutes have been updated to include the revised sections from the 54th Legislature, 2nd Regular Session. Please note that the next update of this compilation will not take place until after the conclusion of the 55th Legislature, 1st Regular Session, which convenes in January 2021.

## DISCLAIMER

This online version of the Arizona Revised Statutes is primarily maintained for legislative drafting purposes and reflects the version of law that is effective on January 1st of the year following the most recent legislative session. The official version of the Arizona Revised Statutes is published by Thomson Reuters.

### 36-2061. Definitions

In this article, unless the context otherwise requires:

1. "Certifying organization" means an organization that certifies homes as sober living homes and is affiliated with a national organization recognized by the department whose primary function is to improve access to and the quality of sober living residences through standards, education, research and advocacy.
2. "Medication-assisted treatment" means the use of pharmacological medications that are approved by the United States food and drug administration, in combination with counseling and behavioral therapies, to provide a whole patient approach to the treatment of substance use disorders.
3. "Sober living home" means any premises, place or building that provides alcohol-free or drug-free housing and that:
  - (a) Promotes independent living and life skills development.
  - (b) May provide activities that are directed primarily toward recovery from substance use disorders.
  - (c) Provides a supervised setting to a group of unrelated individuals who are recovering from substance use disorders.
  - (d) Does not provide any medical or clinical services or medication administration on-site, except for verification of abstinence.



**TITLE 9. DEPARTMENT OF HEALTH SERVICES  
CHAPTER 12. SOBER LIVING HOMES**

Supp. 19-2

This is a new Chapter.

This Chapter contains rule Sections that were filed to be codified in the Arizona Administrative Code between the dates of April 1, 2019 through June 30, 2019

**Questions about these rules? Contact:**

Name: Thomas Salow, Branch Chief  
Address: Department of Health Services  
Public Health Licensing Services  
150 N. 18th Ave., Suite 400  
Phoenix, AZ 85007  
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Fax: (602) 364-4808  
E-mail: [Thomas.Salow@azdhs.gov](mailto:Thomas.Salow@azdhs.gov)  
or  
Name: Robert Lane, Chief  
Address: Department of Health Services  
Office of Administrative Counsel and Rules  
150 N. 18th Ave., Suite 200  
Phoenix, AZ 85007  
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Website: <https://www.azdhs.gov/licensing/special/>

**TITLE 9. DEPARTMENT OF HEALTH SERVICES  
CHAPTER 12. SOBER LIVING HOMES**

Authority: A.R.S. §§ 36-132(A)(1) and A.R.S. 36-136(G)

**ARTICLE 1. LICENSURE REQUIREMENTS**

*New Article, consisting of Sections R9-12-101 through R9-12-107, and Table 1.1, made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).*

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**ARTICLE 2. SOBER LIVING HOME REQUIREMENTS**

*New Article, consisting of Sections R9-12-201 through R9-12-207, made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).*

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## CHAPTER 12. SOBER LIVING HOMES

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## CHAPTER 12. SOBER LIVING HOMES

## ARTICLE 1. LICENSURE REQUIREMENTS

**R9-12-101. Definitions**

In addition to the definitions in A.R.S. § 36-2061, the following definitions apply in this Chapter unless otherwise specified:

1. "Abuse" means:
  - a. The same as in A.R.S. § 46-451;
  - b. A pattern of ridiculing or demeaning a resident;
  - c. Making derogatory remarks or verbally harassing a resident; or
  - d. Threatening to inflict physical harm on a resident.
2. "Accept" or "acceptance" means an individual becomes a resident of a sober living home.
3. "Administrative completeness review time-frame" means the same as in A.R.S. § 41-1072.
4. "Applicant" means an individual or business organization requesting a license under R9-12-104 to open a sober living home.
5. "Application packet" means the forms, documents, and additional information the Department requires to be submitted by an applicant.
6. "Business organization" means the same as "entity" in A.R.S. § 10-140.
7. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
8. "Controlling person" means a person who, with respect to a business organization:
  - a. Has the power to vote at least 10% of the outstanding voting securities of the business organization;
  - b. If the business organization is a partnership, is a general partner or is a limited partner who holds at least 10% of the voting rights of the partnership;
  - c. If the business organization is a corporation, association, or limited liability company, is the president, the chief executive officer, the incorporator, an agent, or any person who owns or controls at least 10% of the voting securities; or
  - d. Holds a beneficial interest in 10% or more of the liabilities of the business organization.
9. "Department" means the Arizona Department of Health Services.
10. "Documentation" means information in written, photographic, electronic, or other permanent form.
11. "Drug" has the same meaning as in A.R.S. § 32-1901.
12. "Exploitation" has the same meaning as in A.R.S. § 46-451.
13. "Facility" means the building or buildings used for operating a sober living home.
14. "Health care provider" means a:
  - a. Physician, as defined in A.R.S. § 36-401;
  - b. Registered nurse practitioner, as defined in A.R.S. § 32-1601; or
  - c. Physician assistant, as defined in A.R.S. § 32-2501.
15. "Illicit drug" means:
  - a. A substance listed in A.R.S. § 36-2512 as a schedule I controlled substance;
  - b. A dangerous drug, as defined in A.R.S. § 13-3401, that is not an individual's prescription medication; or
  - c. A prescription medication that is not an individual's prescription medication.
16. "Licensee" means the individual or business organization to which the Department has issued a license to operate a sober living home.
17. "Manager" means an individual designated by a licensee to:
  - a. Act on behalf of the licensee in the onsite management of a sober living home; and
  - b. Support and assist residents of the sober living home.
18. "Modification" means the substantial improvement, enlargement, reduction, alteration, or other substantial change in the facility or another structure on the premises at a sober living home.
19. "Over-the-counter drug" means the same as in A.R.S. § 32-1901.
20. "Overall time-frame" means the same as in A.R.S. § 41-1072.
21. "Premises" means:
  - a. A facility; and
  - b. The grounds surrounding the facility that are owned, leased, or controlled by the licensee, including other structures.
22. "Prescription medication" means the same as in A.R.S. § 32-1901.
23. "Residency agreement" means a document signed by a resident or the resident's representative and a manager, detailing the terms of residency.
24. "Resident" means an individual who is accepted by a licensee under the terms of a residency agreement with the individual to live at the licensee's sober living home.
25. "Resident's representative" means:
  - a. An individual acting on behalf of a resident with the written consent of the resident, or
  - b. The resident's legal guardian.
26. "Sober" or "sobriety" means that an individual is free of alcohol or drugs, except for a drug that is:
  - a. Used as part of medication-assisted treatment,
  - b. The individual's prescription medication, or



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- c. An over-the-counter drug.
- 27. "Staff" means the employees or volunteers who provide monitoring or assistance to residents at a sober living home.
- 28. "Substantive review time-frame" means the same as in A.R.S. § 41-1072.
- 29. "Swimming pool" means the same as "private residential swimming pool" as defined in A.A.C. R18-5-201.
- 30. "Termination of residency" or "terminate residency" means an individual is no longer a resident of a sober living home.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**R9-12-102. Individuals to Act for Applicant or Licensee**

When an applicant or licensee is required by this Chapter to provide information on or sign an application form or other document, the following shall satisfy the requirement on behalf of the applicant or licensee:

- 1. If the applicant or licensee is an individual, the individual; and
- 2. If the applicant or licensee is a business organization, the individual who the business organization has designated to act on the business organization's behalf for purposes of this Chapter and who:
  - a. Is a controlling person of the business organization,
  - b. Is a U.S. citizen or legal resident, and
  - c. Has an Arizona address.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**R9-12-103. Application for a License**

A. An applicant shall submit to the Department a completed application packet to operate a sober living home that contains:

- 1. An application, in a Department-provided format, that includes:
  - a. The applicant's name;
  - b. The proposed name, if any, of the sober living home;
  - c. The address and telephone number of the proposed sober living home;
  - d. The applicant's address and telephone number, if different from the address or telephone number of the proposed sober living home;
  - e. The applicant's e-mail address;
  - f. The name and contact information of an individual acting on behalf of the applicant according to R9-12-102, if applicable;
  - g. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-12-106(C)(3);
  - h. The maximum number of residents of the proposed sober living home;
  - i. The name, telephone number, and e-mail address of the manager for the proposed sober living home;
  - j. An attestation that the applicant is in compliance with local zoning ordinances, building codes, and fire codes; and
  - k. The applicant's signature and the date signed;
- 2. Documentation for the applicant that complies with A.R.S. § 41-1080;
- 3. If applicable, a copy of the applicant's current certificate as a sober living home from a certifying organization approved by the Director;
- 4. A floor plan for the proposed sober living home, including:
  - a. The location and size of each resident bedroom, and
  - b. The location of each openable window or door from a resident bedroom;
- 5. If the premises for the proposed sober living home are leased, documentation from the owner of the premises, in a Department-provided format, that the applicant has permission from the owner to operate a sober living home on the premises; and
- 6. A licensing fee of \$500 plus \$100 times the maximum number of residents of the proposed sober living home in subsection (A)(1)(h).

B. Upon receipt of the application packet in subsection (A), the Department shall issue or deny a license to an applicant as provided in R9-12-106.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**R9-12-104. License Renewal**

A. At least 60 calendar days before the expiration date indicated on a license to operate a sober living home, a licensee shall submit to the Department an application packet for renewal of the license that contains:

- 1. An application, in a Department-provided format, that includes:
  - a. The applicant's name;
  - b. The address and telephone number of the sober living home;
  - c. The applicant's address and telephone number, if different from the address or telephone number of the sober living home;
  - d. The applicant's e-mail address;
  - e. The license number of the sober living home; and



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- f. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-12-106(C)(3);
  - 2. If applicable, a copy of the licensee's current certificate as a sober living home from a certifying organization approved by the Director; and
  - 3. Except as provided in subsection (B), a licensing fee of \$500 plus \$100 times the maximum number of residents approved for the sober living home during the current licensing period.
- B.** A licensee may submit to the Department the licensing fee in subsection (A)(3) with an additional late payment fee of \$250 within 30 calendar days after the expiration date of the license as a sober living home.
- C.** The Department shall renew or deny renewal of a license to operate a sober living home as provided in R9-12-106.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**R9-12-105. Changes Affecting a License**

- A.** A licensee shall notify the Department in writing at least 30 calendar days before the effective date of:
- 1. Termination of operation of the sober living home, including the proposed termination date;
  - 2. A change in the individual or business organization controlling the sober living home, including the name, address, telephone number, and e-mail address of the individual or business organization proposing to assume control of the sober living home;
  - 3. A change in the address of the sober living home, including the new address for the sober living home;
  - 4. A change in the name of the sober living home, including the new name of the sober living home;
  - 5. If the licensee is an individual, a legal change of the licensee's name, including the new name of the licensee; or
  - 6. A proposed change in the maximum number of residents in the sober living home or construction or modification of the facility, including:
    - a. A floor plan for the sober living home showing:
      - i. If applicable, the areas in which construction or modification of the facility will occur;
      - ii. The location and size of each resident bedroom; and
      - iii. The location of each openable window or door from a resident bedroom;
    - b. For a proposed change in the maximum number of residents in the sober living home:
      - i. The proposed new maximum number of residents in the sober living home; and
      - ii. If the proposed new maximum number of residents in the sober living home is larger than the current maximum number of residents, a fee of \$100 times the difference between the current maximum number of residents and the new maximum number of residents; and
    - c. For construction or modification of the facility, an attestation that the construction or modification will be in compliance with local zoning ordinances, building codes, and fire codes.
- B.** A licensee shall notify the Department in writing no more than 30 calendar days after the effective date of:
- 1. A change in the name or contact information of an individual acting on behalf of the licensee according to R9-12-102, including the name and contact information of the new individual acting on behalf of the licensee;
  - 2. A change in the licensee's e-mail address, including the new e-mail address; or
  - 3. A change in the manager of the sober living home, including the name, telephone number, and e-mail address of the new manager.
- C.** If the Department receives the notification of termination of operation in subsection (A)(1), the Department shall void the licensee's license to operate a sober living home as of the termination date specified by the licensee.
- D.** If the Department receives the notification in subsection (A)(2) of a change in the individual or business organization controlling the sober living home, the Department shall void the licensee's license to operate a sober living home upon issuance of a new license to operate a sober living home.
- E.** If the Department receives the notification in subsection (A)(3) of a change in the address of the sober living home, the Department shall review, according to R9-12-106, the licensee's application for a new license, submitted consistent with R9-12-103.
- F.** If the Department receives the notification of a change in the name of the sober living home in subsection (A)(4) or of the licensee in subsection (A)(5), the Department shall issue to the licensee an amended license that incorporates the change but retains the expiration date of the existing license.
- G.** If the Department receives the notification in subsection (A)(6) of a proposed change in the maximum number of residents in the sober living home or of construction or modification of the facility, the Department:
- 1. May conduct an inspection of the premises as allowed by A.R.S. § 36-2063; and
  - 2. Shall issue to the licensee an amended license that incorporates the change but retains the expiration date of the existing license if the sober living home is in compliance with A.R.S. Title 36, Chapter 18, Article 4 and this Chapter.
- H.** An individual or business organization planning to assume operation of an existing sober living home shall obtain a new license, as required in A.R.S. § 36-2062(E), before beginning operation of the sober living home.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**R9-12-106. Time-frames**



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- A. The overall time-frame for a license granted by the Department under this Chapter is set forth in Table 1.1. The applicant or licensee and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame. An extension of the substantive review time-frame and the overall time-frame may not exceed 25% of the overall time-frame.
- B. The administrative completeness review time-frame for a license granted by the Department under this Chapter is set forth in Table 1.1 and begins on the date that the Department receives an application packet.
1. The Department shall send a notice of administrative completeness or deficiencies to the applicant or licensee within the administrative completeness review time-frame.
    - a. A notice of deficiencies shall list each deficiency and the information or items needed to complete the application.
    - b. The administrative completeness review time-frame and the overall time-frame are suspended from the date that the notice of deficiencies is sent until the date that the Department receives all of the missing information or items from the applicant or licensee.
    - c. If an applicant or licensee fails to submit to the Department all of the information or items listed in the notice of deficiencies within 120 calendar days after the date that the Department sent the notice of deficiencies or within a time period the applicant or licensee and the Department agree upon in writing, the Department shall consider the application withdrawn.
  2. If the Department issues a license during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.
- C. The substantive review time-frame is set forth in Table 1.1 and begins on the date of the notice of administrative completeness.
1. As part of the substantive review of an application for a license, the Department may conduct an inspection according to A.R.S. § 36-2063 that may require more than one visit to complete.
  2. The Department shall send a license or a written notice of denial of a license within the substantive review time-frame.
  3. During the substantive review time-frame, the Department may make one comprehensive written request for additional information, unless the applicant or licensee has agreed in writing to allow the Department to submit supplemental requests for information.
    - a. The Department shall send a comprehensive written request for additional information that includes a written statement of deficiencies, stating each statute and rule upon which noncompliance is based, if the Department determines that an applicant or licensee, a sober living home, or the premises are not in substantial compliance with A.R.S. Title 36, Chapter 18, Article 4 or this Chapter.
    - b. An applicant or licensee shall submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental request for information, including, if applicable, documentation of the corrections required in a statement of deficiencies, within 30 calendar days after the date of the comprehensive written request for additional information or the supplemental request for information or within a time period the applicant or licensee and the Department agree upon in writing.
    - c. The substantive review time-frame and the overall time-frame are suspended from the date that the Department sends a comprehensive written request for additional information or a supplemental request for information until the date that the Department receives all of the information requested, including, if applicable, documentation of corrections required in a statement of deficiencies.
    - d. If an applicant or licensee fails to submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental request for information, including, if applicable, documentation of corrections required in a statement of deficiencies, within the time prescribed in subsection (C)(3)(b), the Department shall deny the application.
  4. The Department shall issue a license if the Department determines that the applicant or licensee and the sober living home, including the premises, are in substantial compliance with A.R.S. Title 36, Chapter 18, Article 4, and this Chapter.
  5. If the Department denies a license, the Department shall send to the applicant or licensee a written notice of denial setting forth the reasons for denial and all other information required by A.R.S. § 41-1076.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**R9-12-107. Denial, Revocation, or Suspension of a License**

- A. The Department may deny an application or suspend or revoke a license to operate a sober living home if:
1. An applicant or licensee does not meet the application requirements contained in R9-12-103(A) or R9-12-104(A), as applicable;
  2. A licensee does not comply with requirements in A.R.S. Title 36, Chapter 18, Article 4, or this Chapter;
  3. A licensee does not correct the deficiencies according to the plan of correction specified in R9-12-201(J)(1) by the time stated in the plan of correction;
  4. An applicant or licensee provides false or misleading information as part of an application; or
  5. The nature or number of violations revealed by any type of inspection or investigation of a sober living home poses a direct risk to the life, health, or safety of a resident or another individual on the premises.
- B. In determining which action in subsection (A) is appropriate, the Department shall consider the direct risk to the life, health, or safety of a resident in the sober living home based on:
1. Repeated violations of statutes or rules,
  2. Pattern of violations,
  3. Types of violation,



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4. Severity of violation, and
  5. Number of violations.
- C. An applicant or licensee may appeal the Department's determination in subsection (A) according to A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**Table 1.1. Time-frames (in calendar days)**

Type of approval	Statutory authority	Overall time-frame	Administrative completeness review time-frame	Substantive re-view time-frame
Application for a license under R9-12-103	A.R.S. § 36-2062	90	30	60
Renewal of a license under R9-12-104	A.R.S. § 36-2062	30	10	20
Changes affecting a license, including modifications	A.R.S. § 36-2062	60	30	30

**Historical Note**

Table 1.1 made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**ARTICLE 2. SOBER LIVING HOME REQUIREMENTS****R9-12-201. Administration**

- A. A licensee of a sober living home:
1. Has the authority and responsibility for the management of the sober living home, including when the licensee designates another individual or contracts with a person to accomplish an action or perform a service;
  2. Shall establish, in writing, the scope of services to be provided by the sober living home;
  3. Shall designate, in writing, an individual, who may be the licensee, as the manager of the sober living home; and
  4. Shall ensure that the knowledge, skills, and experience of the manager and any other staff of the sober living home are sufficient to carry out the scope of services established according to subsection (A)(2).
- B. A licensee shall ensure that:
1. A manager:
    - a. Is at least 21 years of age;
    - b. Is sober and has maintained sobriety for at least one year;
    - c. Resides on the premises of only the one sober living home;
    - d. Has documentation of current training in cardiopulmonary resuscitation; and
    - e. Is directly accountable to the licensee for:
      - i. The daily operation of the sober living home;
      - ii. Enforcing all policies and procedures, house rules, and other requirements of the sober living home; and
      - iii. All services provided by or at the sober living home;
  2. Policies and procedures are established, documented, and implemented to:
    - a. Prevent or address any concerns or complaints from individuals living in the surrounding neighborhood by:
      - i. Identifying an individual for individuals living in the surrounding neighborhood to contact to discuss a concern;
      - ii. Requiring the identified individual to respond to a concern or complaint, even if the issue cannot be resolved; and
      - iii. Ensuring that requirements for residents and visitors related to parking, noise emanating from the sober living home, smoking, cleanliness of the public space near the sober living home, and loitering in front of the sober living home or near-by homes are established, known to residents, and enforced; and
    - b. Promote the safety of the surrounding neighborhood, to comply with A.R.S. § 36-2062(A)(3); and
  3. Policies and procedures are established, documented, and implemented to protect the health and safety of a resident that cover:
    - a. Recordkeeping;
    - b. Resident acceptance;
    - c. Resident rights;
    - d. Orientation of a resident to:
      - i. The premises of the sober living home,
      - ii. The resident's rights and responsibilities,

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- iii. The prohibition of the possession of alcohol or illicit drugs at the sober living home;
    - iv. Services offered by or coordinated through the sober living home;
    - v. Drug and alcohol testing practices; and
    - vi. Expectations about food preparation and chores;
  - e. Drug and alcohol testing conducted by an independent testing facility certified under 42 C.F.R. 493 for the sober living home and other assessments of sobriety, including:
    - i. The frequency of testing or assessment, based on the residents accepted; and
    - ii. The compounds included in the testing panel or, if applicable, an assessment methodology, based on the sober living home's scope of services and residents accepted;
  - f. Allowing the acceptance and retention as a resident of an individual:
    - i. Who is receiving and will continue to receive medication-assisted treatment;
    - ii. Who has a co-occurring behavioral health issue, as defined in A.A.C. R9-10-101; or
    - iii. If included in the scope of services established according to subsection (A)(2), has a co-occurring medical condition;
  - g. House meetings, including:
    - i. Frequency;
    - ii. Typical duration; and
    - iii. Participation requirements, if applicable;
  - h. The provision of services, including:
    - i. Facilitating peer support activities;
    - ii. If applicable, providing other services on the premises to support sobriety or improve independent living;
    - iii. If applicable, coordinating the provision of services to support sobriety provided by other persons; and
    - iv. Referring a resident to other persons for the provision of services to support sobriety;
  - i. Residents' records, including electronic records if applicable;
  - j. The establishment, updating, and enforcement of house rules, including:
    - i. If applicable, curfews;
    - ii. Requirements related to chores, smoking, and visitors; and
    - iii. Requirements for the storage, security, and use of a resident's prescription medications or over-the-counter drugs;
  - k. Management of all monies received or spent by the sober living home, including:
    - i. Accounting for monies received by residents;
    - ii. Prohibiting a requirement for an individual or resident to sign a document relinquishing the resident's public assistance benefits, such as medical assistance, case assistance, or supplemental nutrition assistance program benefits, as a condition of residency; and
    - iii. Providing copy of the record of the resident's account to the resident or the resident's representative upon request;
  - l. Specific steps for:
    - i. A resident to file a complaint,
    - ii. The sober living home to respond to a resident's complaint, and
    - iii. The prevention of retaliation against a resident who files a complaint;
  - m. How the licensee or the manager will respond to:
    - i. A resident's loss of sobriety; or
    - ii. A resident's sudden, intense, or out-of-control behavior to prevent harm to the resident or another individual;
  - n. The provision of naloxone, including requirements for:
    - i. Informing the residents, the manager, and any other staff of the availability and location of the naloxone on the premises of the sober living home;
    - ii. Providing training to the manager and any other staff on the correct use of naloxone; and
    - iii. Ensuring the naloxone provided is available and not beyond the listed expiration date; and
  - o. Termination of residency, including:
    - i. Planning for termination of residency when the services provided by the sober living home are no longer needed by a resident, including assisting the resident to find other housing;
    - ii. Coordinating the relocation of a resident to a health care institution or another sober living home if the resident needs services outside the scope of services provided by the sober living home;
    - iii. Coordinating the relocation of a resident to another sober living home or other housing option if the resident terminates residency; and
    - iv. Addressing factors that may negatively impact the surrounding neighborhood.
- C. A licensee shall:
- 1. Not act as a patient's representative; and
  - 2. Ensure that a manager, an employee, or a family member of a manager or employee does not act as a resident's representative.
- D. If a manager has a reasonable basis, according to A.R.S. § 46-454, to believe abuse or exploitation of a resident has occurred on the premises, the manager shall:
- 1. If applicable, take immediate action to stop the suspected abuse or exploitation;
  - 2. Immediately report the suspected abuse or exploitation of the resident according to A.R.S. § 46-454;
  - 3. Document:
    - a. The suspected abuse or exploitation,



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- b. Any action taken according to subsection (D)(1), and
  - c. The report in subsection (D)(2); and
- 4. Maintain the documentation in subsection (D)(3) for at least 12 months after the date of the report in subsection (D)(2).
- E. A manager shall notify:
  - 1. A resident's representative, family member, or other emergency contact designated by the resident according to R9-12-202(C)(2):
    - a. Within one calendar day after:
      - i. The resident's death, or
      - ii. The resident has an illness or injury that requires immediate intervention by an emergency medical services provider or treatment by a health care provider; and
    - b. Within seven calendar days after the manager determines that a resident is:
      - i. Incapable of handling financial affairs, or
      - ii. Not complying with the residency agreement; and
  - 2. The Department, in a Department-provided format, of a resident's death, within one working day after the resident's death, if the resident's death is required to be reported according to A.R.S. § 11-593.
- F. If a sober living home provides or arranges transportation for residents, a manager shall ensure that the vehicle used for transportation:
  - 1. Is in good working order, and
  - 2. Has a seat belt for each occupant of the vehicle.
- G. A manager shall ensure that the following are conspicuously posted in a sober living home:
  - 1. The license of the sober living home;
  - 2. The name and contact information for the individual or business organization controlling the sober living home; and
  - 3. A statement of resident's rights, including:
    - a. The right to file a complaint about the manager or the sober living home,
    - b. How to file a complaint about the manager or the sober living home, and
    - c. The phone number for the unit in the Department responsible for licensing and monitoring the sober living home.
- H. A licensee shall ensure that a personnel record is established for a manager and any other staff of a sober living home that includes the individual's:
  - 1. Name;
  - 2. Date of birth;
  - 3. Contact telephone number; and
  - 4. Documentation of:
    - a. Verification of skills and knowledge sufficient to carry out the sober living home's scope of services;
    - b. Training in the use of naloxone; and
    - c. If applicable:
      - i. Certification in cardiopulmonary resuscitation, and
      - ii. Compliance with subsection (B)(1)(b).
- I. A licensee shall ensure that:
  - 1. The manager or other staff of the sober living home is on the premises within 30 minutes after notification by the Department of the Department's presence at the sober living home; and
  - 2. The Department is allowed immediate access to all:
    - a. Areas of the premises;
    - b. Information in records pertaining to the sober living home or residents, except as prohibited by 42 CFR, Part 2; and
    - c. Staff or residents of the sober living home who are on the premises.
- J. If the Department notifies the licensee of noncompliance with requirements in A.R.S. Title 36, Chapter 18, Article 4, or this Chapter, the licensee shall:
  - 1. Within 14 calendar days after the date of the Department's notice of noncompliance, establish a plan of correction, if applicable, for correction of a deficiency; and
  - 2. Ensure that a deficiency listed on the plan of correction is corrected within 30 calendar days after the date of the plan of correction or within a time period the Department and the licensee agree upon in writing.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**R9-12-202. Residency Agreements**

- A. Within three calendar days before or at the time of acceptance into a sober living home, an individual requesting to be a resident of the sober living home shall provide proof of sobriety to the manager of the sober living home.
- B. A manager shall not accept or retain an individual as a resident of a sober living home if the individual:
  - 1. Is not at least 18 years of age,
  - 2. Cannot provide proof of sobriety, or
  - 3. Needs more support to maintain sobriety than is within the scope of services for the sober living home.
- C. Before or at the time of an individual's acceptance by a sober living home, a manager shall ensure that there is a documented residency agreement between the individual and the sober living home that includes:



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1. The individual's name;
  2. The name and phone number of an emergency point of contact, which may be a family member or another individual designated by the individual;
  3. Information about the individual's:
    - a. Length of sobriety;
    - b. History of previous recovery activities; and
    - c. Source of referral to the sober living home, if applicable;
  4. Terms of occupancy, including:
    - a. Date of occupancy or expected date of occupancy,
    - b. Resident responsibilities, and
    - c. Responsibilities of the sober living home;
  5. The consequences of a loss of sobriety;
  6. A description of the room for the individual to occupy;
  7. A list of the services to be provided by the sober living home to a resident;
  8. The fees to be charged to the individual for residency in the sober living home;
  9. A list of the services available from the sober living home at an additional fee or charge and the associated fees or charges;
  10. The policy for refunding fees, charges, or deposits;
  11. The policy and procedure for a resident to terminate residency, including terminating residency because services were not provided to the resident according to the residency agreement;
  12. The policy and procedure for a sober living home to terminate residency;
  13. A statement that a resident has a right to file a complaint about the sober living home, manager, or licensee and a description of the complaint process;
  14. A statement that a resident is expected to:
    - a. Comply with the terms of the residency agreement and requirements established for residents according to R9-12-201(B)(2)(a)(iii) or R9-12-201(B)(3)(j);
    - b. Maintain sobriety; and
    - c. Participate in activities to improve life skills, support independent living, and promote recovery:
      - i. Such as a treatment program, a self-help group, or another program to support sobriety and recovery; and
      - ii. That may include job training, school, or looking for a job;
  15. A statement that a sober living home may not require an individual to relinquish the individual's public assistance benefits, such as medical assistance, case assistance, or supplemental nutrition assistance program benefits, as a condition of residency;
  16. A statement that a sober living home must notify a family member or other emergency contact of the individual, according to R9-12-201(E)(1), if the individual:
    - a. Dies while a resident of the sober living home,
    - b. Has an illness or injury that requires immediate intervention by an emergency medical services provider or treatment by a health care provider,
    - c. Appears to be incapable of handling financial affairs, or
    - d. Is not complying with the residency agreement;
  17. The name and contact information for the individual or business organization controlling the sober living home;
  18. The signature of the individual and the date signed; and
  19. The manager's signature and date signed.
- D.** A manager shall:
1. Before or at the time of an individual's acceptance by a sober living home, provide to the resident or resident's representative a copy of:
    - a. The residency agreement in subsection (C), and
    - b. Resident's rights; and
  2. Maintain the original of the residency agreement in subsection (C) in the resident's record.
- E.** A manager may terminate residency of a resident as follows:
1. Without notice, if the resident exhibits behavior that is an immediate threat to the health and safety of the resident or other individuals in a sober living home;
  2. With a seven-calendar-day written notice of termination of residency:
    - a. For nonpayment of fees, charges, or deposit; or
    - b. Under the conditions in subsection (B)(3); or
  3. With a 14-calendar-day written notice of termination of residency, for any other reason.
- F.** A manager shall ensure that a written notice of termination of residency includes:
1. The date of notice;
  2. The reason for termination of residency;
  3. If termination of residency is because the resident needs more support to maintain sobriety than is within the scope of services for the sober living home, a description of why the sober living home cannot meet the resident's needs;
  4. The policy for refunding fees, charges, or deposits; and
  5. The deposition of a resident's fees, charges, and deposits.

## CHAPTER 12. SOBER LIVING HOMES

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**R9-12-203. Resident Rights****A.** A manager shall ensure that:

1. A resident is not subjected to:
  - a. Abuse,
  - b. Exploitation,
  - c. Coercion,
  - d. Manipulation,
  - e. Sexual abuse,
  - f. Sexual assault, or
  - g. Retaliation for submitting a complaint to the Department or another entity; and
2. A resident or the resident's representative is informed of and given the opportunity to ask questions about:
  - a. The residency agreement,
  - b. The costs associated with residency,
  - c. The resident's rights and responsibilities,
  - d. The prohibition of the possession of alcohol or illicit drugs at the sober living home,
  - e. Drug and alcohol testing and other assessments of sobriety,
  - f. The consequences of loss of sobriety, and
  - g. The complaint process.

**B.** A resident has the following rights:

1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
2. To receive services that support the resident's sobriety, including, if applicable, continuing to receive medication-assisted treatment while a resident;
3. To have a secure place to store personal belongings, medications, or other personal items to deter misappropriation by another individual;
4. To be able to gain access to the sober living home at any time while a resident;
5. To have access to all areas of the sober living home's premises, except for:
  - a. The bedrooms and secure storage locations of other residents,
  - b. The bedroom and secure storage locations of the manager or other staff, and
  - c. Areas of the sober living home used as the manager's office or for storage of records or supplies for assessment of sobriety;
6. To have access to meals prepared in the sober living home;
7. To review, upon written request, the resident's own record; and
8. To receive assistance in locating another place to live if the resident's record indicates that the resident:
  - a. No longer needs the services of a sober living home, or
  - b. Needs more services and support to maintain sobriety than the sober living home is authorized to provide.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**R9-12-204. Resident Records****A.** A manager shall ensure that a resident record is established and maintained for each resident that includes:

1. The original of the residency agreement in R9-12-202(C);
2. The date the resident received orientation to the sober living home, as required by R9-12-205(A);
3. A copy of each drug and alcohol test performed on the resident by an independent testing facility, including the date of the test and the test result;
4. Any other assessments of sobriety performed on the resident, including:
  - a. The date of the assessment,
  - b. A description of the assessment,
  - c. The result of the assessment, and
  - d. The name of the individual conducting the assessment;
5. Documentation of the resident's attendance at and participation in treatment, self-help groups, and other supports that promote recovery, including:
  - a. The name or a description of the support towards recovery, and
  - b. The date of the resident's attendance;
6. A current list of medications taken by the resident and the resident's medical conditions;
7. An account of monies received from the resident and any expenditures made specific to the resident;
8. Documentation of any complaints made by or about the resident and the outcome of each complaint;
9. Documentation of any notification made according to R9-12-201(E) about the resident; and
10. If applicable, documentation related to termination of residency, including:



## CHAPTER 12. SOBER LIVING HOMES

- a. Whether termination of residency was initiated by the resident or the sober living home;
  - b. The reason for termination of residency;
  - c. Any assistance the resident received in locating another place to live; and
  - d. The date the residency ended.
- B. A licensee shall ensure that a resident's record is:
1. Protected from loss, damage, or unauthorized use;
  2. Available for review by the resident or the resident's representative, within 24 hours after a request; and
  3. Maintained for at least 12 months after the termination of residency.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**R9-12-205. Sober Living Home Services**

- A. Within 24 hours after an individual becomes a resident of a sober living home, a licensee shall ensure that the resident receives orientation to the sober living home and premises, according to policies and procedures, that includes:
1. The location of all exits from the sober living home and the route to evacuate the sober living home in case of an emergency;
  2. The location of the first-aid kit required in R9-12-206(1);
  3. The use of the kitchen of the sober living home, including:
    - a. Operation of the appliances;
    - b. Use of food storage areas; and
    - c. Removal of garbage and refuse;
  4. The use of the washing machine and dryer;
  5. The dates, time, and location of house meetings;
  6. The prohibition of the possession of alcohol or illicit drugs at the sober living home;
  7. Review and discussion of specific resident requirements, as applicable, such as curfews, smoking, visitors, signing in or out of the sober living home, meal preparation schedule, chore schedule, or other house rules;
  8. Review and discussion of requirements related to R9-12-201(B)(2)(a)(iii); and
  9. The information required according to R9-12-201(B)(3)(n).
- B. A manager shall:
1. Conduct drug and alcohol testing according to policies and procedures;
  2. Assist a resident to identify and participate in programs to support sobriety and recovery;
  3. Provide to a resident information about community resources, such as nearby bus routes, grocery stores, department stores, other places to obtain food or other personal items, schools, libraries or other locations providing access to computers, or other locations providing items or services a resident may need.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**R9-12-206. Emergency and Safety Standards**

A manager shall ensure that:

1. A first aid kit is available at a sober living home sufficient to meet the needs of residents;
2. Naloxone is available and accessible to the manager, staff, and residents of the sober living home;
3. A smoke detector and, if there is a gas line in the sober living home, a carbon monoxide detector are installed in:
  - a. A bedroom used by a resident;
  - b. A hallway in a sober living home; and
  - c. A sober living home's kitchen;
4. The smoke detector and, if applicable, carbon monoxide detector in subsection (3) are:
  - a. Either battery operated or, if hard-wired into the electrical system of the sober living home, have a back-up battery; and
  - b. In working order;
5. A fire extinguisher that is labeled as rated at least 1A-10-BC by the Underwriters Laboratories:
  - a. Is maintained in the sober living home's kitchen;
  - b. If a disposable fire extinguisher, is replaced when its indicator reaches the red zone; and
  - c. If a rechargeable fire extinguisher:
    - i. Is serviced at least once every 12 months; and
    - ii. Has a tag attached to the fire extinguisher that specifies the date of the last servicing and the identification of the person who serviced the fire extinguisher;
6. An evacuation path is conspicuously posted on each hallway of each floor of the sober living home;
7. A written evacuation plan is maintained and available for use by the manager, any other staff of the sober living home, and any resident in a sober living home;
8. An evacuation drill is conducted at least once every six months; and
9. A record of an evacuation drill required in subsection (8) is maintained for at least 12 months after the date of the evacuation drill.



## CHAPTER 12. SOBER LIVING HOMES

## Historical Note

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**R9-12-207. Environmental and Physical Plant Requirements**

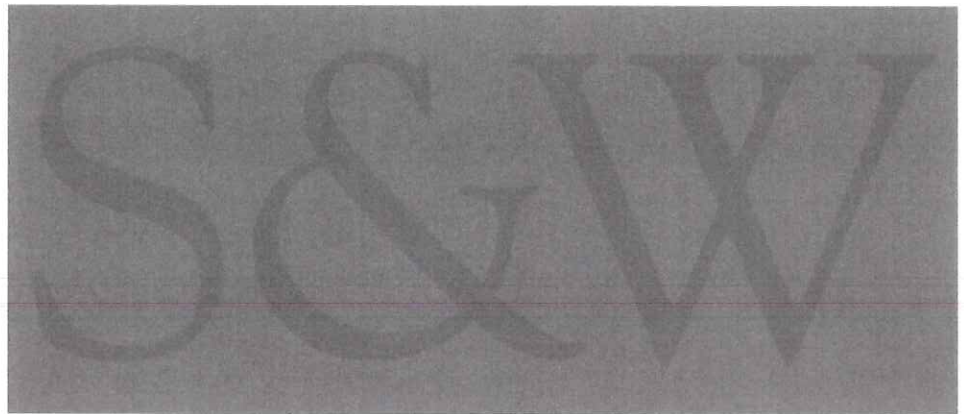
- A.** A licensee shall ensure that a sober living home:
1. Is free of any plumbing, electrical, ventilation, mechanical, chemical, or structural hazard that may result in physical injury or illness to an individual or jeopardize the health or safety of a resident;
  2. Has a kitchen for use by the manager and residents of the sober living home;
  3. Has a living room accessible at all times to a resident;
  4. Has a dining area furnished for group meals that is accessible to the manager, residents, and any other individuals present in the sober living home;
  5. For each five residents of the sober living home, has at least one bathroom equipped with:
    - a. A working toilet that flushes and has a seat;
    - b. A sink with running water accessible for use by a resident; and
    - c. A working bathtub or shower with a slip-resistant surface;
  6. Has heating and cooling systems that maintain the sober living home at a temperature between 70° F and 84° F at all times, unless individually controlled by a resident;
  7. Has a supply of hot and cold water that is sufficient to meet the personal hygiene needs of residents and the cleaning requirements in this Article;
  8. Has a working washing machine and dryer that is accessible to a resident; and
  9. Has a working telephone that is accessible to a resident.
- B.** If the sober living home has a swimming pool, a licensee shall ensure that:
1. The swimming pool is equipped with the following:
    - a. An operational water circulation system that clarifies and disinfects the swimming pool water continuously and that includes at least:
      - i. A removable strainer,
      - ii. Two swimming pool inlets located on opposite sides of the swimming pool, and
      - iii. A drain located at the swimming pool's lowest point and covered by a grating that cannot be removed without using tools; and
    - b. An operational cleaning system;
  2. The swimming pool is enclosed by a wall or fence that:
    - a. Is at least five feet in height as measured on the exterior of the wall or fence;
    - b. Has no vertical openings greater than four inches across;
    - c. Has no horizontal openings, except as described in subsection (B)(2)(e);
    - d. Is not chain-link;
    - e. Does not have a space between the ground and the bottom fence rail that exceeds four inches in height; and
    - f. Has a self-closing, self-latching gate that:
      - i. Opens away from the swimming pool,
      - ii. Has a latch located at least 54 inches from the ground, and
      - iii. Is locked when the swimming pool is not in use; and
  3. A life preserver or shepherd's crook is available and accessible in the swimming pool area.
- C.** A licensee shall ensure that:
1. A bedroom for use by a resident:
    - a. Is separated from a hall, corridors, or other habitable room by floor-to-ceiling walls containing no interior openings except doors and is not used as a passageway to another bedroom or habitable room;
    - b. Provides sufficient space for an individual in the bedroom to have unobstructed access to the bedroom door;
    - c. Has at least one openable window or door to the outside for use as an emergency exit;
    - d. Contains for each resident using the bedroom:
      - i. A separate, adult-sized, single bed or larger bed with a clean mattress in good repair; and
      - ii. Clean bedding appropriate for the season; and
    - e. If used for:
      - i. Single occupancy, contains at least 60 square feet of floor space; or
      - ii. Two or more residents, has an area of at least 50 square feet per resident;
  2. A mirror is available to a resident for grooming; and
  3. Each resident has individual storage space available for personal possessions and clothing.
- D.** A manager shall ensure that:
1. A sober living home:
    - a. Is maintained free of a condition or situation that may cause a resident or another individual to suffer physical injury;
    - b. Has equipment and supplies to maintain a resident's personal hygiene that are accessible to the resident;
    - c. Is clean and free from accumulations of dirt, garbage, and rubbish; and
    - d. Implements a pest control program to minimize the presence of insects and vermin at the sober living home;
  2. An appliance, light, or other device with a frayed or spliced electrical cord is not used at the sober living home;

## CHAPTER 12. SOBER LIVING HOMES

3. An electrical cord, including an extension cord, is not run under a rug or carpeting, over a nail, or from one room to another at the sober living home;
4. A resident does not share a bedroom with an individual who is not a resident;
5. A resident's bedroom is not used to store anything other than the furniture and articles used by the resident and the resident's belongings;
6. A resident has a lockable or other secure storage location for medications, valuables, or other personal belongings to deter misappropriation by other individuals that is accessible only by the resident and the manager;
7. If pets or animals are allowed in the sober living home, pets or animals are:
  - a. Controlled to prevent endangering the residents and to maintain sanitation;
  - b. Licensed consistent with local ordinances; and
  - c. For a dog or cat, vaccinated against rabies;
8. If a water source that is not regulated under 18 A.A.C. 4 by the Arizona Department of Environmental Quality is used:
  - a. The water source is tested at least once every 12 months for total coliform bacteria and fecal coliform or E. coli bacteria;
  - b. If necessary, corrective action is taken to ensure the water is safe to drink; and
  - c. Documentation of testing is retained for at least 12 months after the date of the test; and
9. If a non-municipal sewage system is used, the sewage system is in working order and is maintained according to applicable state laws and rules.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).



**Zoning Group**  
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Ryan McCann  
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## Scottsdale Recovery II, LLC

Exhibit 5 – Declaration of  
Daniel Lauber



## DECLARATION OF DANIEL LAUBER

I, DANIEL LAUBER, declare as follows:

1. I am over the age of 18 years and have personal knowledge of the facts contained in this Declaration. If called upon to testify, I could and would testify competently as to the truth of the facts stated herein.

2. I am an attorney licensed to practice in the State of Illinois and before the Supreme Court of the United States with over 40 years of experience as a professional city planner and fair housing expert.

3. I make this Declaration in support of the zoning interpretation request submitted by Scottsdale Recovery II, LLC, which seeks confirmation that the proposed use of the condominium property located at 7910 and 7920 E. Wilshire Drive (the "Property") is permitted as of right in the Medium Density Residential (R-3) zoning district as a family.

4. As set forth in detail on my resume attached hereto as **Exhibit "A,"** my educational background includes a Bachelor of Arts Degree in Sociology earned from the University of Chicago in 1970, a Masters Degree in Urban Planning from the University of Illinois (Urbana) in 1972, and a Juris Doctorate from Northwestern University School of Law in 1985.

5. Since 1985, I have served as a consulting attorney to numerous municipalities, counties, states, and community residence providers regarding land use regulations pertaining to community residences for people with disabilities, compliance with the Fair Housing Act, and reasonable accommodation processes and requirements which are at issue in this matter.

6. I conducted a project under the "Community Residence Location Planning Act" to bring the State of Illinois' 115 home rule municipalities into at least partial compliance with the Fair Housing Amendments Act of 1988's zoning requirements for community residences for

people with disabilities.

7. I have served as a consulting attorney and expert witness in lawsuits throughout the country including for the U.S. Department of Justice, as well as administrative and quasi-judicial proceedings regarding these subject matters.

8. I have conducted workshops on zoning for community residences for people with disabilities for the U.S. Department of Housing and Urban Development and at professional conferences of the American Bar Association and the American Planning Association.

9. I wrote the American Planning Association's *Policy Guide on Community Residences* and the American Bar Association's model zoning for group homes.

10. My 1974 Planning Advisory Service Report No. 300, *Zoning/or Family and Group Care Facilities*, written for the American Society of Planning Officials (now the American Planning Association) pioneered the use of spacing distances between community residences for people with disabilities *allowed as of right* in residential zoning districts. Since enactment of the Fair Housing Amendments Act of 1988, the case law has made it abundantly clear that it is facially discriminatory to apply such spacing distances and zoning requirements to community residences that fit within the cap on the number of unrelated individuals living as a single housekeeping unit as set forth in the local zoning code's definition of "family."

11. I conducted one of 50+ studies on the impacts of community residences for people with disabilities on the surrounding neighborhood. Like the other studies, my 1988 study, *Impacts on the Surrounding Neighborhood of Group Homes for Persons With Developmental Disabilities*, found no negative impacts on property values, property turnover rates, or neighborhood safety. Other studies have included recovery residences (then called "halfway houses").

12. I have served as a consultant on zoning for community residences for the City of

Phoenix and the Town of Cave Creek, and as a consultant to the City of Prescott to draft zoning amendments for community residences and a licensing ordinance for structured sober living homes, both in accord with the Fair Housing Act. I have conducted in-depth studies for Phoenix, Cave Creek, Prescott, and other cities around the country, that provide the factual foundation for the zoning approaches they have adopted to regulate community residences for people with disabilities, including sober living homes.

13. In the late 1960s, group homes and community residences began to be formed as part of a broader movement to deinstitutionalize and change the care of people with disabilities. The goal was to provide people with disabilities with as normal a living environment as possible by emulating a biological family to achieve normalization and community integration. The overarching aim was to reintegrate disabled residents into society rather than to isolate them in large-scale institutions where all they learn is how to live in an institution and to spare them the stigma and negative social effects resulting institutionalization.

14. At about the time that group homes were first being established, the Fair Housing Act of 1968 ("FHA") was enacted to provide for fair housing throughout the United States but was originally limited to prohibiting discrimination on the basis of race, color, religion or national origin.

15. The Fair Housing Amendments Act of 1988 ("FHAA") extended FHA protections to persons with disabilities, making it unlawful "[t]o discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap," which includes, by federal law, people with an addiction to illegal drugs or alcohol who are not currently using illegal drugs or alcohol, namely people in recovery from a substance abuse disorder.



16. The amendments adopted as part of the FHAA had the effect of guaranteeing the ability of disabled individuals to live in the residence of their choice within the community.

17. At the very beginning of its FAQs on the City's Care Home Ordinance, Attachment 6 to its December 5, 2017 City Council Report, the City of Scottsdale cited a two-page piece that I wrote entitled, "Rational and Legal Local Zoning Under the Fair Housing Act for Community Residences for People With Disabilities," which summarizes the maximum zoning restrictions a jurisdiction can impose on community residences for people with disabilities.

18. Having apparently relied on "Rational and Legal Local Zoning Under the Fair Housing Act for Community Residences for People With Disabilities," the City of Scottsdale had to be aware of the basic legal principle that a proposed family of up to six unrelated disabled adults must be allowed in the Medium Density Residential (R-3) zoning district as of right when families consisting of six adults without a disability are allowed as of right in that same zoning district.

19. Currently cities and counties tend to use the phrase "community residence" for people with disabilities that includes group homes, sober living homes, and small halfway houses capable of emulating a family. For reasons unknown, Scottsdale has chosen to instead create the fairly unique category "care home" and use the term "group home." Both uses, however, are more commonly subsumed within the term "community residence" and treated the same under a zoning code.

20. Based upon the City of Scottsdale's definitions for "dwelling unit", "family," and "single housekeeping unit" in the Zoning Ordinance, the proposed use would constitute a family living in each condominium unit and would be permitted within the Medium Density Residential (R-3) zoning district as a matter of right. Like any other dwelling, when sober adults in recovery from substance abuse disorders live together and fit within the city's cap of six adults in the

Ordinance's definition of "family," it must be allowed as of right in all residential districts, the same as any other family or housekeeping unit of six or fewer unrelated individuals. The City may not impose any additional zoning requirements or prohibit such families with disabilities from locating within the R-3 zoning district.

21. If the City were to impose additional zoning requirements or prevent this use of the Property in the R-3 zoning district, it would be doing so solely on the basis that the occupants are people with disabilities. Legally, four individuals living together as a single housekeeping unit in each of the proposed condominium units constitute a family like all other families of no more than six unrelated individuals functioning as a single housekeeping unit. Preventing those individuals from living in a condominium unit in the R-3 zoning district under Scottsdale's current zoning provisions would, under the majority view of the case law, almost certainly constitute housing discrimination on its face.

I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge.

Dated this 13<sup>th</sup> day of May, 2021.



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Daniel Lauber, AICP

# Law Office Daniel Lauber

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Daniel Lauber, AICP

Over 40 years experience in planning, law, and fair housing

**Attorney/Planning Consultant.** Planning/Communications {1979+} and the Law Office of Daniel Lauber {Nov. 1985+}

- ☐ We help cities and counties bring their zoning provisions for community residences for people with disabilities (group homes, sober homes, small halfway houses) and recovery communities into compliance with the nation's Fair Housing Act and applicable state statutes that comply with the Fair Housing Act. Before drafting zoning amendments, we conduct a thorough report that provides the planning rationale that enables the client jurisdiction to legally require a spacing distance and licensing and/or certification for community residences and recovery communities. We also write licensing ordinances for community residences for which the state does not have a licensing requirement such as sober living homes, recovery residences, and recovery communities.
- ☐ We provide consulting services to municipalities, counties, and states on planning, zoning, housing, and fair housing matters.
- ☐ We provide other planning and legal services as needed including developing land-use regulations and comprehensive plans for municipalities; site selection; developing affordable housing policy and programs; and public relations and communications. Activities include legal representation, expert testimony, report and plan preparation.
- ☐ We conduct Analyses of Impediments to Fair Housing Choice and Assessments of Fair Housing, and prepare Fair Housing Action Plans for cities, counties, consortiums, and states that receive CDBG funds as required by the U.S. Department of Housing and Urban Development. These analyses include an evaluation of the jurisdiction's zoning provisions for community residences for people with disabilities.
- ☐ We conduct studies of housing needs and provide expertise on techniques to preserve existing affordable housing and generate new affordable housing.
- ☐ We design and conduct random sample surveys of citizens and other populations using sound, scientific methods that produce accurate, representative results.
- ☐ We turn local government studies, plans, and zoning codes into clear, understandable, and visually pleasing documents that a lay person can understand.



## Prior Professional Experience

### **Lecturer.** Department of Sociology and Anthropology, Loyola University of Chicago {Autumn 1989}

Taught undergraduate course, Sociology 125 — Chicago: Growth of a Metropolis primarily to juniors and seniors. Course combined sociology, urban planning, and urban history to expand upon the usual course curriculum offered.

### **Researcher.** Lawyers Committee for Better Housing, Chicago, Illinois {Summer, 1983}

Prepared detailed study recommending reforms in the housing receivership process for Illinois municipalities. Prepared for Chicago Mayor Harold Washington's Transition Team.

### **Adjunct Professor of Environmental Science.** Division of Science, College of Arts and Sciences, Governors State University, University Park, Illinois {1979–1980}

Guest lecturer for planning courses; conducted research on effects and regulation of condominium conversions and the use of social impact analysis in municipal planning.

### **Columnist.** *Chicago Sun–Times* {1979}

Created and wrote “CondoWatch” column, first regular newspaper feature on condominium conversion in the United States.

### **Senior Planner.** Planning Division, Village of Oak Park, Illinois {1977 – 1979}

Researched and wrote award-winning Comprehensive Plan 1979 in compliance with 701 Comprehensive Planning Assistance requirements; prepared grant applications and budgets; prepared zoning ordinance revisions and reports; reviewed zoning applications and proposed ordinances; worked with code enforcement personnel; supervised assistant planners; provided staff assistance to Plan Commission and Village Board of Trustees.

### **Senior Planner/701 Program Coordinator.** Office of Research and Planning, Illinois Department of Local Government Affairs (predecessor to Department of Commerce and Community Affairs) {1975 – 1977}

Administered 701 Comprehensive Assistance Program for northeastern Illinois; prepared 701 applications and budgets; provided technical assistance by written report and oral presentation to local governments on planning, administration, risk management, home rule, downtown and economic development, annexation, incorporation, code enforcement; conducted workshops on housing; trained and supervised agency staff; prepared articles and grant applications; prepared chapters of the state land-use plan.

### **Research Associate.** Planning Advisory Service, American Society of Planning Officials (predecessor organization to the American Planning Association) {1972 – 1975}

Researched and wrote Planning Advisory Service reports, magazine articles, and ASPO's comments on federal legislation; answered over 1,500 inquiries from planning agencies and consultants on all aspects of planning and administration.

### **Principal Contributing Consultant.** American Bar Association Advisory Commission on Housing and Urban Growth {Spring 1975}

Researched and wrote zoning hearing examiner portion of “Improving the Administration of Land Use Controls,” in *Housing for All Under Law: New Directions in Housing, Land Use, and Planning Law*, (Ballinger Publishing Company), 1977.



**Consultant.** The Planning Group, Urban Investment and Development Company, Chicago, Illinois (since acquired by JMB Realty) {1971 – 1972}

Prepared study of open space programs; prepared reports on new town planning concerning: mass transit, governmental districts, annexation and PUD provisions, economic indicators, quality of life, youth needs, buyer profiles; prepare analysis of proposed purchase of industrial park.

## Professional Memberships and Honors

### Board of Directors:

**American Planning Association (APA):** President: 1985–86; Director: 1978–79, 1981–87; 1992–94; 2003–2005  
**American Institute of Certified Planners:** President: 1992–94, 2003–2005; Commissioner: 1992–1995; 2002–2005  
**American Society of Planning Officials:** Director: 1976–78  
**Oak Park Regional Housing Center:** 1995–2003  
**Metro–Help (National Runaway Switchboard):** 1977–79  
**University of Illinois Alumni Association:** 1983–85  
**American Association on Mental Retardation,** Region VI Executive Committee, 1988–1991:  
Legal Advocacy Vice Chairman: 1988–91

### Additional memberships:

**American Bar Association:** 1983+  
Committee on Regulation of Land Use: 1987–1992  
Chairman, Group Home and Congregate Living Subcommittee: 1989–1992  
Group Home Model Zoning Ordinance Subcommittee: 1987–1989  
Committee on Condominiums, Cooperatives and Homeowner Associations,  
Section of Real Property, Probate, and Trust Law: 1983–85  
**Chicago Bar Association:** 1986+  
Constitutional Law and Civil Rights Committee: 2007+  
Real Property Law Committee, Subcommittee on Zoning and Land Use, Vice Chair:  
1989–1990; member: 1986–2001  
Local Government Committee: 1986–2001  
**Illinois State Bar Association,** 1986–2000  
Local Government Committee, 1993–1994  
**American Planning Association,** 1979+:  
Ad Hoc Committee on National Housing Policy: 1987–1988  
National/State Policy Coordinating Committee: 1989–1990  
Planners Support Committee: 1994–1995

### Awards:

- ◆ 2009 Best Practices Award from the **Illinois Chapter of the American Planning Association** for the *Analysis of Impediments to Fair Housing Choice in the City of Naperville, Illinois 2007*
- ◆ 1998 **Paul Davidoff Award** from the American Planning Association for demonstrating a sustained social commitment to advocacy planning in support of the needs of society's less fortunate members
- ◆ 1991 **Illinois American Planning Association Chapter** Award of Merit for Program or Project of Unusually High Merit Performed Under Serious Budgetary, Staff, or Political Constraints
- ◆ 1983 **Illinois American Planning Association Chapter** Award of Merit for *Oak Park Comprehensive Plan 1979*
- ◆ 1997 Mid-America Publishers Association Award for "Best Makeover" in book design for *Professional's Job Finder* book
- ◆ 1995 Benjamin Franklin Award: "Most Improved Redesign" for *Government Job Finder* book
- ◆ 1994 National Gold Ink Competition Pewter Award for design and production of the *Non-Profits' Job Finder*, 3rd edition



## Education and Bar Admission

Admitted to the Bar of the Supreme Court of the United States (March 1, 1995)  
Admitted to Illinois Bar (Nov. 1985) and U.S. District Court for Northern District of Illinois (Dec. 1985)  
“Fair Housing Skills Training Program” conducted by The John Marshall Law School, February 1996  
**Juris Doctor, Northwestern University School of Law: June 1985**  
Dean’s List: Autumn 1984, Spring 1983, Autumn 1983  
Student Funded Public Interest Fellowship: Summer 1983  
Chairman, Course Evaluation Committee, Student Bar Association, 1984–1985  
**Masters of Urban Planning, University of Illinois (Urbana): June 1972**  
Research and Teaching Assistant: 1970–1972  
**B.A. (sociology), University of Chicago: June 1970**  
Dean’s List: 1968–69, 1969–70

## Group Homes and Other Community Residences Including Sober Homes and Recovery Communities

(Partial Listing)

### Planning:

*Governor’s Planning Council on Developmental Disabilities* — Conducted and published scientific study of impacts of group homes on property values, neighborhood stability, and safety in the surrounding neighborhoods; Sept. 1986

*Illinois Department of Mental Health and Developmental Disabilities, Division of Developmental Disabilities, Region Two (9–county Chicago region)* (1980–1981) — Managed year-long project on zoning for family and group care homes for the developmentally disabled, consisting of technical assistance, expert testimony, ordinance analysis and preparation, workshops, public education and public relations, site selection, analysis of state legislation

*Philadelphia Department of Mental Health and Mental Retardation* — Advised planning, law, building inspection, and zoning officials on zoning for group homes.

*North Shore Association for the Retarded* (name has since been changed to *Shore Community Services, Inc.*) — Devised and coordinated successful efforts to win zoning approval for group homes for developmentally disabled adults in Evanston, IL; expert witness on effects of group homes (1982)

*Lake County, IL Dept. of Planning, Zoning, and Environmental Quality* — Consultant to the defense in unsuccessful court challenge to location of halfway house for prison pre-parolees.

**Legal** (jurisdictions for which zoning amendments were written are in bold face; also see next section entitled “Consulting: Planning and Law”):

### Government

**Amicus Brief, *City of Edmonds v. Washington State Building Code Council*, 514 U.S. 725 (1995)**: Principle author of the American Planning Association’s Amicus Curiae Brief on behalf of respondents. Decided May 15, 1995 for the respondents. Several observers of the case believe that this brief is one of several that had a significant influence on the outcome.

**West Palm Beach, Florida (2018–2021)** — Consulting attorney to the city on zoning for community residences for people with disabilities and recovery communities. Conducted the 70–page study *Zoning Principles for Community Residences for People With Disabilities and for Recovery Communities in West Palm Beach* (October 2018) to guide the city’s revisions to its zoning treatment of community residences for people with disabilities and recovery communities. Collaborated with city staff to draft amendments to the city’s *Land Development Code* for community residences and recovery communities.

**Oakland Park, Florida (2020)** — Consulting attorney to the city on zoning for community residences for people with disabilities and recovery communities. Conducted the 69–page study *Zoning Principles for Community Residences for People With Disabilities and for Recovery Communities in Oakland Park* (March 2019) to guide the city’s revisions to its zoning treatment of community residences for people with disabilities and recovery communities. Collaborated with city staff to draft amendments to the city’s *Land Development Code* for community residences and recovery communities. Wrote guidelines for implementation and evaluating conditional use applications and FAQs explaining the proposed zoning in plain English.



**Cave Creek, Arizona (2020)** — Consulting attorney to the town on zoning for community residences for people with disabilities. Conducted the 51–page study *Zoning Principles for Community Residences for People With Disabilities in Cave Creek, Arizona* (Sept. 2019) to guide the town’s revisions to its zoning treatment of community residences for people with disabilities. Produced FAQs to explain the proposed zoning in plain English. Collaborated with staff to draft amendments to the town’s *Zoning Ordinance* for community residences and wrote guidelines for implementation and evaluating applications for a “Disability Accommodation Permit.” Testified as expert witness at public hearings.

**Expert Witness on Mandatory Certification of Sober Homes Before the Florida State Senate** (Feb. 11, 2019) — Provided expert testimony on Senate Bill 102 to the Children, Family, and Elderly Affairs Committee explaining the legal basis for requiring certification of sober homes and recovery communities in Florida. At the time, certification was voluntary. Addressed how mandatory licensing does not run afoul of the nation’s Fair Housing Act.

**Pompano Beach, Florida (2018)** — Consulting attorney to the city on zoning for community residences for people with disabilities. Conducted the 64–page study *Pompano Beach, Florida: Principles to Guide Zoning for Community Residences for People With Disabilities* (June 2018) to guide the city’s revisions to its zoning treatment of community residences for people with disabilities and recovery communities. Drafted amendments to the city’s *Land Usage Code* for community residences and recovery communities (possibly the first ordinance to address recovery communities) as well as guidelines for implementation and evaluating special exception applications. Produced draft zoning application form for community residences and recovery communities. Testified as expert witness at public hearings.

**Phoenix, Arizona (2017–2018)** — Consulting attorney to the city on revising its zoning provisions for community residences for people with disabilities. Conducted the 40–page study *Phoenix, Arizona: Principles to Guide Zoning for Community Residences for People With Disabilities* (Feb. 2018) to guide the city’s revisions to its zoning treatment of community residences for people with disabilities.

**Fort Lauderdale, Florida (2018)** — Consulting attorney to the city’s law firm Lewis Stroud & Deutsch on zoning for community residences for people with disabilities. Conducted the 61–page study *Fort Lauderdale, Florida: Principles to Guide Zoning for Community Residences for People With Disabilities* (Feb. 2018) to guide the city’s revisions to its zoning treatment of community residences for people with disabilities. Provided consulting services on zoning amendments drafted by the city’s attorney which were derived in part from the 2017 Delray Beach zoning amendments.

**Delray Beach, Florida (2017)** — Consulting attorney to the city attorney’s office on zoning for community residences for people with disabilities. Conducted the 55–page study *Delray Beach, Florida: Principles to Guide Zoning for Community Residences for People With Disabilities* (2017) to guide the city’s revisions to its zoning treatment of community residences for people with disabilities. Drafted amendments to the city’s zoning code adopted in July 2017. Produced zoning application form and guidelines for submitting conditional use permit applications as well as guidelines for evaluating conditional use permit applications. Testified as expert witness at public hearings.

**Prescott, Arizona (2016)** — Consulting attorney to the city attorney’s office on ordinance to establish licensing for structured sober living homes as permitted by state legislation adopted earlier in the year. Prepared licensing ordinance designed protect the residents of structured sober living homes from abusive practices, require training and oversight of staff, and require each home to establish a policy that provides a safe discharge of residents.

**Prescott, Arizona (2013–2015)** — Consulting attorney to the city attorney’s office on zoning for community residences for people with disabilities. Prepared the 2015 study *Prescott, Arizona: Principles to Guide Zoning for Community Residences for People With Disabilities* to guide the city’s revisions to its zoning treatment of community residences for people with disabilities and drafted language for amendments to the city’s zoning code that the City Council adopted. Following adoption of the zoning ordinance amendments, the U.S. Department of Housing and Urban Development terminated its investigation of Prescott’s zoning treatment of community residences for people with disabilities. The zoning and licensing ordinances, coupled with the insurance industry’s crackdown on scam artists, filtered out the scam artists and reduced the number of recovery residences or sober homes by more than 70 percent.

**Herrin, Illinois (2013)** — Drafted zoning amendments covering community residences for people with disabilities to bring Herrin zoning into compliance with the Fair Housing Act; researched and wrote the study *Principles to Guide Zoning for Community Residences for People With Disabilities in Herrin, Illinois*, June 2013; presented expert testimony to the city’s Zoning Board of Appeals.

**Dublin, Ohio (2014)** — As consulting attorney to the city’s law firm Frost Brown Todd LLC, we prepared a 33–page study, *Dublin, Ohio: Principles to Guide Zoning for Community Residences for People With Disabilities*, that established the basis for zoning code amendments we drafted with the city’s law firm to bring the city’s zoning provisions for community residences for people with disabilities into compliance with the nation’s Fair Housing Act.

**Willow Springs, Illinois (2013)** — Provided legal assistance on zoning for community residences for people with disabilities in compliance with the Fair Housing Act.

**Dallas, Texas (2012)** — Provided legal assistance to the City Attorney’s office with a focus on compliance with the nation’s Fair Housing Act on the drafting of a new ordinance to license community residences not subject to licensing by the State of Texas



**Boulder City, NV (2012)** — Conducted zoning analysis for proposed use to determine whether it was a residential use or institutional use under the city's zoning code

**Clark County, NV (2006–2008)** — Legal and planning consultant to Clark County in defense and settlement of group home fair housing and zoning federal lawsuit, *Nevada Fair Housing Center, Inc. v. Clark County*

**Boulder City, Nevada (2010)** — Prepared report and amendments to zoning code for community residences for people with disabilities. Conducted joint City Council and Planning Commission workshop.

**Mesquite, Nevada (2010)** — Prepared report and amendments to zoning code for community residences for people with disabilities. Conducted City Council workshop.

**Clark County, Nevada (2005–2006)** — Prepared study and amendments to the county's zoning code for community residences for people with disabilities. Provided expert testimony at public hearing.

**Open Door Rehabilitation Center (2004–2005)** — Wrote zoning text amendments to provide as of right for community residences for people with disabilities in **Sandwich, Illinois**. Served as expert witness for these text amendments as well as area variances and special use permit for group homes for people with developmental disabilities. Prepared request to Illinois Department of Mental Health and Developmental Disabilities for waiver of license-imposed spacing distance. Provided expert testimony at public hearing.

**City of Trotwood, Ohio (1997)**: Expert consultant in federal court case; wrote zoning ordinance amendments for community residences as part of proposed case settlement

**City of Springfield, IL (1997)**: Expert witness and consultant in federal court case

**City of Altoona, Pennsylvania (1994–1995)** — Legal consultant to draft comprehensive zoning ordinance amendments to regulate group homes, halfway houses, shelters, and other community residences in accord with the 1988 amendments to the federal Fair Housing Act.

**City of East Peoria, Illinois (1993)** — Legal consultant; wrote comprehensive zoning ordinance amendments to regulate group homes, halfway houses, shelters, and other community residences in accord with the 1988 amendments to the federal Fair Housing Act

**Illinois Planning Council on Developmental Disabilities (1990–1991)**: Project to implement Illinois' Community Residence Location Planning Act which required all 110 home rule municipalities to prepare plans showing how they intend to amend their zoning ordinances for group homes to bring them into compliance with 1988 amendments to the federal Fair Housing Act. Conducted seven workshops for municipal officials; provided technical assistance to city attorneys and planners; wrote zoning amendments for 11 cities; appeared as expert witness before local plan commissions; wrote guidebook and legal analysis; wrote model zoning ordinance provisions; wrote report for Illinois General Assembly including recommendations for state legislative action; prepared press releases; evaluated 99 ordinances for compliance with the Fair Housing Act's 1988 amendments. **This project received the 1991 award from the Illinois Chapter of the American Planning Association for a "Planning Program of Unusually High Merit Performed Under Serious Budgetary, Manpower, or Political Constraints."**

**Park District of Alsip (1990–91)**: Co-counsel in successful court defense against claim of violation of Fair Housing Act by group home operator. *Alsip Park District v. D&M Partnership*, Case No. 89 L 51342, Circuit Court of Cook County, IL. August 2, 1991.

**Oxford, Ohio (1989)** — Co-conducted with attorney/planner Brian Blaesser a critical assessment of the city's zoning ordinance regarding zoning for community residences for people with disabilities; drafted amendments to the city's zoning ordinance

**Illinois Department of Mental Health and Developmental Disabilities, Division of Developmental Disabilities (1983)** — Provided technical assistance to service providers and municipal and county officials on zoning for group homes, wrote model zoning provisions for local governments, conducted workshops on group home zoning for local officials

## Community Residence Providers

**Story Cottage (2018+)** — Provided assistance to obtain zoning approval from Indianapolis and Carmel, Indiana for group homes for the frail elderly with memory issues. Worked with municipal staffs to recognize that statewide zoning for group homes and their own local zoning provisions for group homes for specified disabilities also apply to group homes for the frail elderly.

**Camelback Ranch (2019+)** — Worked with this operator of sober living homes to obtain zoning approval from Arizona municipalities. Included instances where the proposed sober home was within the designated minimum spacing distance from another community residence, but unbeknownst to local officials, the other community residence did not actually exist. Obtained "reasonable accommodations" to waive requirements for fire sprinkler systems for these sober homes.

**Stepping Stone Recovery (2019+)** — Helped this sober home operator obtain zoning approval from Arizona municipality and be granted a "reasonable accommodation" to waive requirements for fire sprinkler systems for these sober homes. Included an instance where the proposed sober home was within the designated minimum spacing distance from another community residence, but unbeknownst to local officials, the other community residence no longer existed.



*Centered Living Holdings' Recovery Home (2018)* — Served as expert witness and advisor to local attorneys in successful application before Scottsdale, Arizona for a "disability accommodation" to replace an existing recovery residence with a "care home" holding a "behavioral health residential facility" license from the Arizona Department of Health Services. The site was located within the 1,200 foot spacing distance of an existing group home for the frail elderly and the city required that a "disability accommodation" be obtained to locate within that spacing distance.

*St. John Assisted Living Group Home (2017)* — As consulting attorney, obtained the first reasonable accommodation issued by Fort Collins, Colorado under its new zoning provision to enable this group home for the frail elderly to receive zoning approval. The city agreed to waive its zoning provision that required a larger lot size for group homes with more than three residents (and shelters for victims of domestic violence) than would be required for other single-family homes, thus averting a costly lawsuit.

*Forconi Group Home (2017)* — As consulting attorney, provided legal guidance to successfully receive a special use permit from Park County, Wyoming to establish a group home for four adults with developmental disabilities or traumatic brain injuries despite opposition from some neighbors in this largely rural area.

*Independent Advocacy Group (2016)* — Expert witness for a conditional use permit for a group home housing three people with developmental disabilities in Springfield, Illinois.

*Cardinal McCloskey Community Services (2014)* — As consulting attorney and planner, provided assistance to this group home operator to successfully prevent Bedford, NY from objecting under the state's unique Padavan Law to the location of a proposed group home for four young adults with developmental disabilities. Prepared cover letter, FAQs, and annotated bibliography of property value studies for distribution to prospective neighbors inviting them to a coffee to learn about the proposed group home. Provided guidance to the operator for conducting the coffee and appearing at public hearings. Educated local town staff on the Fair Housing Act and appropriate zoning treatment of group homes.

*Astara House (2014)* — As consulting attorney, provided guidance to the Ziegler Metzger LLP attorney for this recovery community for people in recovery from drug and/or alcohol addiction to successfully receive a special use permit from Bedford, OH.

*The H Group (2012–2014)* — Represented The H Group in successful effort to secure zoning ordinance revisions to allow a community residence for people with developmental disabilities that a southern Illinois city rejected in June 2012. Parties' agreement settling five housing discrimination complaints filed with HUD reached in March 2014. Provided consulting services on zoning for community residences in additional Illinois communities.

*Our Family Home (2013)* — Provided legal and planning assistance to operator of community residence for elderly with dementia or Alzheimer's when Montgomery, Ohio sought to impose zoning restrictions illegal under Ohio state law and federal law. Met with neighbors of the proposed group home. Analyzed shortcomings in the zoning treatment of group homes by Montgomery, Ohio. Provided guidance to litigators who achieved successful settlement with the city to allow the community residence as a permitted use and to amend its zoning code to comply with Ohio and federal law.

*LifeCare Homes of America (2011–2013)* — Represented operator of proposed group home for the frail elderly before homeowners' association regarding restrictive covenants. Persuaded the homeowners' association to drop its opposition to the group home, stop obstructing architectural approvals, and amend its restrictive covenants to comply with the Fair Housing Act. Obtained opinion from the county verifying that the group home is a permitted use allowed as of right.

*Tranquility House (2011–2012)* — Represented operator of recovery home in application for a special use permit in Blue Island, Illinois.

*Plum Creek Senior Group Home (2011)* — Represented operator of proposed group homes for the frail elderly in negotiations with the City of Park Ridge, Illinois.

*Kings Treatment Center (2008–2009)* — Provided legal representation on zoning matters for group home proposals in Winfield, Kansas

*Habilitative Systems (2009)* — Provided legal representation on zoning matters for group home in Chicago

*Hope House (2008–2009)* — Provided legal representation on zoning and building code matters in Hillside, Illinois

*Sequoia Recovery Services (2007–2009)* — Provided planning and zoning law advice for recovery communities in Pontiac, MI

*Time to Change, Inc. (2006–2007)* — Provided legal and planning assistance to operator to win special use permit to establish a 120-bed community correctional facility in an industrial park in Commerce City, Colorado

*Recovery Resource Center (2003–2005)*: Represented the center in zoning matters in west suburban Cook County, Illinois and completely rewrote the center's corporate by-laws

*King's Alcohol/Drug Treatment Center (2005)*: Secured correct interpretation by county officials of zoning and housing code provisions for two recovery communities for young adults in Sedgwick County, KS

*Independent Lifestyles (1996+)*: Represented this operator of group homes for the frail elderly and other people with severe physical disabilities on zoning and hazards reports issues before the City of Wauwatosa, WI (1996) and other Milwaukee-area cities including Franklin, WI (2006)

*Unity House (2003–2005)* — Represented recovery home for men addicted to alcohol or illegal drugs in zoning matters.



*Elgin Villa* (2003–2007) — Represented recovery homes for men addicted to alcohol or illegal drugs in zoning and housing code matters

*Poplar Place* (2004) — Secured corrected interpretation of zoning requirements to allow a group home for the frail elderly in a Milwaukee suburb

*Kevin Spilsbury* (2004) — Represented neighbors responding to zoning proposal for mini-institution with 56 recovering addicts and alcoholics in two adjacent houses in a fenced compound in Clark County, NV

*Chabad of California* (1999–2001): Provided legal guidance in a variety of zoning and building code matters in Los Angeles, CA, regarding residential rabbinical schools and colleges, drug treatment centers, and recovery communities.

*Yellow Brick Road Recovery Community* (2001+): Represented operator in response to \$1,000 ticket from Village of Maywood, IL, for violation of the zoning code. Violation was nonsuited.

*Dungarvin of Wisconsin* (2001–2002): Ended efforts by LaCrosse, WI, to prohibit Dungarvin group home for adults with developmental disabilities from locating in a residential district — without having to file a lawsuit

*Dungarvin of Illinois* (1998–1999): Represented group home for adults with developmental disabilities in its efforts to locate in residential district in Cordova, IL (population: 600). Drafted revisions to the village's zoning code which the village board adopted with some changes that made the client's group home a permitted use.

*Senior Residential Care of America* (1997–1999): Represented this community-based residential facility for 20 frail elderly before the Village of River Hills, WI, in application for special use permit

*Villa Family Live-In Centers, LLC* (1996): Represented this operator of group homes for the frail elderly before the City of Oak Creek, Wisconsin for a special use permit

*Lighthouse Academy and Residential Center* (1995): Represented operator of proposed boarding school for abused, neglected, and abandoned teenagers placed by the Illinois Department of Children and Family Services seeking to locate in the City of Joliet, Illinois

*Lifecare Homes* (1996–97): Represented this operator of group homes for the frail elderly before the City of West Allis, Wisconsin, for an exception to the state's 2,500-foot spacing distance

*Jack Clark's Family Recovering Communities* (1995–1996): Represented this halfway house for individuals recovering from drug and alcohol addictions for a special use permit from the Village of Maywood, Illinois

*Villa Family Live-In Centers LLC* (1996) — Represented operator of group homes for senior citizens with disabilities before local plan commissions and zoning boards in Wisconsin

*Shelter, Inc.* (1992–1993)— Consultant on site acquisition for shelters for abused children

*Berde et al v. Albero* — Consultant to attorneys for intervenors, Protection and Advocacy, Inc., Oakland, California — seeking to prevent use of restrictive covenant to exclude group home

*Dungarvin, Inc.* (1993) — Represented Dungarvin before Lakewood, Colorado, zoning board to obtain special use permit for group home for residents with developmental disabilities.

*Proviso Family Services*: Served as attorney and expert witness in public hearing for special use permit for group home for six women with mental illness. After winning approval of Maywood, Illinois, Plan Commission, the Village Board amended the zoning ordinance to make such group homes a permitted use.

*West Meadowview Civic Association v. Kankakee County Training Center for the Disabled*, Case No. 91-CH-80, 221st Judicial Circuit, Kankakee County, IL (1991). Served as co-counsel for defendant group home operator in challenge to group home based on restrictive covenant. Convinced plaintiff's attorney to drop the lawsuit.

*Foundation for Chemical Dependency Programs* (1990): Represented operator seeking zoning map amendment and special use permit to open halfway house for teen-agers in recovery from drug and alcohol addiction in unincorporated Will County, Illinois. Also handled press relations. Zoning issued by 25–1 vote of County Board despite neighbor filing petition requiring a 3/4 vote for approval. Also handled licensing issues.

*Dungarvin, Inc.* (1991) — Served as attorney to successfully persuade Town of Schererville, Indiana, to withdraw zoning and code objections to proposed group home.

*Martin Luther Homes* — Served as attorney for special use permit hearing for group home for persons with mental illness.

### Expert Witness:

*United States v. City of Chicago Heights*, 161 F. Supp. 2nd 819 (N.D. Ill. 2001 — Expert witness for the U.S. Department of Justice on zoning and planning law issues. Deposed in 2000. Identified legal issues that led to district court's summary judgment decision in favor of the United States.

*Tracey P., et al v. Sarasota County*, C.A. No. 8:05-CV-927-JDW-EAJ, U.S. District Court, Middle District of Florida — Expert witness for defendant Sarasota County in federal lawsuit; deposed Dec. 20, 2006; case settled Dec. 2007.

*Rimrock Foundation v. City of Billings, et al*, Cause Number CV 06-162-BLG-CSO— Expert witness for Billings, Montana in federal lawsuit. Produced expert witness report that helped lead to settlement of the case (2008).

*T.W. and Southern Living Centers v. City of Belleville, IL* (1997) — Testified as expert witness on zoning and group home impacts in federal court case in Belleville, IL. Case No. 97-790-WDS (U.S. District Court, Southern District)



*City of Mattoon v. Heritage Enterprises of Charleston, Inc., The Graywood Foundation, Inc., and Mile Stones Midwest, Inc.* (1997–1998): Deposed as expert witness on group home exclusion case in state court in Mattoon, IL (Coles County Circuit Court Cause No. 97–MR–36)

*Ancheta v. Westborough Homeowners Improvement Association* (1997): Expert witness in California state court case involving application of restrictive covenants to group home.

*Staley, Staley and Huggins v. LB Properties* (1992) — Testified as expert witness in successful defense of neighbor effort to overturn ruling by East Peoria Zoning Administrator that group home (RFMS) was a permitted use. Illinois Circuit Court, Case No. 91–CH–64 (May 19, 1992).

*USA v. City of Chicago Heights and RFMS, Inc. v. City of Chicago Heights*, Civil Action No. 89 C 4981, U.S. District Court, N.D. of Illinois. Settled in favor of RFMS, 1990. Served as expert witness to Rosenthal and Schanfield law firm handling Fair Housing Act lawsuit against Chicago Heights for denying special use permit for group home. Resulted in settlement issuing special use permit for group home and \$45,000+ in fines and costs.

*Center for New Horizons* — Served as expert witness before Chicago Plan Commission seeking special use permit to establish a group home for displaced abused boys from the neighborhood; prepared argument portion of brief appealing denial of special use permit. Scheduled to appear as expert witness in court case which was eventually dropped.

*Cook County Legal Assistance (Chicago)* — Expert witness in successful zoning lawsuit to overturn denial of special use permit for day care center.

### Expert witness on proper zoning treatment and impacts of group homes or halfway houses on property values:

- *Helping Hand Center* (2010) — Expert witness before Cook County (Illinois) Zoning Board of Appeals for special use permit
- *Safehaven Group Home* (1995) — Expert witness before Cheltenham, PA, Township Zoning Board
- *Northwest Suburban Aid for the Retarded* (1994) — Expert witness in request for special use permit for group home located within 1,320–foot spacing distance
- *Oxford House–C. et al. vs. City of St. Louis* federal district court (1993) — Testified as an expert witness on behalf of Oxford House, a recovery community for people with alcohol and drug addictions.
- “K” Care, Inc. (1992) — Testified at court–ordered special use permit hearing in Lac du Flambeau, Wisconsin
- *Marshall v. L.B. Properties*, No. 91–CH–64, 10th Judicial Circuit, Tazewell County, Illinois (1992) — Testified in court as expert witness for group home operator in lawsuit that overturned the city’s effort to bar two group homes for adults with developmental disabilities.
- *Martin v. Constance* (1990) — Testified as expert witness in St. Louis federal court suit under Fair Housing Act
- *ARC Community Support Systems* (1990) — Effingham, Illinois, Fair Housing Act lawsuit, settled before trial
- *Grace House* — Deposed as expert witness on behalf of halfway house for alcoholic women in Louisville, Kentucky
- Martin Luther Homes, group home for persons with mental illness, Pontiac, IL
- Group homes for persons with developmental disabilities:
- Grace–Harding Homes, Lawton, OK; Expert witness at trial on restrictive covenant to exclude group home; case decided
- *Knisley v. Morgan County Housing*, No. 85–CH–12, 7th judicial circuit, Morgan County, Sept. 6, 1985. Expert witness for plaintiff Morrissey Construction in Jacksonville, Illinois, lawsuit. Case settled just before trial.
- Residential Management Services, DuPont, IN (around 1990) — Testified as expert witness in state court on behalf of group home operator charged with violating zoning ordinance.
- Corporation for Independent Living, Hartford, CT (around 1990) — Testified as expert witness in state court in successful challenge to attempt by condominium to treat group homes as businesses prohibited by condominium by–laws.
- Clearbrook Center, Rolling Meadows, IL.
- North Shore Association for the Retarded, Evanston, IL.
- Macon County Community Mental Health Board, Decatur, IL (1979).



## Consulting: Planning and Law

(Partial listing; most community residence and fair housing experience is listed in the previous section entitled “Group Homes and Other Community Residences”)

### Planning:

#### Analyses of Impediments to Fair Housing Choice (AI)

Each analysis of impediments analyzed and reported on the client jurisdiction’s housing; land use regulations including zoning for community residences for people with disabilities; demographics; income; actual extent of integration; real estate practices; mortgage lending; housing affordability; relationship between public transportation, employment, and housing; and other factors that affect fair housing choice. The extent of integration is estimated fairly through a “Free Market Analysis” that takes into account actual household income and the actual cost of housing to approximate the proportions of each race and Hispanics of any race that would be expected to live in the jurisdiction and each census tract in a free housing market *not* distorted by housing discrimination.

District of Columbia — Researched and wrote ***Analysis Of Impediments To Fair Housing Choice Washington, D.C.*** with Lawyers’ Committee for Civil Rights Under Law and the Poverty and Race Research Action Council (PRRAC) (2019)

Fairfax County, Virginia — Researched and produced the ***Fairfax County, Virginia Analysis of Impediments to Fair Housing Choice 2016–2020***, 299 pages, 2017.

Houston, Texas — Researched and produced most of the ***2015 Analysis of Impediments to Fair Housing Choice, City of Houston***, Appendix 2: *Analysis of Houston’s Development Controls for Exclusionary Impacts* (pp. 177–199), Appendix 3: *Impacts of Development Regulations and Practices on Housing for People with Disabilities* (pp. 200–223), Appendix 4: *Free Market Analysis* (pp. 224–509), August 2015.

Billings, Montana — Researched and produced the ***Billings, Montana Analysis of Impediments to Fair Housing Choice 2012***, 141 pages, 2012.

District of Columbia — Researched and wrote the ***District of Columbia Analysis of Impediments to Fair Housing Choice 2006–2011***, 195 pages, 2012.

Lakewood, Ohio — Researched and produced the ***Lakewood, Ohio Analysis of Impediments to Fair Housing Choice 2011***, 94 pages, 2011.

Clark County, Nevada — Conducted and published the ***Clark County, Nevada Analysis of Impediments to Fair Housing Choice 2011***, included unincorporated Clark County, Boulder City, North Las Vegas, and Mesquite. 140 pages, 2011.

Murfreesboro, TN — Researched and produced the ***Murfreesboro, Tennessee Analysis of Impediments to Fair Housing Choice 2010***, 92 pages, 2010.

Naperville, Illinois — Conducted and published the ***Analysis of Impediments to Fair Housing Choice in the City of Naperville, Illinois, 2007***, 78 pages, 2007. Received a **2009 Best Practices Award** from the Illinois Chapter of the American Planning Association.

Naperville, Illinois — Researched and produced the 78–page ***Naperville Housing Needs and Market Analysis 2009***. In addition to unearthing demographic and housing market data, research included a random sample survey of residents (65.7% response rate) and one of employees (45% response rate) to identify housing preferences, location of work and home, income, current housing, future housing intentions, commuting issues, and more.

Hillsborough County, Florida — Researched and produced paper on the use of accessory apartments as a tool to produce affordable housing; conducted research on the use of housing density bonuses and inclusionary zoning (2008)

Park Forest, IL — Housing programs and policy

Highland Park, IL — Prepared new subdivision ordinance

Montgomery County (MD) Condominium Conversion Task Force — Conducted presentation on preserving affordable rental housing and provided consulting advice

Philadelphia, PA — Planning Department — Consulted on preserving affordable housing; conducted educational sessions for city officials on zoning for group homes

Plenary and Session Speaker, Community Living Arrangements Conference

Oak Park, IL — Designed and published award-winning *Comprehensive Plan 1979*; designed and prepared 1991 revision



American City Corporation — Conducted workshop on group housing for four city officials from Baltimore, Philadelphia, Cincinnati, and Columbus — Robert Wood Johnson program

Impacts of Landfills — Conducted research for an application for landfill in Texas

American Invsco (Chicago) — Prepared national analysis and summary of local and state laws regulating conversion of rental housing to condominium for property acquisitions division

American Association of Retired Persons/National Retired Teachers Association — Conducted workshops on fighting inflation in housing at NRTA–AARP National Issue Forums, Milwaukee, Wisconsin and Portland, Oregon, 1981

Metropolitan Planning Council (Chicago) — Conducted research and presentation on use of low–equity cooperatives in District of Columbia and Montgomery County (Maryland)

Lincolnshire, IL — Drafted community opinion survey on planning and growth issues

### Legal:

Cardinal Vision Homes (2020+) — Providing legal guidance in Illinois and Florida to obtain zoning approval of small community residence type assisted living homes for elderly people with physical disabilities. Awarded special use permit for 14–person assisted living home in Crest Hill, IL (Feb 2021).

River Forest, IL (2020) — Represented homeowner seeking variations to reduce rear yard setback and lot coverage to enable construction of addition with hydrotherapy pool for family members with disabilities. Village Board unanimously granted the variations as a reasonable accommodation under the Fair Housing Act.

River Forest, IL (2019) — Represented homeowner for a zoning variation before the River Forest Zoning Board of Appeals. The ZBA unanimously recommended granting the variation (April 11, 2019)

Midwest Bank Corporation of Delaware — Represented bank before Hinsdale Plan Commission. Won zoning approval for a drive–in bank facility adjacent to residential neighborhood

Golden Age Retirement Home — Served as attorney and consultant for zoning text and map amendments, special use permit

Maywood, Illinois, Plan Commission — Retained by village to interpret zoning ordinance provisions related to appeal of zoning administrators’ decision

Deer Valley Homeowners Association — Represented neighborhood association in zoning case in Will County, Illinois

Brenner Development Group — Represented residential and commercial developer to receive zoning permits from Hinsdale, Illinois, to build townhouse development

### Expert Witness:

- ◆ *Hanna v. City of Chicago*, Case No. 03 CH 5933, Circuit Court of Cook County, Illinois, Chancery Division; Deposed expert witness for the plaintiff in August 2005. Lawsuit rendered moot when the city rezoned the subject property to its previous designation.
- ◆ *Shirley Berry, et. al. v. Town of Tarboro, et. al.* (Eastern District of North Carolina, U.S. District Court 4:01–CV–140–H(3) (2002–2003)— Expert witness for the plaintiffs on acceptable zoning and planning practices in exclusionary zoning case. Retained by Land Loss Prevention Project. Settled favorably for the plaintiffs in 2003.
- ◆ Perkins Clay Partnership — Testified as an expert witness on appropriate zoning for townhouse development before Hinsdale, Illinois, Plan Commission; advised attorney
- ◆ Lutheran Home Services of Arlington Heights (Illinois) — Testified as expert witness on cost–revenue analysis before Arlington Heights Plan Commission

### Research

*Forbes* magazine, Chicago bureau — Conducted research on real estate and banking practices

Levy and Erens, law firm — Prepared report on laws that restricted use of property

Daniel Edelman, Inc. (Chicago), public relations — Prepared municipal political analyses

Citizens Schools Committee — Prepared successful application for foundation funding



## Professional Publications

(Partial listing in reverse chronological order)

### Law and Zoning (Includes Fair Housing):

"A Real LULU: Zoning for Group Homes and Halfway Houses Under the Fair Housing Amendments Act of 1988," in *The John Marshall Law Review*, Winter 1996, pp. 369–407.

"Three Decades On, Group Home Zoning Still at Issue," "Legal Lessons" column in *Planning* magazine, November 2015, p. 11.

*Community Residence Location Planning Act Compliance Guidebook*, May 1990, 47 pp. Explains how group homes operate, whom they house, the 1988 amendments to national Fair Housing Act, and court decisions under the 1988 amendments. Suggests four zoning approaches that comply, to varying degrees of certainty, with the Fair Housing Act. Identifies zoning approaches that certainly violate the act. Appendix includes executive summary and bibliography from Lauber's 1986 study on the impacts of group homes on the surrounding neighborhood.

*Community Residence Location Planning Act News*, June 1990, 4 pp. and Aug. 1990, 14 pp. The June issue answers questions about the Illinois Community Residence Location Planning Act. The August issue contains model zoning provisions for each of the legal zoning approaches suggested in the compliance guidebook described above. The August issues also includes zoning recommendations for halfway house and hospices and a sample application form for administrative occupancy permits. Detailed commentary explains the why and wherefores of each zoning provision.

*Recommendations to the Illinois General Assembly on Zoning for Community Residences*, Jan., 1991, 44 pp. Prepared for the Illinois Planning Council on Developmental Disabilities, this report identifies proper zoning techniques and reviews the results of a state project to bring the zoning ordinances of 110 home rule municipalities into compliance with the 1988 amendments to the Fair Housing Act.

"Avoid Zoning Pitfalls for Community Residences," in *The Suburban Housing Newsletter*, Summer 1993, pages 1–3.

"Group Think," in *Planning* magazine, October 1995, pp. 11–13.

"Nation's Hottest Zoning Issue: Fair Housing Act Allows Zoning for Group Homes," in *Housing & Human Services Quarterly*, American Planning Association, Fall/Winter 1990–91, pp. 1–3.

"Fair Housing Act Allows Zoning for Group Homes," in *Planning & Zoning News*, March 1990, Vol. 8, No. 5, pp. 18–19. This article offers a preliminary evaluation of how the 1988 amendments to the Fair Housing Act affect zoning for group homes.

*Impacts of Group Homes on the Surrounding Neighborhood: An Evaluation of Research*, IDMH/DD, August 1981, 22 pp.

"Mainstreaming Group Homes" in *Planning*, Dec. 1985, pp. 14–18.

*Toward a Sound Zoning Treatment of Group Homes for the Developmentally Disabled*, May 1985, 103 pp.

*Guide to Chicago Zoning*, Illinois Department of Mental Health and Developmental Disabilities (Illinois Department of Mental Health/Developmental Disabilities), April 1981, variable pagination.

"Zoning Hearing Examiners Rescue Cities, Counties from Administrative Tangles, Rising Court Appeals," in *Innovations*, Illinois Department of Local Government Affairs, Jan. 1977, pp. 10–11.

"Socially-Informed Planning and Decision Making: Some Preliminary Ideas," in *Intergovernmental Planning, Approaches to the "No Growth" vs. "Growth is Good" Dilemma*. Proceedings of the Annual Summer Institute on Zoning and Planning, 1976, Bureau of Urban and Regional Planning Research, University of Illinois, 1976, pp. 29–51.

"The Housing Act & Discrimination," in *Planning*, Feb. 1975, pp. 24–25.

*The Hearing Examiner in Zoning Administration*, PAS Report No. 312, ASPO, 1975, 26 pp.

"Some Tips on the New Housing Act," in *Planning*, Nov. 1974, pp. 21–23.

*Zoning for Family & Group Care Facilities*, PAS Report No. 300, ASPO, March 1974, 30 pp. Frequently reprinted and entered as evidence in court cases. Established first model zoning guidelines for community living arrangements.

*Recent Cases in Exclusionary Zoning*, PAS Report No. 292, ASPO, June 1973, 33 pp. Reprinted as chapters on exclusionary zoning in *Management & Control of Growth: Issues–Techniques–Problems–Trends* (Urban Land Institute, 1975, Vol. I), and in *Land Use Controls: Present Problems and Future Reforms* (Center for Urban Policy Research, Rutgers University, 1974).

### Planning:

*Government Job Finder*, 1997–2000, 3rd edition, Planning/Communications, 325 pages, 1997.

"Racially Diverse Communities: A National Necessity," a chapter in *African Americans in Urban America: Contemporary Experiences*, Wendy Kellogg, ed., Kendall/Hunt Publishing Company, 1996, pages 180–200.



Book review of "Breaking New Ground: Developing Innovative AIDS Care Residences," in *Journal of the American Planning Association*, Winter 1994, pp. 124–125.

"Racially Diverse Communities: A National Necessity," a chapter in *Challenging Uneven Development: An Urban Agenda for the 1990s*, Phillip Nyden and Wim Wiewel, eds., Rutgers University Press, 1991, pp. 49–84.

"The More Things Change," commentary in *Journal of the American Planning Association*, Autumn 1993, page 486.

*The Compleat Guide to Finding Jobs in Government*, Planning/Communications, 1989, 183 pages, ISBN: 0-9622019-0-1. Second printing, 1989.

*Impacts on the Surrounding Neighborhood of Group Homes for Persons With Developmental Disabilities*, Governors' Planning Council on Developmental Disabilities, Sept. 1986, 36 pp. Two printings.

"Condominium Conversions: A Reform in Need of Reform," Chapter 16 of *Land Reform, American Style*, Frank J. Popper and Charles Geisler, eds., Rowman and Allanheld, 1984, pp. 273–301.

"Viewpoint," (revive low-equity cooperative housing programs) in *Planning*, April 1984, p. 18.

*Achieving the Promise of Housing Receiverships*, Lawyers Committee for Better Housing, August 1983, 27 pp.

*The Compleat Guide to Jobs in Planning and Public Administration*, Planning/Communications, May 1982; second edition, 1984, 44 pp.

"Towards a Rational Housing Policy: The Role of Condominium Conversions," in *Condominium and Cooperative Conversion: The Federal Response*, U.S. Government Printing Office, 1981, pp. 284–316.

"Condo conversion laws: the next generation," in *Planning*, Feb. 1981, pp. 19–23.

"Condominium conversions — the number prompts controls to protect the poor and elderly," in *Journal of Housing*, April 1980, pp. 201–209.

*Condominium Conversion Regulations: Protecting Tenants*, PAS Report No. 343, APA, September 1979, 22 pp. (co-author)

"Social Planning, Vancouver," in *Planning*, March/April 1975, pp. 19–21.

*Job Descriptions for Planning Agencies*, PAS Report No. 302, ASPO, May 1974, 22 pp.

"Oak Park: Integration Takes More Than a Racial Quota," in *Planning*, April/May 1974, pp. 14–17.

## Other Professional Activities: Webinars, Workshops, Speeches, etc.

(Partial listing)

### Housing and Fair Housing:

"Fair Housing Law Under the Biden Administration," webinar presenter along with Zachary Best, and Anika Singh Lemar, Planning & Law Division, American Planning Association (Feb. 25, 2021)

"The Color Tax: Origins of the Modern Day Wealth Gap," webinar presenter along with Bruce Orenstein and Angela Brooks, Housing & Community Development Division, American Planning Association (Feb. 12, 2021)

"The Elusive, Penultimate Social Equity: Stable, Racially Integrated Communities" webinar with Richard Rothstein and Athena Williams, Illinois Chapter of the American Planning Association Virtual State Conference (Sept 18, 2020)

"What an AI Can Do to Integrate Fair Housing into Planning Practices" presentation part of the session "The Role of States and Local Government – The Consolidated Plan and the Analysis of Impediments and Compliance With the Fair Housing Act," 20-minute presentation at *Implementing the Duty to Affirmatively Further Fair Housing*, sponsored by the Fair Housing Legal Support Center and Clinic, The John Marshall Law School (Chicago, IL Sept. 20–21, 2013)

Speaker with Richard Rothstein, author of *The Color of Law: A Forgotten History of How Our Government Segregated America*. Explained what communities have done and can do to achieve stable, racial integration. (Oak Park, Dec. 7, 2017)

"Achieving and Maintaining Racial Diversity," a 90-minute presentation at the Tenth Annual Fair Housing Conference of the Fair Housing Center of Southwest Michigan, theme: "Affirmatively Furthering Fair Housing – Moving Forward" (Kalamazoo, MI April 12, 2013)

"The Essential AI: What Belongs in a Competent Analysis of Impediments to Fair Housing Choice," fair housing training conducted with Michael Allen and Caroline Peattie at *Analysis of Impediments to Fair Housing and Affirmative Marketing*, a day-long training seminar for recipients of Community Development Block Grants sponsored by the U.S. Department of Housing and Urban Development (San Francisco, CA August 18, 2011)

"The Effective Analysis of Impediments," panel presentation at the *City of Raleigh Fair Housing Board 9th Annual Fair Housing Conference* (Raleigh, NC April 29, 2011)

"Key Elements and Best Practices: Creating a Competent Analysis of Impediments to Fair Housing Choice," three-hour presentation with Caroline Peattie at *Analysis of Impediments to Fair Housing and Affirmative Marketing*,



a day-long training seminar for recipients of Community Development Block Grants sponsored by the U.S. Department of Housing and Urban Development, Western Center on Law and Poverty, and Legal Aid Foundation of Los Angeles (Los Angeles, CA March 16, 2011)

"Creating an Effective Analysis of Impediments to Fair Housing," a one-hour presentation at *Race Place and Fair Housing in Texas*, A Statewide Conference at the University of Texas School of Law (Austin, TX October 15, 2010)

"Fair Housing & Economic Opportunity: Updating the AI, Ensuring Compliance & Making Progress Toward Change," a three-hour panel presentation at *Annual Community and Economic Development Conference and Training* conducted by the National Association for County Community & Economic Development (Ann Arbor, MI Oct. 2, 2010)

"Integrating Fair Housing into Municipal Law: Group Homes, AIs, and the Fair Housing Act," Teleconference speaker, International Municipal Lawyers Association (IMLA), July 13, 2010.

Speaker and panelist in session "Strategies for Change," at "A Dream Deferred: Residential Segregation in Oregon," sponsored by HUD, Fannie Mae Foundation, Fair Housing Council of Oregon, et al. (Portland, OR May 3, 2005)

Plenary Speaker, "Causes of Segregation and How to Overcome," Forum of the South Orange-Maplewood Community Coalition on Race (New Jersey), Oct. 30, 2001)

Speaker and panelist at the conference "The Struggle for Fair Housing: Weighing Our Progress," conducted by the Fair Housing Center of West Michigan (Grand Rapids, MI April 29, 2004)

Speaker on preserving racial diversity at the two-day Fair Housing 1968-1998: Promises Kept, Promises Broken," University of Miami School of Law (Feb. 6-7, 1998)

Plenary session speaker, Annual Town and Community Planning Conference, Iowa State University: evaluated Housing & Community Development Act (Nov. 1977)

"Funding for Limited-Equity Cooperatives: An Approach for Chicago," American Planning Association Illinois/Wisconsin Conference (1979)

(Also see "Preservation of Affordable Housing — Policy and Programs" below)

### **Fair Housing: Community Residences (group homes, small halfway houses, recovery communities):**

*After 30 Years, It's Time to Comply With the Fair Housing Act, 2019*, American Planning Association-Illinois Chapter Annual Conference (with Greg Jones) (September 27, 2019)

*Innovations in Municipal Regulation of Group Homes, Sober Homes, and Recovery Communities*, webinar presented by Lorman Education (February 21, 2019)

"Planning and the Opioid Epidemic: Session Three," American Planning Association webinar (March 20, 2018)

"Municipal Regulation of Group Homes and Sober Living Arrangements," Strafford Publishing webinar (April 18, 2017)

"Healthy and Legal – Zoning for Group Homes in Tennessee," keynote address at "Farmhouse to Penthouse" the 2013 Fall Conference of the Tennessee Chapter of the American Planning Association (Kingsport, TN Sept. 26, 2013)

"Coming Soon to Your Community: Housing for People With Disabilities," a 90-minute session at the American Planning Association-Chicago Metro Section Fall Conference (Chicago, October 4, 2013)

"Group Home Zoning: How to Comply With the Fair Housing Act," a 90-minute presentation at the 2013 Fall Conference of the Illinois State Section of the American Planning Association (Columbia, IL, Sept. 27, 2013)

"Focus on Community Residences/Group Homes," part of the session "LULUs: Locally Unwanted Land Uses," American Bar Association Annual Conference, (Chicago, July 31, 2009)

"The Fair Housing Act: Group Homes and Zoning: Fair or Foul?" American Bar Association Annual Conference (Atlanta, August 13, 1991).

"Federal Statutory and Regulatory Changes in Fair Housing Amendment," Association of State Mental Health Attorney Annual Conference (Kansas City, MO, Oct. 1, 1990)

"Must Zoning Accommodate Group Homes?," Fair Housing Enforcement: A Focus on Special Issues Affecting the Disabled, Families with Children, and the First Amendment, Fair Housing Legal Support Center, John Marshall Law School (Chicago, April 28, 1995)

"Impact of Zoning on Free Housing Choices," Third Annual Fair Housing Summit of the Indiana Fair Housing Task Force, April 10, 2000, Muncie, IN

Plenary Session Speaker, "Myths of Fair Housing," at "Fair Housing Conference," sponsored by U.S. Department of Housing & Urban Development, Municipality of Anchorage, and Alaska Chapter of the American Planning Association, Anchorage, AK. Conducted plenary session as a two-hour workshop. (April 1998)

Plenary Speech, National Conference on Technology and Politics of Planning (Illinois Planning Council on Developmental Disabilities, Chicago, April 1986)

Featured speaker, "Communities That Care: Housing for Special Populations" Conference, Wright State University Center for Urban and Public Affairs, Miami Valley Regional Planning Commission (Oct. 23, 1987)



"Handicap and Zoning Ordinances," Annual Meeting of the Indiana Consortium of State and Local Human Rights Agencies (Hammond, IN, June 13, 1996)

Speaker on zoning for group homes under the Fair Housing Act at the "Fair Housing 1968–1998: Promises Kept, Promises Broken," University of Miami School of Law (Feb., 6–7, 1998)

Faculty, Illinois Institute for Continuing Legal Education, "Municipal Law: 1987 Update," (May 20 and 28, 1987)

"Overcrowding and the Definition of Family," Illinois Chapter American Planning Association Annual Conference, June 11, 1998

"Enforcement Panel," *Opening Doors*, 14th Annual Fair Housing Seminar, co-sponsored by Cook County Commission on Human Rights, HUD, Chicago Association of Realtors, and 15 other organizations (June 3, 1994)

"Zoning Issues," 28th Annual Meeting, Wisconsin Association of Residential Facilities (June 2, 1997)

Zoning Institute (American Institute of Certified Planners): Conducted three-hour workshop on zoning for group homes (Oct. 1985)

Annual Zoning and Planning Conference, Governors State University, course on:

Zoning for Group Homes and Halfway Houses (1985)

Speaker, workshops on "Dealing with Community Fears" and "Zoning Issues," Housing Symposium on Creating Housing for People with Special Needs (Evanston Regionalized Housing Plan Committee, May 1986)

Plenary and Session Speaker, Community Living Arrangements Conference (City of Philadelphia, Sept. 1986)

"Zoning for Group Homes and Halfway Houses Workshop," Annual Zoning Institute, San Francisco (American Institute of Certified Planners, Oct. 1985)

Conducted half-day workshops for municipal planners in six-county Chicago area, Illinois Department of Mental Health and Developmental Disabilities (Feb., March, May, 1981)

"Group Homes and Halfway Houses Workshop," Zoning and Planning Workshop at Governors State University (University Park, IL, Oct. 1981)

Speeches or workshops on zoning for group homes and/or impacts of group homes:

- "Group Homes: Impacts and Zoning," Young Adults Institute National Conference (New York, April 29, 1987)
- "Winning Zoning Approval for Group Homes," American Association on Mental Retardation, Great Lakes Region Annual Conference (Sept. 1988)
- "Strategies to Win Community Support and Zoning Approval for Group Homes," workshop at 1988 Community Program Innovations National Conference (Boston, June 1988)
- "Symposium on Housing for the Mentally Ill," Alliance for the Mentally Ill of DuPage County, Illinois (1987)
- "Mentally Ill in Our Communities: Where Do We Go From Here?" Illinois League of Women Voters (1987)
- "More Than a Place to Stay: Housing the Mentally Ill in Our Communities," Panel Speaker, Roosevelt University Public Administration Program, League of Women Voters of Cook County (Nov. 19, 1988)
- "Group Homes: Impacts, Winning Neighborhood Support, and Zoning," 1987 TASH Annual Conference
- Panel Speaker, North Shore Interfaith Housing Council Annual Meeting (Nov. 20, 1988)
- Alliance for Mentally Ill of the South Suburbs (August 17, 1987)
- American Planning Association Upper Midwest Conference (Sept. 18, 1987)
- American Planning Association Mid-Atlantic Regional Conference (Virginia Beach, Virginia, Sept. 1986)
- "Legal Zoning for Group Homes," Chicago Bar Association, Zoning and Land Use Subcommittee (Oct. 20, 1988)

#### **American Planning Association Annual National Conference — Session speaker and/or moderator:**

- Low- and moderate-income housing (1974)
- Social impact analysis (1977)
- Impact and regulation of condominium conversion (1978, 1979, 1980)
- Preserving affordable housing (1981)
- How to write well (1982)
- Low-equity cooperatives (1985)
- Zoning for group homes and halfway houses (1986)
- "Opening the City to Persons with Disabilities: Transportation Accessibility and Group Homes" (1988)
- Workshop on zoning for group homes under the Fair Housing Act (1990)
- "Achieving and Preserving Racial Diversity," workshop (1992)
- "Planning for Residential Integration" (1995)
- "Zoning for Community Residences" (1996)
- "NIMBYs and Commissioners" (1996)
- "Preserving Racially Diverse Communities" with Professor Gary Orfield (1998)
- "Real Solutions for Affordable Housing" (2004, 2005)



## Other Planning and Zoning:

Faculty, *Doing Your Job: A One-Day Workshop on Local Planning and Zoning*, full-day workshops for planning commissioners, elected officials, and planners, sponsored by the Institute for Public Policy and Administration, Governors State University (University Park, Illinois):

Part I: Rockford, Matteson, Moline, Champaign (1988)

Part II: Rockford, Matteson, Oak Brook Terrace (1989)

Annual Zoning and Planning Conference, Governors State University, course on:

Recent Developments in Zoning Law, and the Zoning Hearing Examiner (1986)

"Socially Informed Planning" — Institute on Zoning and Planning, University of Illinois (Urbana), 1975, 1976

## Guest Lecturer:

Guest Lecturer, "Fair Housing and Group Homes," Fair Housing Legal Clinic, John Marshall Law School, April 1, 2013

Faculty, "Ethics in Urban Planning," a mini-course in "Community Planning & Development," sponsored by the Municipal Art Society Planning Center and Hunter College, New York, NY, October 14, 2003

University of Illinois (Urbana)— social planning (1975); planning in the real world (1981)

Governors State University— socially-informed planning (1976–77, 1979)

## Preservation of Affordable Housing: Policy and Programs

(Partial listing)

"Bringing Sense to American Housing Policy," Keynote Address, 2005 annual conference of the National Association of Housing Cooperatives, Kansas City, KS, Sept. 15, 2005; published in *Cooperative Housing Bulletin*, Nov./Dec. 2005, Vol. XXI, No. 6, pp. 1, 4, 15

"Sensible and Effective Approaches to Affordable Housing," three-hour workshop presented at *Planning at the Crossroads Regional Planning Conference*, a nine-state conference of the American Planning Association (Oct. 13, 2004)

Faculty, "Making Real Efforts Toward Affordable Housing in Your Community," a 90-minute course for the University of Wisconsin's 32nd Annual *Planning and Zoning for Community Land-Use Management* conducted in Charlotte, NC; Madison, WI; and Albuquerque, NM (Spring, 2002)

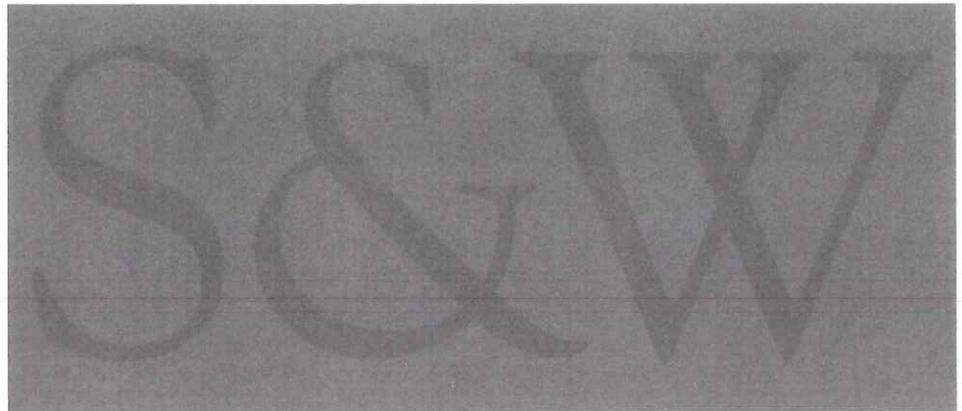
American Association of Retired Persons/National Retired Teachers Association — workshops on fighting inflation in housing at NRTA-AARP National Issue Forums, Milwaukee, Wisconsin and Portland, Oregon, 1981

Metropolitan Planning Council (Chicago) — Research and presentation on use of low-equity cooperatives in District of Columbia and Montgomery County (Maryland)

## Expert Witness

- U.S. Senate Subcommittee on Housing and Urban Affairs, Committee on Banking, Housing, and Urban Affairs, June 28, 1979
- U.S. House of Representatives Subcommittee on Commerce, Consumer, and Monetary Affairs, Committee on Government Operations, March 31, 1981
- New Jersey Governor Brendan Byrne, Jan. 31, 1981
- Milwaukee City Council, Dec. 1980
- Montgomery County (Maryland), Condominium Conversion Task Force, Oct. 1979
- Chicago City Council, March and Oct. 1979
- Illinois Joint Legislative Study Committee, April 21, 1980, Feb. 8, 1982
- Illinois House of Representatives, Subcommittee on Real Estate, Feb. 8, 1978
- Skokie (Illinois) Village Board and Plan Commission, 1978
- Oak Park (Illinois) Village Board and Plan Commission, 1978
- Evanston (Illinois) Housing Commission, Plan Commission, City Council, 1978–1981





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## Scottsdale Recovery II, LLC

Exhibit 6 – Joint Statement of HUD  
and Department of Justice dated  
November 10, 2016



**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY**



**U.S. DEPARTMENT OF JUSTICE  
CIVIL RIGHTS DIVISION**

*Washington, D.C.  
November 10, 2016*

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**JOINT STATEMENT OF THE DEPARTMENT OF HOUSING AND URBAN  
DEVELOPMENT AND THE DEPARTMENT OF JUSTICE**

**STATE AND LOCAL LAND USE LAWS AND PRACTICES AND THE APPLICATION  
OF THE FAIR HOUSING ACT**

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**INTRODUCTION**

The Department of Justice (“DOJ”) and the Department of Housing and Urban Development (“HUD”) are jointly responsible for enforcing the Federal Fair Housing Act (“the Act”),<sup>1</sup> which prohibits discrimination in housing on the basis of race, color, religion, sex, disability, familial status (children under 18 living with a parent or guardian), or national origin.<sup>2</sup> The Act prohibits housing-related policies and practices that exclude or otherwise discriminate against individuals because of protected characteristics.

The regulation of land use and zoning is traditionally reserved to state and local governments, except to the extent that it conflicts with requirements imposed by the Fair Housing Act or other federal laws. This Joint Statement provides an overview of the Fair Housing Act’s requirements relating to state and local land use practices and zoning laws, including conduct related to group homes. It updates and expands upon DOJ’s and HUD’s Joint

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<sup>1</sup> The Fair Housing Act is codified at 42 U.S.C. §§ 3601–19.

<sup>2</sup> The Act uses the term “handicap” instead of “disability.” Both terms have the same legal meaning. *See Bragdon v. Abbott*, 524 U.S. 624, 631 (1998) (noting that the definition of “disability” in the Americans with Disabilities Act



Statement on Group Homes, Local Land Use, and the Fair Housing Act, issued on August 18, 1999. The first section of the Joint Statement, Questions 1–6, describes generally the Act’s requirements as they pertain to land use and zoning. The second and third sections, Questions 7–25, discuss more specifically how the Act applies to land use and zoning laws affecting housing for persons with disabilities, including guidance on regulating group homes and the requirement to provide reasonable accommodations. The fourth section, Questions 26–27, addresses HUD’s and DOJ’s enforcement of the Act in the land use and zoning context.

This Joint Statement focuses on the Fair Housing Act, not on other federal civil rights laws that prohibit state and local governments from adopting or implementing land use and zoning practices that discriminate based on a protected characteristic, such as Title II of the Americans with Disabilities Act (“ADA”),<sup>3</sup> Section 504 of the Rehabilitation Act of 1973 (“Section 504”),<sup>4</sup> and Title VI of the Civil Rights Act of 1964.<sup>5</sup> In addition, the Joint Statement does not address a state or local government’s duty to affirmatively further fair housing, even though state and local governments that receive HUD assistance are subject to this duty. For additional information provided by DOJ and HUD regarding these issues, see the list of resources provided in the answer to Question 27.

## **Questions and Answers on the Fair Housing Act and State and Local Land Use Laws and Zoning**

### **1. How does the Fair Housing Act apply to state and local land use and zoning?**

The Fair Housing Act prohibits a broad range of housing practices that discriminate against individuals on the basis of race, color, religion, sex, disability, familial status, or national origin (commonly referred to as protected characteristics). As established by the Supremacy Clause of the U.S. Constitution, federal laws such as the Fair Housing Act take precedence over conflicting state and local laws. The Fair Housing Act thus prohibits state and local land use and zoning laws, policies, and practices that discriminate based on a characteristic protected under the Act. Prohibited practices as defined in the Act include making unavailable or denying housing because of a protected characteristic. Housing includes not only buildings intended for occupancy as residences, but also vacant land that may be developed into residences.

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is drawn almost verbatim “from the definition of ‘handicap’ contained in the Fair Housing Amendments Act of 1988”). This document uses the term “disability,” which is more generally accepted.

<sup>3</sup> 42 U.S.C. §12132.

<sup>4</sup> 29 U.S.C. § 794.

<sup>5</sup> 42 U.S.C. § 2000d.

## **2. What types of land use and zoning laws or practices violate the Fair Housing Act?**

Examples of state and local land use and zoning laws or practices that may violate the Act include:

- Prohibiting or restricting the development of housing based on the belief that the residents will be members of a particular protected class, such as race, disability, or familial status, by, for example, placing a moratorium on the development of multifamily housing because of concerns that the residents will include members of a particular protected class.
- Imposing restrictions or additional conditions on group housing for persons with disabilities that are not imposed on families or other groups of unrelated individuals, by, for example, requiring an occupancy permit for persons with disabilities to live in a single-family home while not requiring a permit for other residents of single-family homes.
- Imposing restrictions on housing because of alleged public safety concerns that are based on stereotypes about the residents' or anticipated residents' membership in a protected class, by, for example, requiring a proposed development to provide additional security measures based on a belief that persons of a particular protected class are more likely to engage in criminal activity.
- Enforcing otherwise neutral laws or policies differently because of the residents' protected characteristics, by, for example, citing individuals who are members of a particular protected class for violating code requirements for property upkeep while not citing other residents for similar violations.
- Refusing to provide reasonable accommodations to land use or zoning policies when such accommodations may be necessary to allow persons with disabilities to have an equal opportunity to use and enjoy the housing, by, for example, denying a request to modify a setback requirement so an accessible sidewalk or ramp can be provided for one or more persons with mobility disabilities.

## **3. When does a land use or zoning practice constitute intentional discrimination in violation of the Fair Housing Act?**

Intentional discrimination is also referred to as disparate treatment, meaning that the action treats a person or group of persons differently because of race, color, religion, sex, disability, familial status, or national origin. A land use or zoning practice may be intentionally discriminatory even if there is no personal bias or animus on the part of individual government officials. For example, municipal zoning practices or decisions that reflect acquiescence to community bias may be intentionally discriminatory, even if the officials themselves do not personally share such bias. (See Q&A 5.) Intentional discrimination does not require that the



decision-makers were hostile toward members of a particular protected class. Decisions motivated by a purported desire to benefit a particular group can also violate the Act if they result in differential treatment because of a protected characteristic.

A land use or zoning practice may be discriminatory on its face. For example, a law that requires persons with disabilities to request permits to live in single-family zones while not requiring persons without disabilities to request such permits violates the Act because it treats persons with disabilities differently based on their disability. Even a law that is seemingly neutral will still violate the Act if enacted with discriminatory intent. In that instance, the analysis of whether there is intentional discrimination will be based on a variety of factors, all of which need not be satisfied. These factors include, but are not limited to: (1) the “impact” of the municipal practice, such as whether an ordinance disproportionately impacts minority residents compared to white residents or whether the practice perpetuates segregation in a neighborhood or particular geographic area; (2) the “historical background” of the action, such as whether there is a history of segregation or discriminatory conduct by the municipality; (3) the “specific sequence of events,” such as whether the city adopted an ordinance or took action only after significant, racially-motivated community opposition to a housing development or changed course after learning that a development would include non-white residents; (4) departures from the “normal procedural sequence,” such as whether a municipality deviated from normal application or zoning requirements; (5) “substantive departures,” such as whether the factors usually considered important suggest that a state or local government should have reached a different result; and (6) the “legislative or administrative history,” such as any statements by members of the state or local decision-making body.<sup>6</sup>

#### **4. Can state and local land use and zoning laws or practices violate the Fair Housing Act if the state or locality did not intend to discriminate against persons on a prohibited basis?**

Yes. Even absent a discriminatory intent, state or local governments may be liable under the Act for any land use or zoning law or practice that has an unjustified discriminatory effect because of a protected characteristic. In 2015, the United States Supreme Court affirmed this interpretation of the Act in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*<sup>7</sup> The Court stated that “[t]hese unlawful practices include zoning laws and other housing restrictions that function unfairly to exclude minorities from certain neighborhoods without any sufficient justification.”<sup>8</sup>

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<sup>6</sup> *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 265–68 (1977).

<sup>7</sup> \_\_\_ U.S. \_\_\_, 135 S. Ct. 2507 (2015).

<sup>8</sup> *Id.* at 2521–22.

A land use or zoning practice results in a discriminatory effect if it caused or predictably will cause a disparate impact on a group of persons or if it creates, increases, reinforces, or perpetuates segregated housing patterns because of a protected characteristic. A state or local government still has the opportunity to show that the practice is necessary to achieve one or more of its substantial, legitimate, nondiscriminatory interests. These interests must be supported by evidence and may not be hypothetical or speculative. If these interests could not be served by another practice that has a less discriminatory effect, then the practice does not violate the Act. The standard for evaluating housing-related practices with a discriminatory effect are set forth in HUD's Discriminatory Effects Rule, 24 C.F.R. § 100.500.

Examples of land use practices that violate the Fair Housing Act under a discriminatory effects standard include minimum floor space or lot size requirements that increase the size and cost of housing if such an increase has the effect of excluding persons from a locality or neighborhood because of their membership in a protected class, without a legally sufficient justification. Similarly, prohibiting low-income or multifamily housing may have a discriminatory effect on persons because of their membership in a protected class and, if so, would violate the Act absent a legally sufficient justification.

**5. Does a state or local government violate the Fair Housing Act if it considers the fears or prejudices of community members when enacting or applying its zoning or land use laws respecting housing?**

When enacting or applying zoning or land use laws, state and local governments may not act because of the fears, prejudices, stereotypes, or unsubstantiated assumptions that community members may have about current or prospective residents because of the residents' protected characteristics. Doing so violates the Act, even if the officials themselves do not personally share such bias. For example, a city may not deny zoning approval for a low-income housing development that meets all zoning and land use requirements because the development may house residents of a particular protected class or classes whose presence, the community fears, will increase crime and lower property values in the surrounding neighborhood. Similarly, a local government may not block a group home or deny a requested reasonable accommodation in response to neighbors' stereotypical fears or prejudices about persons with disabilities or a particular type of disability. Of course, a city council or zoning board is not bound by everything that is said by every person who speaks at a public hearing. It is the record as a whole that will be determinative.



**6. Can state and local governments violate the Fair Housing Act if they adopt or implement restrictions against children?**

Yes. State and local governments may not impose restrictions on where families with children may reside unless the restrictions are consistent with the “housing for older persons” exemption of the Act. The most common types of housing for older persons that may qualify for this exemption are: (1) housing intended for, and solely occupied by, persons 62 years of age or older; and (2) housing in which 80% of the occupied units have at least one person who is 55 years of age or older that publishes and adheres to policies and procedures demonstrating the intent to house older persons. These types of housing must meet all requirements of the exemption, including complying with HUD regulations applicable to such housing, such as verification procedures regarding the age of the occupants. A state or local government that zones an area to exclude families with children under 18 years of age must continually ensure that housing in that zone meets all requirements of the exemption. If all of the housing in that zone does not continue to meet all such requirements, that state or local government violates the Act.

**Questions and Answers on the Fair Housing Act and  
Local Land Use and Zoning Regulation of Group Homes**

**7. Who qualifies as a person with a disability under the Fair Housing Act?**

The Fair Housing Act defines a person with a disability to include (1) individuals with a physical or mental impairment that substantially limits one or more major life activities; (2) individuals who are regarded as having such an impairment; and (3) individuals with a record of such an impairment.

The term “physical or mental impairment” includes, but is not limited to, diseases and conditions such as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, HIV infection, developmental disabilities, mental illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance), and alcoholism.

The term “major life activity” includes activities such as seeing, hearing, walking, breathing, performing manual tasks, caring for one’s self, learning, speaking, and working. This list of major life activities is not exhaustive.

Being regarded as having a disability means that the individual is treated as if he or she has a disability even though the individual may not have an impairment or may not have an impairment that substantially limits one or more major life activities. For example, if a landlord

refuses to rent to a person because the landlord believes the prospective tenant has a disability, then the landlord violates the Act's prohibition on discrimination on the basis of disability, even if the prospective tenant does not actually have a physical or mental impairment that substantially limits one or more major life activities.

Having a record of a disability means the individual has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

#### **8. What is a group home within the meaning of the Fair Housing Act?**

The term "group home" does not have a specific legal meaning; land use and zoning officials and the courts, however, have referred to some residences for persons with disabilities as group homes. The Fair Housing Act prohibits discrimination on the basis of disability, and persons with disabilities have the same Fair Housing Act protections whether or not their housing is considered a group home. A household where two or more persons with disabilities choose to live together, as a matter of association, may not be subjected to requirements or conditions that are not imposed on households consisting of persons without disabilities.

In this Statement, the term "group home" refers to a dwelling that is or will be occupied by unrelated persons with disabilities. Sometimes group homes serve individuals with a particular type of disability, and sometimes they serve individuals with a variety of disabilities. Some group homes provide residents with in-home support services of varying types, while others do not. The provision of support services is not required for a group home to be protected under the Fair Housing Act. Group homes, as discussed in this Statement, may be opened by individuals or by organizations, both for-profit and not-for-profit. Sometimes it is the group home operator or developer, rather than the individuals who live or are expected to live in the home, who interacts with a state or local government agency about developing or operating the group home, and sometimes there is no interaction among residents or operators and state or local governments.

In this Statement, the term "group home" includes homes occupied by persons in recovery from alcohol or substance abuse, who are persons with disabilities under the Act. Although a group home for persons in recovery may commonly be called a "sober home," the term does not have a specific legal meaning, and the Act treats persons with disabilities who reside in such homes no differently than persons with disabilities who reside in other types of group homes. Like other group homes, homes for persons in recovery are sometimes operated by individuals or organizations, both for-profit and not-for-profit, and support services or supervision are sometimes, but not always, provided. The Act does not require a person who resides in a home for persons in recovery to have participated in or be currently participating in a



substance abuse treatment program to be considered a person with a disability. The fact that a resident of a group home may currently be illegally using a controlled substance does not deprive the other residents of the protection of the Fair Housing Act.

#### **9. In what ways does the Fair Housing Act apply to group homes?**

The Fair Housing Act prohibits discrimination on the basis of disability, and persons with disabilities have the same Fair Housing Act protections whether or not their housing is considered a group home. State and local governments may not discriminate against persons with disabilities who live in group homes. Persons with disabilities who live in or seek to live in group homes are sometimes subjected to unlawful discrimination in a number of ways, including those discussed in the preceding Section of this Joint Statement. Discrimination may be intentional; for example, a locality might pass an ordinance prohibiting group homes in single-family neighborhoods or prohibiting group homes for persons with certain disabilities. These ordinances are facially discriminatory, in violation of the Act. In addition, as discussed more fully in Q&A 10 below, a state or local government may violate the Act by refusing to grant a reasonable accommodation to its zoning or land use ordinance when the requested accommodation may be necessary for persons with disabilities to have an equal opportunity to use and enjoy a dwelling. For example, if a locality refuses to waive an ordinance that limits the number of unrelated persons who may live in a single-family home where such a waiver may be necessary for persons with disabilities to have an equal opportunity to use and enjoy a dwelling, the locality violates the Act unless the locality can prove that the waiver would impose an undue financial and administrative burden on the local government or fundamentally alter the essential nature of the locality's zoning scheme. Furthermore, a state or local government may violate the Act by enacting an ordinance that has an unjustified discriminatory effect on persons with disabilities who seek to live in a group home in the community. Unlawful actions concerning group homes are discussed in more detail throughout this Statement.

#### **10. What is a reasonable accommodation under the Fair Housing Act?**

The Fair Housing Act makes it unlawful to refuse to make "reasonable accommodations" to rules, policies, practices, or services, when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling. A "reasonable accommodation" is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since rules, policies, practices, and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others may sometimes deny them an equal opportunity to use and enjoy a dwelling.

Even if a zoning ordinance imposes on group homes the same restrictions that it imposes on housing for other groups of unrelated persons, a local government may be required, in individual cases and when requested to do so, to grant a reasonable accommodation to a group home for persons with disabilities. What constitutes a reasonable accommodation is a case-by-case determination based on an individualized assessment. This topic is discussed in detail in Q&As 20–25 and in the HUD/DOJ Joint Statement on Reasonable Accommodations under the Fair Housing Act.

#### **11. Does the Fair Housing Act protect persons with disabilities who pose a “direct threat” to others?**

The Act does not allow for the exclusion of individuals based upon fear, speculation, or stereotype about a particular disability or persons with disabilities in general. Nevertheless, the Act does not protect an individual whose tenancy would constitute a “direct threat” to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others unless the threat or risk to property can be eliminated or significantly reduced by reasonable accommodation. A determination that an individual poses a direct threat must rely on an individualized assessment that is based on reliable objective evidence (for example, current conduct or a recent history of overt acts). The assessment must consider: (1) the nature, duration, and severity of the risk of injury; (2) the probability that injury will actually occur; and (3) whether there are any reasonable accommodations that will eliminate or significantly reduce the direct threat. See Q&A 10 for a general discussion of reasonable accommodations. Consequently, in evaluating an individual’s recent history of overt acts, a state or local government must take into account whether the individual has received intervening treatment or medication that has eliminated or significantly reduced the direct threat (in other words, significant risk of substantial harm). In such a situation, the state or local government may request that the individual show how the circumstances have changed so that he or she no longer poses a direct threat. Any such request must be reasonable and limited to information necessary to assess whether circumstances have changed. Additionally, in such a situation, a state or local government may obtain satisfactory and reasonable assurances that the individual will not pose a direct threat during the tenancy. The state or local government must have reliable, objective evidence that the tenancy of a person with a disability poses a direct threat before excluding him or her from housing on that basis, and, in making that assessment, the state or local government may not ignore evidence showing that the individual’s tenancy would no longer pose a direct threat. Moreover, the fact that one individual may pose a direct threat does not mean that another individual with the same disability or other individuals in a group home may be denied housing.



**12. Can a state or local government enact laws that specifically limit group homes for individuals with specific types of disabilities?**

No. Just as it would be illegal to enact a law for the purpose of excluding or limiting group homes for individuals with disabilities, it is illegal under the Act for local land use and zoning laws to exclude or limit group homes for individuals with specific types of disabilities. For example, a government may not limit group homes for persons with mental illness to certain neighborhoods. The fact that the state or local government complies with the Act with regard to group homes for persons with some types of disabilities will not justify discrimination against individuals with another type of disability, such as mental illness.

**13. Can a state or local government limit the number of individuals who reside in a group home in a residential neighborhood?**

Neutral laws that govern groups of unrelated persons who live together do not violate the Act so long as (1) those laws do not intentionally discriminate against persons on the basis of disability (or other protected class), (2) those laws do not have an unjustified discriminatory effect on the basis of disability (or other protected class), and (3) state and local governments make reasonable accommodations when such accommodations may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling.

Local zoning and land use laws that treat groups of unrelated persons with disabilities less favorably than similar groups of unrelated persons without disabilities violate the Fair Housing Act. For example, suppose a city's zoning ordinance defines a "family" to include up to a certain number of unrelated persons living together as a household unit, and gives such a group of unrelated persons the right to live in any zoning district without special permission from the city. If that ordinance also prohibits a group home having the same number of persons with disabilities in a certain district or requires it to seek a use permit, the ordinance would violate the Fair Housing Act. The ordinance violates the Act because it treats persons with disabilities less favorably than families and unrelated persons without disabilities.

A local government may generally restrict the ability of groups of unrelated persons to live together without violating the Act as long as the restrictions are imposed on all such groups, including a group defined as a family. Thus, if the definition of a family includes up to a certain number of unrelated individuals, an ordinance would not, on its face, violate the Act if a group home for persons with disabilities with more than the permitted number for a family were not allowed to locate in a single-family-zoned neighborhood because any group of unrelated people without disabilities of that number would also be disallowed. A facially neutral ordinance, however, still may violate the Act if it is intentionally discriminatory (that is, enacted with discriminatory intent or applied in a discriminatory manner), or if it has an unjustified



discriminatory effect on persons with disabilities. For example, an ordinance that limits the number of unrelated persons who may constitute a family may violate the Act if it is enacted for the purpose of limiting the number of persons with disabilities who may live in a group home, or if it has the unjustified discriminatory effect of excluding or limiting group homes in the jurisdiction. Governments may also violate the Act if they enforce such restrictions more strictly against group homes than against groups of the same number of unrelated persons without disabilities who live together in housing. In addition, as discussed in detail below, because the Act prohibits the denial of reasonable accommodations to rules and policies for persons with disabilities, a group home that provides housing for a number of persons with disabilities that exceeds the number allowed under the family definition has the right to seek an exception or waiver. If the criteria for a reasonable accommodation are met, the permit must be given in that instance, but the ordinance would not be invalid.<sup>9</sup>

#### **14. How does the Supreme Court's ruling in *Olmstead* apply to the Fair Housing Act?**

In *Olmstead v. L.C.*,<sup>10</sup> the Supreme Court ruled that the Americans with Disabilities Act (ADA) prohibits the unjustified segregation of persons with disabilities in institutional settings where necessary services could reasonably be provided in integrated, community-based settings. An integrated setting is one that enables individuals with disabilities to live and interact with individuals without disabilities to the fullest extent possible. By contrast, a segregated setting includes congregate settings populated exclusively or primarily by individuals with disabilities. Although *Olmstead* did not interpret the Fair Housing Act, the objectives of the Fair Housing Act and the ADA, as interpreted in *Olmstead*, are consistent. The Fair Housing Act ensures that persons with disabilities have an equal opportunity to choose the housing where they wish to live. The ADA and *Olmstead* ensure that persons with disabilities also have the option to live and receive services in the most integrated setting appropriate to their needs. The integration mandate of the ADA and *Olmstead* can be implemented without impairing the rights protected by the Fair Housing Act. For example, state and local governments that provide or fund housing, health care, or support services must comply with the integration mandate by providing these programs, services, and activities in the most integrated setting appropriate to the needs of individuals with disabilities. State and local governments may comply with this requirement by adopting standards for the housing, health care, or support services they provide or fund that are reasonable, individualized, and specifically tailored to enable individuals with disabilities to live and interact with individuals without disabilities to the fullest extent possible. Local governments should be aware that ordinances and policies that impose additional restrictions on housing or residential services for persons with disabilities that are not imposed on housing or

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<sup>9</sup> Laws that limit the number of occupants per unit do not violate the Act as long as they are reasonable, are applied to all occupants, and do not operate to discriminate on the basis of disability, familial status, or other characteristics protected by the Act.

<sup>10</sup> 527 U.S. 581 (1999).



residential services for persons without disabilities are likely to violate the Act. In addition, a locality would violate the Act and the integration mandate of the ADA and *Olmstead* if it required group homes to be concentrated in certain areas of the jurisdiction by, for example, restricting them from being located in other areas.

**15. Can a state or local government impose spacing requirements on the location of group homes for persons with disabilities?**

A “spacing” or “dispersal” requirement generally refers to a requirement that a group home for persons with disabilities must not be located within a specific distance of another group home. Sometimes a spacing requirement is designed so it applies only to group homes and sometimes a spacing requirement is framed more generally and applies to group homes and other types of uses such as boarding houses, student housing, or even certain types of businesses. In a community where a certain number of unrelated persons are permitted by local ordinance to reside together in a home, it would violate the Act for the local ordinance to impose a spacing requirement on group homes that do not exceed that permitted number of residents because the spacing requirement would be a condition imposed on persons with disabilities that is not imposed on persons without disabilities. In situations where a group home seeks a reasonable accommodation to exceed the number of unrelated persons who are permitted by local ordinance to reside together, the Fair Housing Act does not prevent state or local governments from taking into account concerns about the over-concentration of group homes that are located in close proximity to each other. Sometimes compliance with the integration mandate of the ADA and *Olmstead* requires government agencies responsible for licensing or providing housing for persons with disabilities to consider the location of other group homes when determining what housing will best meet the needs of the persons being served. Some courts, however, have found that spacing requirements violate the Fair Housing Act because they deny persons with disabilities an equal opportunity to choose where they will live. Because an across-the-board spacing requirement may discriminate against persons with disabilities in some residential areas, any standards that state or local governments adopt should evaluate the location of group homes for persons with disabilities on a case-by-case basis.

Where a jurisdiction has imposed a spacing requirement on the location of group homes for persons with disabilities, courts may analyze whether the requirement violates the Act under an intent, effects, or reasonable accommodation theory. In cases alleging intentional discrimination, courts look to a number of factors, including the effect of the requirement on housing for persons with disabilities; the jurisdiction’s intent behind the spacing requirement; the existence, size, and location of group homes in a given area; and whether there are methods other than a spacing requirement for accomplishing the jurisdiction’s stated purpose. A spacing requirement enacted with discriminatory intent, such as for the purpose of appeasing neighbors’ stereotypical fears about living near persons with disabilities, violates the Act. Further, a neutral

spacing requirement that applies to all housing for groups of unrelated persons may have an unjustified discriminatory effect on persons with disabilities, thus violating the Act. Jurisdictions must also consider, in compliance with the Act, requests for reasonable accommodations to any spacing requirements.

**16. Can a state or local government impose health and safety regulations on group home operators?**

Operators of group homes for persons with disabilities are subject to applicable state and local regulations addressing health and safety concerns unless those regulations are inconsistent with the Fair Housing Act or other federal law. Licensing and other regulatory requirements that may apply to some group homes must also be consistent with the Fair Housing Act. Such regulations must not be based on stereotypes about persons with disabilities or specific types of disabilities. State or local zoning and land use ordinances may not, consistent with the Fair Housing Act, require individuals with disabilities to receive medical, support, or other services or supervision that they do not need or want as a condition for allowing a group home to operate. State and local governments' enforcement of neutral requirements regarding safety, licensing, and other regulatory requirements governing group homes do not violate the Fair Housing Act so long as the ordinances are enforced in a neutral manner, they do not specifically target group homes, and they do not have an unjustified discriminatory effect on persons with disabilities who wish to reside in group homes.

Governments must also consider requests for reasonable accommodations to licensing and regulatory requirements and procedures, and grant them where they may be necessary to afford individuals with disabilities an equal opportunity to use and enjoy a dwelling, as required by the Act.

**17. Can a state or local government address suspected criminal activity or fraud and abuse at group homes for persons with disabilities?**

The Fair Housing Act does not prevent state and local governments from taking nondiscriminatory action in response to criminal activity, insurance fraud, Medicaid fraud, neglect or abuse of residents, or other illegal conduct occurring at group homes, including reporting complaints to the appropriate state or federal regulatory agency. States and localities must ensure that actions to enforce criminal or other laws are not taken to target group homes and are applied equally, regardless of whether the residents of housing are persons with disabilities. For example, persons with disabilities residing in group homes are entitled to the same constitutional protections against unreasonable search and seizure as those without disabilities.



**18. Does the Fair Housing Act permit a state or local government to implement strategies to integrate group homes for persons with disabilities in particular neighborhoods where they are not currently located?**

Yes. Some strategies a state or local government could use to further the integration of group housing for persons with disabilities, consistent with the Act, include affirmative marketing or offering incentives. For example, jurisdictions may engage in affirmative marketing or offer variances to providers of housing for persons with disabilities to locate future homes in neighborhoods where group homes for persons with disabilities are not currently located. But jurisdictions may not offer incentives for a discriminatory purpose or that have an unjustified discriminatory effect because of a protected characteristic.

**19. Can a local government consider the fears or prejudices of neighbors in deciding whether a group home can be located in a particular neighborhood?**

In the same way a local government would violate the law if it rejected low-income housing in a community because of neighbors' fears that such housing would be occupied by racial minorities (see Q&A 5), a local government violates the law if it blocks a group home or denies a reasonable accommodation request because of neighbors' stereotypical fears or prejudices about persons with disabilities. This is so even if the individual government decision-makers themselves do not have biases against persons with disabilities.

Not all community opposition to requests by group homes is necessarily discriminatory. For example, when a group home seeks a reasonable accommodation to operate in an area and the area has limited on-street parking to serve existing residents, it is not a violation of the Fair Housing Act for neighbors and local government officials to raise concerns that the group home may create more demand for on-street parking than would a typical family and to ask the provider to respond. A valid unaddressed concern about inadequate parking facilities could justify denying the requested accommodation, if a similar dwelling that is not a group home or similarly situated use would ordinarily be denied a permit because of such parking concerns. If, however, the group home shows that the home will not create a need for more parking spaces than other dwellings or similarly-situated uses located nearby, or submits a plan to provide any needed off-street parking, then parking concerns would not support a decision to deny the home a permit.

## **Questions and Answers on the Fair Housing Act and Reasonable Accommodation Requests to Local Zoning and Land Use Laws**

### **20. When does a state or local government violate the Fair Housing Act by failing to grant a request for a reasonable accommodation?**

A state or local government violates the Fair Housing Act by failing to grant a reasonable accommodation request if (1) the persons requesting the accommodation or, in the case of a group home, persons residing in or expected to reside in the group home are persons with a disability under the Act; (2) the state or local government knows or should reasonably be expected to know of their disabilities; (3) an accommodation in the land use or zoning ordinance or other rules, policies, practices, or services of the state or locality was requested by or on behalf of persons with disabilities; (4) the requested accommodation may be necessary to afford one or more persons with a disability an equal opportunity to use and enjoy the dwelling; (5) the state or local government refused to grant, failed to act on, or unreasonably delayed the accommodation request; and (6) the state or local government cannot show that granting the accommodation would impose an undue financial and administrative burden on the local government or that it would fundamentally alter the local government's zoning scheme. A requested accommodation may be necessary if there is an identifiable relationship between the requested accommodation and the group home residents' disability. Further information is provided in Q&A 10 above and the HUD/DOJ Joint Statement on Reasonable Accommodations under the Fair Housing Act.

### **21. Can a local government deny a group home's request for a reasonable accommodation without violating the Fair Housing Act?**

Yes, a local government may deny a group home's request for a reasonable accommodation if the request was not made by or on behalf of persons with disabilities (by, for example, the group home developer or operator) or if there is no disability-related need for the requested accommodation because there is no relationship between the requested accommodation and the disabilities of the residents or proposed residents.

In addition, a group home's request for a reasonable accommodation may be denied by a local government if providing the accommodation is not reasonable—in other words, if it would impose an undue financial and administrative burden on the local government or it would fundamentally alter the local government's zoning scheme. The determination of undue financial and administrative burden must be decided on a case-by-case basis involving various factors, such as the nature and extent of the administrative burden and the cost of the requested accommodation to the local government, the financial resources of the local government, and the benefits that the accommodation would provide to the persons with disabilities who will reside in the group home.



When a local government refuses an accommodation request because it would pose an undue financial and administrative burden, the local government should discuss with the requester whether there is an alternative accommodation that would effectively address the disability-related needs of the group home's residents without imposing an undue financial and administrative burden. This discussion is called an "interactive process." If an alternative accommodation would effectively meet the disability-related needs of the residents of the group home and is reasonable (that is, it would not impose an undue financial and administrative burden or fundamentally alter the local government's zoning scheme), the local government must grant the alternative accommodation. An interactive process in which the group home and the local government discuss the disability-related need for the requested accommodation and possible alternative accommodations is both required under the Act and helpful to all concerned, because it often results in an effective accommodation for the group home that does not pose an undue financial and administrative burden or fundamental alteration for the local government.

## **22. What is the procedure for requesting a reasonable accommodation?**

The reasonable accommodation must actually be requested by or on behalf of the individuals with disabilities who reside or are expected to reside in the group home. When the request is made, it is not necessary for the specific individuals who would be expected to live in the group home to be identified. The Act does not require that a request be made in a particular manner or at a particular time. The group home does not need to mention the Fair Housing Act or use the words "reasonable accommodation" when making a reasonable accommodation request. The group home must, however, make the request in a manner that a reasonable person would understand to be a disability-related request for an exception, change, or adjustment to a rule, policy, practice, or service. When making a request for an exception, change, or adjustment to a local land use or zoning regulation or policy, the group home should explain what type of accommodation is being requested and, if the need for the accommodation is not readily apparent or known by the local government, explain the relationship between the accommodation and the disabilities of the group home residents.

A request for a reasonable accommodation can be made either orally or in writing. It is often helpful for both the group home and the local government if the reasonable accommodation request is made in writing. This will help prevent misunderstandings regarding what is being requested or whether or when the request was made.

Where a local land use or zoning code contains specific procedures for seeking a departure from the general rule, courts have decided that these procedures should ordinarily be followed. If no procedure is specified, or if the procedure is unreasonably burdensome or intrusive or involves significant delays, a request for a reasonable accommodation may,

nevertheless, be made in some other way, and a local government is obligated to grant it if the requested accommodation meets the criteria discussed in Q&A 20, above.

Whether or not the local land use or zoning code contains a specific procedure for requesting a reasonable accommodation or other exception to a zoning regulation, if local government officials have previously made statements or otherwise indicated that an application for a reasonable accommodation would not receive fair consideration, or if the procedure itself is discriminatory, then persons with disabilities living in a group home, and/or its operator, have the right to file a Fair Housing Act complaint in court to request an order for a reasonable accommodation to the local zoning regulations.

**23. Does the Fair Housing Act require local governments to adopt formal reasonable accommodation procedures?**

The Act does not require a local government to adopt formal procedures for processing requests for reasonable accommodations to local land use or zoning codes. DOJ and HUD nevertheless strongly encourage local governments to adopt formal procedures for identifying and processing reasonable accommodation requests and provide training for government officials and staff as to application of the procedures. Procedures for reviewing and acting on reasonable accommodation requests will help state and local governments meet their obligations under the Act to respond to reasonable accommodation requests and implement reasonable accommodations promptly. Local governments are also encouraged to ensure that the procedures to request a reasonable accommodation or other exception to local zoning regulations are well known throughout the community by, for example, posting them at a readily accessible location and in a digital format accessible to persons with disabilities on the government's website. If a jurisdiction chooses to adopt formal procedures for reasonable accommodation requests, the procedures cannot be onerous or require information beyond what is necessary to show that the individual has a disability and that the requested accommodation is related to that disability. For example, in most cases, an individual's medical record or detailed information about the nature of a person's disability is not necessary for this inquiry. In addition, officials and staff must be aware that any procedures for requesting a reasonable accommodation must also be flexible to accommodate the needs of the individual making a request, including accepting and considering requests that are not made through the official procedure. The adoption of a reasonable accommodation procedure, however, will not cure a zoning ordinance that treats group homes differently than other residential housing with the same number of unrelated persons.



**24. What if a local government fails to act promptly on a reasonable accommodation request?**

A local government has an obligation to provide prompt responses to reasonable accommodation requests, whether or not a formal reasonable accommodation procedure exists. A local government's undue delay in responding to a reasonable accommodation request may be deemed a failure to provide a reasonable accommodation.

**25. Can a local government enforce its zoning code against a group home that violates the zoning code but has not requested a reasonable accommodation?**

The Fair Housing Act does not prohibit a local government from enforcing its zoning code against a group home that has violated the local zoning code, as long as that code is not discriminatory or enforced in a discriminatory manner. If, however, the group home requests a reasonable accommodation when faced with enforcement by the locality, the locality still must consider the reasonable accommodation request. A request for a reasonable accommodation may be made at any time, so at that point, the local government must consider whether there is a relationship between the disabilities of the residents of the group home and the need for the requested accommodation. If so, the locality must grant the requested accommodation unless doing so would pose a fundamental alteration to the local government's zoning scheme or an undue financial and administrative burden to the local government.

**Questions and Answers on Fair Housing Act Enforcement of  
Complaints Involving Land Use and Zoning**

**26. How are Fair Housing Act complaints involving state and local land use laws and practices handled by HUD and DOJ?**

The Act gives HUD the power to receive, investigate, and conciliate complaints of discrimination, including complaints that a state or local government has discriminated in exercising its land use and zoning powers. HUD may not issue a charge of discrimination pertaining to "the legality of any State or local zoning or other land use law or ordinance." Rather, after investigating, HUD refers matters it believes may be meritorious to DOJ, which, in its discretion, may decide to bring suit against the state or locality within 18 months after the practice at issue occurred or terminated. DOJ may also bring suit by exercising its authority to initiate litigation alleging a pattern or practice of discrimination or a denial of rights to a group of persons which raises an issue of general public importance.

If HUD determines that there is no reasonable cause to believe that there may be a violation, it will close an investigation without referring the matter to DOJ. But a HUD or DOJ

decision not to proceed with a land use or zoning matter does not foreclose private plaintiffs from pursuing a claim.

Litigation can be an expensive, time-consuming, and uncertain process for all parties. HUD and DOJ encourage parties to land use disputes to explore reasonable alternatives to litigation, including alternative dispute resolution procedures, like mediation or conciliation of the HUD complaint. HUD attempts to conciliate all complaints under the Act that it receives, including those involving land use or zoning laws. In addition, it is DOJ's policy to offer prospective state or local governments the opportunity to engage in pre-suit settlement negotiations, except in the most unusual circumstances.

## **27. How can I find more information?**

For more information on reasonable accommodations and reasonable modifications under the Fair Housing Act:

- HUD/DOJ Joint Statement on Reasonable Accommodations under the Fair Housing Act, *available at* <https://www.justice.gov/crt/fair-housing-policy-statements-and-guidance-0> or <http://www.hud.gov/offices/fheo/library/huddojstatement.pdf>.
- HUD/DOJ Joint Statement on Reasonable Modifications under the Fair Housing Act, *available at* <https://www.justice.gov/crt/fair-housing-policy-statements-and-guidance-0> or [http://www.hud.gov/offices/fheo/disabilities/reasonable\\_modifications\\_mar08.pdf](http://www.hud.gov/offices/fheo/disabilities/reasonable_modifications_mar08.pdf).

For more information on state and local governments' obligations under Section 504:

- HUD website at [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/disabilities/sect504](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/disabilities/sect504).

For more information on state and local governments' obligations under the ADA and *Olmstead*:

- U.S. Department of Justice website, [www.ADA.gov](http://www.ADA.gov), or call the ADA information line at (800) 514-0301 (voice) or (800) 514-0383 (TTY).
- Statement of the Department of Justice on Enforcement of the Integration Mandate of Title II of the Americans with Disabilities Act and *Olmstead v. L.C.*, *available at* [http://www.ada.gov/olmstead/q&a\\_olmstead.htm](http://www.ada.gov/olmstead/q&a_olmstead.htm).
- Statement of the Department of Housing and Urban Development on the Role of Housing in Accomplishing the Goals of *Olmstead*, *available at* <http://portal.hud.gov/hudportal/documents/huddoc?id=OlmsteadGuidnc060413.pdf>.

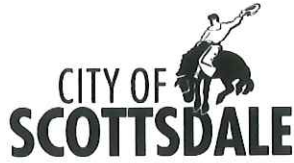


For more information on the requirement to affirmatively further fair housing:

- Affirmatively Furthering Fair Housing, 80 Fed. Reg. 42,272 (July 16, 2015) (to be codified at 24 C.F.R. pts. 5, 91, 92, 570, 574, 576, and 903).
- U.S. Department of Housing and Urban Development, Version 1, Affirmatively Furthering Fair Housing Rule Guidebook (2015), *available at* <https://www.hudexchange.info/resources/documents/AFFH-Rule-Guidebook.pdf>.
- Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, Vol. 1, Fair Housing Planning Guide (1996), *available at* <http://www.hud.gov/offices/fheo/images/fhpg.pdf>.

For more information on nuisance and crime-free ordinances:

- Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Enforcement of Local Nuisance and Crime-Free Housing Ordinances Against Victims of Domestic Violence, Other Crime Victims, and Others Who Require Police or Emergency Services (Sept. 13, 2016), *available at* <http://portal.hud.gov/hudportal/documents/huddoc?id=FinalNuisanceOrdGdnce.pdf>.



## Planning and Development Services

### Current Planning

7447 East Indian School Road  
Scottsdale, Arizona 85251

Snell & Wilmer LLP  
ONE ARIZONA CENTER  
ATTN: Heather N. Dukes  
400 E Van Buren Suite 1900  
Phoenix, AZ 85004-2202

6/23/2021

Re: Zoning Interpretation Request

Dear Ms. Dukes:

In response to the Request for Interpretation received on 5/13/2021, this correspondence confirms that proposed residential use (sober living home) is not permitted as of right in the Medium Density Residential (R-3) zoning district because the "Care Home" land use regulations apply to licensed sober living homes and Care Home is not permitted in the R-3 district.

1. The Proposed use is a "care home."

Because the State of Arizona extensively regulates the public health activity, the city uses the State's licensing requirements to determine "care home" applicability.

This application of zoning has been the city's practice for years and is supported by the city's Care Home definition of a dwelling shared as a primary residence by no more than ten (10) adults with a disability that is *licensed* as a health care institution under Arizona law, and in which on-site *supervisory or other care services* are provided to the disabled residents.

In 2017, the City adopted Ordinance No. [4326](#) and Resolution No. [10963](#) (Care Homes/Group Homes Text Amendment) that updated a variety of zoning regulations pertaining to home care. During that zoning code amendment process, the [City Council Action Report](#) stated that home care has evolved over time to include treatment of persons suffering from a variety of disabilities, including those recovering from substance abuse (sober living homes).

One of the specific components of the zoning update was identifying that there are different types of care homes (including elder care and sober living) and the zoning update consolidated all types of home care licensed by the State into a single "Care Home"



category. The city relies on the State's expertise of home care licensing and uses that qualifier for zoning implementation.

Sober Living Homes are State licensed and include supervised activities toward recovery. Both the license and supervision qualify under the City's Care Home definition. The State defines "Sober living home" as any premises, place or building that provides alcohol-free or drug-free housing and that: (a) Promotes independent living and life skills development; (b) May provide activities that are directed primarily toward recovery from substance use disorders; (c) Provides a *supervised* setting to a group of unrelated individuals who are recovering from substance use disorders; and (d) Does not provide any medical or clinical services or medication administration on-site, except for verification of abstinence. A.R.S. § [36-2061.3](#)

Further, the State defines a "Health care institution" as every place, institution, building or agency, whether organized for profit or not, that provides facilities with medical services, nursing services, behavioral health services, health screening services, other health-related services, *supervisory care services*, *personal care services* or directed *care services* and includes home health agencies as defined in section 36-151, outdoor behavioral health care programs and hospice service agencies (A.R.S. § [36-401.22](#)). Additionally, section [R9-10-102](#) of the Arizona Administrative code has identified subclasses of health care institutions that may apply for licensure, and 'Substance Abuse Transitional Facility' is a recognized category.

2. The proposed use is not permitted as of right.

A dwelling unit, by city definition, is intended for occupancy by a family and the city's family definition is very inclusive. When there is a state license involved for the purpose of regulating care services in a dwelling, that dwelling uniquely qualifies under the city's Care Home definition. A family is a component of a dwelling, and a licensed dwelling is a care home.

3. The proposed use is not a group home.

The R-3 zoning district allows for group homes not care homes. A "group home" defined in Section 3.1000 of the Ordinance as a "dwelling shared by more than six (6) adults as their primary residence in which no supervisory or other care is provided." Because each dwelling unit on this property can only accommodate two to four residents per unit, it cannot meet the definition of a 'group home', nor is the use analogous to a group home because the proposed use will require a license from DHS for a sober living facility, and may provide services directed toward recovery from substance abuse.

I hope this provides the clarification you are seeking.

Sincerely,

A handwritten signature in black ink, appearing to read 'Randy Grant', written in a cursive style.

Randy Grant  
Zoning Administrator

Attachment: Request for Interpretation received on 5/13/2021



## Heather Dukes

5064 E. Yucca Street  
Scottsdale, AZ 85254  
602.320.8866

City Clerk  
CITY OF SCOTTSDALE  
3939 N. Drinkwater Boulevard  
Scottsdale, AZ 85251

July 1, 2021

RE: Appeal of Zoning Interpretation to the City of Scottsdale Board of Adjustment – 7910 and 7920 E. Wilshire Drive, Scottsdale, Arizona 85257 (the “Property”)

Dear City Clerk,

On behalf of my clients, Scottsdale Recovery II, LLC, a Delaware limited liability company and Centered Living, LLC, an Arizona limited liability company, I submit the enclosed application to the Board of Adjustment pursuant to Sections 1.801 and 1.805 of the City of Scottsdale Zoning Ordinance (the “Zoning Ordinance”) for purposes of appealing the Zoning Administrator’s Interpretation dated June 23, 2021 with regard to the above-referenced Property (the “ZA Interpretation”).

Specifically, the ZA Interpretation determined that the proposed sober living use of the Property would constitute a “Care Home” and would not be permitted in the Medium Density Residential (R-3) zoning district. For the reasons set forth in the attached Interpretation Application dated May 13, 2021, the ZA Interpretation is erroneous, and therefore is being appealed to the Board of Adjustment as arbitrary, capricious or an abuse of discretion.

We respectfully request that this appeal be scheduled to be heard at the August 4, 2021 Board of Adjustment hearing. We also request the opportunity to submit additional evidence and written materials in support of this appeal. The supplemental materials will be submitted at least 14 calendar days prior to the Board’s hearing in accordance with Section 403 of the Rules of Procedure for the Board of Adjustment effective September 7, 2016.

If you need additional information or documentation in order to process this appeal, please do not hesitate to contact me at [hdukesesq@gmail.com](mailto:hdukesesq@gmail.com) or by phone at 602.320.8866. Thank you.

Very truly yours,



**Heather N. Dukes**

602.320.8866 | [hdukesesq@gmail.com](mailto:hdukesesq@gmail.com)

**ATTACHMENT #7**

**6-BA-2021  
7/7/2021**

July 1, 2021

**VIA HAND-DELIVERY**

City Clerk  
CITY OF SCOTTSDALE  
3939 N. Drinkwater Boulevard  
Scottsdale, AZ 85251

Planning and Development Services Department  
CITY OF SCOTTSDALE  
7447 East Indian School Road  
Scottsdale, Arizona 85251

OFFICE OF THE  
CITY CLERK  
2021 JUL -1 PM 3:36

**RE: Authorization Letter for Centered Living, LLC and Scottsdale Recovery II, LLC  
Appeal of Zoning Interpretation to the Board of Adjustment – 7910 and 7920 E.  
Wilshire Drive, Scottsdale, Arizona (the “Property”)**

Dear City Clerk and Planning and Development Services Department:

Please accept this letter authorizing attorney Heather Dukes to represent Scottsdale Recovery II, LLC, a Delaware limited liability company, and the owner of the above-referenced Property, Centered Living, LLC, an Arizona limited liability company, with regard to the enclosed application to the Board of Adjustment appealing the Zoning Administrator’s Interpretation dated June 23, 2021.

Sincerely,

CENTERED LIVING, LLC, an Arizona limited liability  
company

By: **MICHELLE  
E SIWEK**  
Digitally signed by MICHELLE  
SIWEK  
DN: cn=MICHELLE SIWEK, o, ou,  
email=MICHELLE@THESIWEKS.C  
OM, c=US  
Date: 2021.07.01 09:35:31 -07'00'

Michelle Siwek  
Its: Manager

SCOTTSDALE RECOVERY II, LLC, a Delaware limited  
liability company

By: \_\_\_\_\_  
Michelle Siwek  
Its: Manager



**Barnes, Jeff**

---

**From:** Michelle Goodwin-Siwiek <michelle.s@scottsdalerecovery.com>  
**Sent:** Thursday, April 15, 2021 5:45 PM  
**To:** Curtis, Tim  
**Cc:** Dukes, Heather; Steinke, Casey  
**Subject:** Re: Scottsdale Recover Center inquiry, 325-PA-2021

**⚠ External Email: Please use caution if opening links or attachments!**

Sounds good, thanks!

Get [Outlook for iOS](#)

---

**From:** Curtis, Tim <tcurtis@scottsdaleaz.gov>  
**Sent:** Thursday, April 15, 2021 5:14:11 PM  
**To:** Michelle Goodwin-Siwiek <michelle.s@scottsdalerecovery.com>  
**Cc:** Dukes, Heather <hdukes@swlaw.com>; Steinke, Casey <CSteinke@Scottsdaleaz.gov>  
**Subject:** RE: Scottsdale Recover Center inquiry, 325-PA-2021

Michelle,  
We'll get that meeting scheduled soon with me and Casey Steinke.  
Thanks,  
Tim Curtis

---

**From:** Michelle Goodwin-Siwiek <michelle.s@scottsdalerecovery.com>  
**Sent:** Thursday, April 15, 2021 8:20 AM  
**To:** Curtis, Tim <tcurtis@scottsdaleaz.gov>  
**Cc:** Dukes, Heather <hdukes@swlaw.com>  
**Subject:** RE: Scottsdale Recover Center inquiry, 325-PA-2021

**⚠ External Email: Please use caution if opening links or attachments!**

Good morning Tim, thanks for your email. I already submitted a pre app and am waiting for it to be assigned. I would still like to proceed with the pre app – do you by chance if it has been assigned and to whom?

Michelle Siwek  
Scottsdale Recovery Center

Cell: 480.414.2596  
Office: 480.699.9044  
Fax: 480.739.6116  
Admissions: 1.888.NODRUGS  
[michelle.s@scottsdalerecovery.com](mailto:michelle.s@scottsdalerecovery.com)



# SCOTTSDALE RECOVERY

Email Confidentiality Notice: The information contained in this transmission is privileged and confidential and/or protected health information (PHI) and may be subject to protection under the law, including the Health Insurance Portability and Accountability Act of 1996, as amended (HIPAA). This transmission is intended for the sole use of the

individual or entity to whom it is addressed. If you are not the intended recipient, you are notified that any use, dissemination, distribution, printing or copying of this transmission is strictly prohibited and may subject you to criminal or civil penalties. If you have received this transmission in error, please contact the sender immediately by replying to this email and deleting this email and any attachments from any computer.

---

**From:** Curtis, Tim <[tcurtis@scottsdaleaz.gov](mailto:tcurtis@scottsdaleaz.gov)>  
**Sent:** Wednesday, April 14, 2021 1:18 PM  
**To:** Michelle Goodwin-Siwiek <[michelle.s@scottsdalerecovery.com](mailto:michelle.s@scottsdalerecovery.com)>  
**Cc:** Dukes, Heather <[hdukes@swlaw.com](mailto:hdukes@swlaw.com)>  
**Subject:** RE: Scottsdale Recover Center inquiry, 325-PA-2021

Michelle,  
The two location(s) you propose are within 1200 feet of another existing Care Home, and of course are located within 1200 feet from one another. So the pre-app may not be worthwhile. Let me know.  
Tim Curtis

---

**From:** Michelle Goodwin-Siwiek <[michelle.s@scottsdalerecovery.com](mailto:michelle.s@scottsdalerecovery.com)>  
**Sent:** Wednesday, April 14, 2021 12:42 PM  
**To:** Curtis, Tim <[tcurtis@scottsdaleaz.gov](mailto:tcurtis@scottsdaleaz.gov)>  
**Cc:** Dukes, Heather <[hdukes@swlaw.com](mailto:hdukes@swlaw.com)>  
**Subject:** Re: Scottsdale Recover Center inquiry, 325-PA-2021

 **External Email: Please use caution if opening links or attachments!**

Thank you Tim, i am in escrow to purchase 7910 and 7920 E Wilshire. I will license as sober living. Have you been assigned my Pre application request?  
I have a very short due diligence period and was hoping to get my request assigned as soon as possible. Thank you!

Get [Outlook for iOS](#)

---

**From:** Curtis, Tim <[tcurtis@scottsdaleaz.gov](mailto:tcurtis@scottsdaleaz.gov)>  
**Sent:** Wednesday, April 14, 2021 11:47:50 AM  
**To:** Michelle Goodwin-Siwiek <[michelle.s@scottsdalerecovery.com](mailto:michelle.s@scottsdalerecovery.com)>  
**Subject:** Scottsdale Recover Center inquiry, 325-PA-2021

Michelle,  
As I mentioned in a voicemail earlier today, the Care Home zoning requirements apply to all homes receiving licensed care (State License), regardless of the number of residents.  
Let me know if you have any more questions.  
Thanks,  
Tim Curtis



Thomas Title & Escrow

RECORDING REQUESTED BY:  
Thomas Title & Escrow

83  
Ga

WHEN RECORDED MAIL TO:  
CENTERED LIVING, LLC, an Arizona limited liability company  
8321 Canta Redondo  
Paradise Valley, AZ 85253

---

Escrow No. 8388TAZ 1/3

**SPECIAL WARRANTY DEED**

For the consideration of TEN AND NO/100 DOLLARS, and other valuable considerations, I or we,

**LED BALLOON, LLC, an Arizona limited liability company dba The Trullies**, who incorrectly acquired title as THE TRULLIES, LLC, an Arizona limited liability company the GRANTOR, does hereby convey to

**CENTERED LIVING, LLC, an Arizona limited liability company**, the GRANTEE

The following described property situated in the County of Maricopa, State of Arizona, together with all rights and privileges appurtenant thereto, to wit:

**See Exhibit "A" attached hereto and made a part hereof.**

SUBJECT TO: Current taxes, assessments, reservations in patents and all easements, rights of way, encumbrances, liens, covenants, conditions, restrictions, obligations and liabilities as may appear of record.

And the GRANTOR hereby binds itself and its successors to warrant and defend the title, as against all acts of the Grantor herein and no other, subject to the matters above set forth.

DATED: June 23, 2021

GRANTOR:

LED BALLOON, LLC, an Arizona limited liability  
company dba The Trullies

By: 

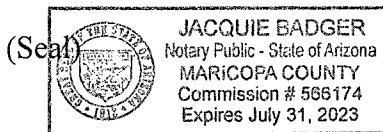
Name: J. Elizabeth Freeman

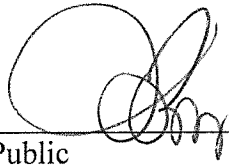
Title: Sole Member

State of ARIZONA }  
  } ss.  
County of Maricopa }

On June 21, 2021, before me, the undersigned Notary Public,  
personally appeared J. Elizabeth Freeman, Sole member LED Balloon LLC,  
personally known to me (or proved to me on the basis of satisfactory evidence) to be the  
person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that  
he/she/they executed the same in his/hers/their <sup>Unofficial Document</sup> authorized capacity(ies) and that by his/her/their  
signatures(s) on the instrument the person(s) or the entity upon behalf of which the person(s)  
acted, executed the instrument.

WITNESS my hand and official seal.



  
\_\_\_\_\_  
Notary Public

My Commission Expires: 7/31/2023



**EXHIBIT "A"**

UNITS 1 THROUGH 10, INCLUSIVE, OF CORTESE CONDOMINIUM, ACCORDING TO DECLARATION OF HORIZONTAL PROPERTY REGIME RECORDED IN 84-198657, OF OFFICIAL RECORDS PER MAP RECORDED IN BOOK 266 OF MAPS, PAGE 50, IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA.

TOGETHER WITH EACH UNITS UNDIVIDED INTEREST IN AND TO THE COMMON AREAS, AS SIT FORTH IN SAID DECLARATION OF HORIZONTAL PROPERTY REGIME AND AS SHOWN ON SAID PLAT.

Unofficial Document

## Sec. 5.700. - Medium Density Residential (R-3).

(Ord. No. 4005, § 1(Res. No. 8947, Exh. A, § 42), 4-3-12)

## Sec. 5.701. - Purpose.

This district is intended to fulfill the need for medium density residential development. The property development standards are designed to allow maximum flexibility while maintaining an environment compatible with single-family neighborhoods. This district will generally serve as an integral part of the neighborhood, allowing for a variety of housing types.

## Sec. 5.702. - Reserved.

**Editor's note—** Ord. No. 4164, § 1(Res. No. 9857, § 1, Exh. A, § 16), adopted Aug. 25, 2014, repealed § 5.702 which pertained to approvals required and derived from Ord. No. 3225, § 1, adopted May 4, 1999.

## Sec. 5.703. - Use regulations.

A. *Permitted uses.* Buildings, structures or premises shall be used and buildings and structures shall hereafter be erected, altered or enlarged only for the following uses:

1. Any use shown as permitted in Table 5.703., subject to the use limitations as listed.

B. *Uses permitted by conditional use permit.*

1. Any use shown as permitted by conditional use permit in Table 5.703., subject to the use limitations as listed, and any additional conditional use permit criteria.

Table 5.703. Use Table

Land Uses	Permitted (P) or Conditional Use (CU)
1. Accessory buildings including private garages, swimming pools, and recreation buildings and courts	P
2. Accessory uses including home occupation	P (1)
3. Community buildings and recreational facilities not publicly owned, such as: athletic fields, boys' clubs, commercial stables, ranches, and tennis clubs (see <u>Section 1.403.</u> for criteria)	CU
4. Day care home	P
5. Dwelling unit(s), including Vacation rental or Short-term rental	P
6. Educational service, elementary and secondary school (see <u>Section 1.403.</u> for criteria)	CU (2) (3)



7. Educational service, other than elementary and secondary school, colleges and universities only (see <u>Section 1.403.</u> for criteria)	CU (2)
8. Group home	P
9. Model home, temporary sales office/buildings	P (4)
10. Municipal uses	P
11. Place of worship	P (5)
12. Residential health care facility (see <u>Section 1.403.</u> for criteria, except as modified in Section 5.704.C.)	CU
13. Wireless communication facility, Type 1, 2 and 3	P (6)
14. Wireless communication facility, Type 4	CU (7)

Use Limitations:

- (1) The landing and taking-off of aircraft is not a valid accessory use in residential districts and is prohibited.
- (2) Conditional use permit is not required for public or charter educational services.
- (3) Educational service, charter school: minimum lot size is forty-three thousand (43,000) square feet.
- (4) For uses incidental to construction work and/or home sales, to be removed upon completion or abandonment of construction work and/or home sales.
- (5) Place of worship subject to compliance with the following standards, as well as those otherwise required in the underlying District:
  - a. *Lot area:* The minimum lot area shall be equal to that required for the district, except that no lot shall be less than twenty thousand (20,000) square feet (net).
  - b. *Floor area ratio:* In no case shall the gross floor area of the structure(s) exceed an amount equal to 0.20 multiplied by the net lot area.
  - c. *Building height:* Development Review Board may allow building heights, including towers, spires, and mechanical equipment (such equipment must be screened) limited to thirty (30) feet in height, and may allow a maximum of ten (10) percent of the roof area to exceed the height limit by fifteen (15) feet. Height and location are subject to the Development Review Board review and approval for compatibility with the established neighborhood character. Maximum permissible heights may not be achievable in all neighborhoods. (This provision supersedes Section 7.100. through 7.102., exceptions to height restrictions, which shall not apply to churches within the underlying District.)
  - d. *Required open space:*
    - i. Minimum: 0.24 multiplied by the net lot area.

- ii. For building heights over twenty (20) feet: the minimum open space requirement plus 0.004 multiplied by each foot of building height over twenty (20) feet.
- iii. NAOS may be included in the required open space.

e. *Parking:*

- i. Parking shall observe the minimum front yard setbacks of the underlying District for all frontages. On streets classified in the Transportation Master Plan as major arterial or greater, parking may be located between the established front building line and the front yard setback. On all other street classifications, parking shall be located behind the established front building lines.
- ii. A minimum of fifteen (15) percent of all parking areas shall be landscaped.
- iii. A ten-foot minimum landscaped setback shall be provided where parking is adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community (P-C), or any portion of a Planned Residential Development (PRD) with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.

f. *Lighting:*

- i. All pole-mounted lighting shall be directed down and shielded and shall be a maximum of sixteen (16) feet in height.
- ii. All lighting adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community (P-C), or any portion of a Planned Residential Development (PRD) with an underlying zoning district comparable to the residential districts shown on Table 4.100.A., shall be set back a minimum of thirty (30) feet from the property line. All lighting, other than security, shall be shut off by 10:00 p.m.
- iii. All lighting, other than security, shall be turned off by 10:00 p.m., unless otherwise approved through a special event permit.

g. *Screening:*

- i. There shall be a minimum six-foot high masonry wall and/or landscape screen, as approved by the Development Review Board, on the side and rear property lines that are adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community (P-C), or any portion of a Planned Residential Development (PRD) with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.
- ii. There shall be a three-foot high landscaped berm along all street frontages where parking occurs.

h. *Access:*

- i. All places of worship must have primary access to a street classified in the Transportation Master Plan as a minor collector or greater.
- ii. Access to a local or local collector residential street is prohibited when the primary worship center, auditorium, or other major gathering place exceeds three thousand (3,000) square feet.

i. *Operations:* No outdoor activities shall be permitted after 10:00 p.m.

j. *Noise:* Outdoor speakers or paging systems are not allowed.

(6) Subject to the requirements of Sections 1.904., 3.100., and 7.200.

(7) Subject to the requirements of Sections 1.400., 3.100., and 7.200.



(Ord. No. 2430, § 1, 1-21-92; Ord. No. 2470, § 1, 6-16-92; Ord. No. 2510, § 1, 11-17-92; Ord. No. 2858, § 1, 12-5-95; Ord. No. 3048, § 2, 10-7-97; Ord. No. 3103, § 1, 1-6-98; Ord. No. 3493, § 1, 3-4-03; Ord. No. 3697, § 1(Exh. 1), 9-26-06; Ord. No. 3811, § 1, 11-17-08; Ord. No. 4143, § 1(Res. No. 9678, Exh. A, § 79), 5-6-14; Ord. No. 4288, § 1(Res. No. 10650, § 1, Exh. A), 11-14-16; Ord. No. 4326, § 1(Res. No. 10963, § 1(Exh. A)), 12-5-17; Ord. No. 4365, § 1(Res. No. 11261, § 1(Exh. A, § 5)), 11-13-18)

Sec. 5.704. - Property development standards.

The following property development standards shall apply to all land and buildings in the R-3 District:

*A. Required open space.*

1. Minimum open space: 0.36 multiplied by the net lot area distributed as follows.
  - a. Frontage open space minimum: 0.12 multiplied by the net lot area, except as follows:
    - i. Minimum: Twenty (20) square feet per one (1) linear foot of public street frontage.
    - ii. Not required to exceed fifty (50) square feet per one (1) linear foot of public street frontage.
  - b. The remainder of the minimum open space, less the frontage open space, shall be common open space.
2. Private outdoor living space.
  - a. First story dwelling units, minimum: 0.10 multiplied by the gross floor area of the unit.
  - b. Dwelling units above the first story, minimum: 0.05 multiplied by the gross floor area of the unit.
  - c. The private outdoor living space shall be located beside the dwelling unit which it serves and shall be for the exclusive use of the unit occupant(s), but is not part of the unit's gross floor area.
3. Parking areas and parking lot landscaping are not included in the required open space.

*B. Building height.*

1. No building shall exceed thirty (30) feet in height except as otherwise provided in article VII.
2. If the R-3 development abuts a single-family residential district or an alley abutting a single-family residential district, the building height may be limited to one (1) story as determined by Development Review Board approval.

*C. Density.*

1. The minimum gross land area per dwelling unit shall be three thousand three hundred seventy (3,370) square feet.
2. Specialized residential health care facility: the number of beds shall not exceed forty-three (43) beds per gross acre of land.
3. Minimal residential health care facility: the number of dwelling units shall not exceed twenty-two (22) dwelling units per gross acre of land.

*D. Building setback.*

1. Wherever an R-3 development abuts an R-1, R-4, R-4R or M-H district or an alley abutting any of those districts, a yard of not less than fifteen (15) feet shall be maintained, except that accessory buildings for purpose of storage or carports may be constructed to within fifteen (15) feet of the adjacent district boundary line.
2. Whenever an R-3 development abuts any district other than R-1, R-2, R-4, R-4R or M-H or abuts an alley adjacent to such other district, a building may be constructed on the property line. However, if any yard is to be maintained, it shall be not less than ten (10) feet in depth. Larger yards may be required by the

Development Review [Board] or City Council if the existing or future development of the area around the site warrants such larger yards.

- E. *Distance between buildings.* There shall be not less than ten (10) feet between an accessory building and the main building or between two (2) main buildings, except that an accessory building with two (2) or more open sides, one (1) of which is adjacent to the main building, may be built to within six (6) feet of the main building.
- F. *Walls, fences and required screening.*
  - 1. Walls, fences and hedges not to exceed eight (8) feet in height shall be permitted on the property line or within the required yard areas, except within the required frontage open space, within which they may not exceed three (3) feet in height, or except as otherwise provided in article VII.
  - 2. All parking areas shall be screened from view from all public streets.
  - 3. All mechanical structures and appurtenances shall be screened as approved by the Development Review Board.
  - 4. All storage and refuse areas shall be screened as determined by the Development Review Board.
- G. *Access.* All lots shall have frontage on and have vehicular access from a dedicated street, unless a secondary means of permanent vehicle access has been approved by the Development Review Board.

(Ord. No. 1922, § 1, 11-4-86; Ord. No. 2509, § 1, 6-1-93; Ord. No. 2818, § 1, 10-17-95; Ord. No. 3811, § 1, 11-17-08; Ord. No. 4005, § 1(Res. No. 8947, Exh. A, §§ 43, 44), 4-3-12)

Sec. 5.705. - Off-street parking.

The provisions of article IX shall apply.

Sec. 5.706. - Signs.

The provisions of article VIII shall apply.

Sec. 5.707. - Landscaping.

Unless otherwise provided, the provisions of Article X. apply.

(Ord. No. 4005, § 1(Res. No. 8947, Exh. A, § 45), 4-3-12)



# CITY COUNCIL REPORT



Meeting Date: December 5, 2017  
 General Plan Element: *Land Use*  
 General Plan Goal: *Create a sense of community through land uses*

## ACTION

### Care Homes/Group Homes Text Amendment 2-TA-2017

#### Request to consider the following:

1. Adopt Ordinance No. 4326 amending the Zoning Ordinance (Ord. No. 455); specifically, Sec. 1.202 (Interpretations and Decisions), Sec. 1.801 (Powers of the Board of Adjustment), Sec. 1.1304 (Enlargement, extension, reconstruction or structural alteration of nonconforming structure; enlargement of nonconforming use), Sec. 3.100 (Definitions), Sec. 5.010 (Single-family Residential (R1-190)), Sec. 5.012 (Use Regulations), Sec. 5.100 (Single-family Residential (R1-43)), Sec. 5.102 (Use Regulations), which affects all other Single-family Residential and Two-Family Residential districts (R1-130, R1-70, R1-35, R1-18, R1-10, R1-7, R1-5 and R-2), Sec. 5.700 (Medium-Density Residential (R-3)), Sec. 5.703 (Use Regulations), Sec. 5.800 (Townhouse Residential (R-4)), Sec. 5.803 (Use Regulations), Sec. 5.900 (Resort/Townhouse Residential (R-4R)), Sec. 5.903 (Use Regulations), Sec. 5.1001 (Multiple-family Residential (R-5)), and Sec. 5.1003 (Use Regulations), add new Sec. 1.806 (Disability Accommodation), and add new Sec. 1.920 (Request for Disability Accommodation) to address various types of care homes and group homes in residential zoning districts.
2. Adopt Resolution No. 10963 declaring "2-TA-2017 – Care Homes/Group Homes Text Amendment," as a public record.

#### Goal/Purpose of Request

The primary objective of the proposed text amendment is to respond to citizen concerns about single-family residences that are being used as "care homes" to provide services to residents with disabilities, including elder care homes and "sober homes". This effort has been focused on amending the City's current ordinance to provide neighborhood protections and to be consistent with Federal and State Law. To that end, the proposed amendment seeks to increase oversight and clarify separation requirements between care homes. The proposal is to amend and add land uses related to home care for disabilities, amend and add definitions, strengthen the use criteria associated with care homes, and add new sections to the ordinance intended to address disability accommodations.

**Key Items for Consideration**

- Citizen petition submitted to City Clerk requesting additional regulations/restrictions be placed on “sober homes”
- Compliance with Federal and State Laws that provide protections for persons with disabilities
- The term “disability”, as defined by the Federal Fair Housing Act (FHA), includes persons recovering from substance abuse
- Persons with disabilities must have “equal opportunity” to housing in residential neighborhoods (FHA and Americans with Disabilities Act)
- Recently passed State of Arizona legislation (HB 2107) grants municipalities limited ability to regulate “structured sober living” homes
- Limits “family” to six adults and their related dependent children
- Integration of care homes into residential areas; maintaining single-family residential setting
- Amendment does not supersede or limit Homeowner’s Associations (HOA) from enforcing private contract rules and regulations
- Significant public outreach and interest (120 citizens and providers on Interested Parties list and close to 300 attendees at Open Houses)
- Planning Commission heard this case as a Non-Action item on 10/11/17
- Additional public comment received after 10/11/17 Planning Commission hearing (refer to Attachment #14)
- Planning Commission heard this case on October 25, 2017 and recommended approval with a 5-1 vote.

**APPLICANT CONTACT**

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Greg Bloemberg  
Senior Planner  
City of Scottsdale  
480-312-4306

**LOCATION**

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City-wide



## BACKGROUND

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In 1993, Ord. No. 2636 was adopted to add “Adult Care Home” (ACH) as a permitted use in all single-family residential zoning districts. Along with the land use, operational criteria were established in an effort to integrate ACH’s into residential areas while also maintaining as much as possible the single-family neighborhood setting. At the time the ordinance was adopted, home care was primarily considered elderly care and the current definition in the Zoning Ordinance reflects that. Since that time, home care has evolved to include treatment of persons suffering from a variety of disabilities, including those recovering from substance abuse. Homes that treat persons recovering from substance abuse are commonly referred to as “sober homes”.

The Zoning Ordinance is not clear when it comes to treatment of substance abuse in residential districts. Section 1.202.D of the Zoning Ordinance (Interpretations and Decisions) states that *“The presumption established .....is that all general uses of land are permissible within one (1) zoning district”*; and that *“Uses listed in each district shall be interpreted liberally to include other uses which have similar impacts to the listed uses”*. When the City was first approached by a party interested in devoting a single-family residence to treatment of persons recovering from substance abuse, the most analogous use at the time was determined to be the “Adult Care Home” use; which is permitted by right in single-family residential districts subject to certain criteria.

Treatment for various afflictions both physical and mental in a residential setting is becoming an increasingly popular alternative to the larger treatment facilities typically administered by medical providers, such as clinics or hospital settings, primarily because it is believed a single-family living environment may be more conducive to successful recovery. Many cities and towns across Arizona are experiencing a spike in the number of “sober homes” and group homes, and are exploring methods to regulate them; or have already amended their ordinances to address them. In May of 2015, the City of Prescott adopted an ordinance placing regulations and restrictions on “community residences” and transitional housing. Subsequently, the ordinance was challenged by the United States Department of Housing and Urban Development (HUD), citing “burdensome restrictions” on group homes for the disabled. The City of Prescott has since amended their ordinance. In response to the demand for “sober homes” in residential neighborhoods, the State of Arizona passed House Bill 2107 in May of 2016; which gives cities and towns limited ability to place regulations on “structured sober living homes”.

Many residents with “sober homes” or group homes (commonly referred to as “halfway homes”) in their neighborhoods, express concern that the residents of these homes pose a threat to their quality of life. The FHA is fairly clear in stating that a home for the disabled cannot be denied the opportunity to locate in a residential neighborhood based solely on neighbor perceptions, although public safety and saturation of care homes in a single neighborhood can be considerations when adopting zoning regulations.

It has been suggested that Scottsdale should use the Prescott ordinance as a model, that Scottsdale should do what other cities are doing. Even a cursory review of other city’s ordinances shows that

there is no unanimity in the approach being taken. In part, this is because different cities have different circumstances, and what the circumstances are can affect legally what a city can do. In the case of Prescott, a study was conducted to demonstrate the effects of sober homes in its community; with the intent being to justify their extensive regulations.

### **Federal Fair Housing Act**

In 1968, Congress adopted Title VIII of the Civil Rights Act; more commonly known as the Fair Housing Act (FHA). The original FHA made it illegal to deny or discourage housing options for persons based on race, color, religion, sex or national origin. In 1988, the FHA was amended to add familial status (the presence or anticipated presence of children under age 18 in a household) and disability as protected characteristics. Per the FHA, a “disability” is defined as *“a mental or physical impairment which substantially limits one or more major life activities”*. Mental or physical impairment may include alcoholism, drug addiction and other mental illnesses.

Because it is settled law that persons recovering from substance abuse are “disabled” for purposes of the FHA and the Americans with Disabilities Act (ADA), the City may not impose more restrictions on homes where persons recovering from substance abuse live than it does on families. Refer to Attachment #3 of this report for a Joint Statement from the Federal Department of Justice and Department of Housing and Urban Development for information regarding the FHA.

### **Arizona Revised Statutes**

In addition to Federal law, the Arizona Revised Statutes (ARS) also provide protections for persons with disabilities. A specific provision protects persons with “developmental disabilities”, i.e. cognitive disabilities, cerebral palsy, epilepsy or autism, by preventing a city from prohibiting in residential zoning districts residential care for up to six persons with a developmental disability. Per ARS 36-582, developmental disability and many other home care facilities require State licensing. Refer to Attachment #5 for a comprehensive list of care home types that require licensing.

### **State of Arizona House Bill 2107**

In May of 2016, the Arizona House of Representatives adopted House Bill (HB) 2107, an amendment to Article IX of the ARS relating to local health and safety ordinances. HB 2107 provides local governments the ability to adopt ordinance standards for “structured sober living” homes. Most of the available options for regulation are operational in nature and include the following:

- a) A written notification from the structured sober living home; to include contact information,
- b) Supervision requirements for the residents during all hours of operation, and
- c) Establishment of a maintenance and operation plan that facilitates the rehabilitative process, including discharge planning

By definition, the statute applies only to a home that provides *“structured activities that are primarily directed toward recovery from substance abuse disorders, in a supervised setting, to a group of unrelated individuals who are recovering from drug or alcohol addiction, and who are*



*receiving outpatient behavioral health services for substance abuse or addiction treatment while living in the home” (ARS 9-500.40.C.1) The Bill also allows municipalities to exclude from regulation “any structured sober living home that is subject to adequate oversight by another governmental agency or contractor.” Refer to Attachment #4 for more information.*

### **Definition of Family**

The State of Arizona Revised Statutes (ARS) includes regulations for “residential facilities” in single-family neighborhoods. Per Section 36-582 of the ARS, *a residential facility which serves six (6) or fewer persons shall be considered a residential use of property for the purposes of all local zoning ordinances if such facility provides care on a twenty-four hour basis. The residents and operators of such a facility shall be considered a family for the purposes of any law or zoning ordinance which relates to residential use of property.* While this regulation applies only to “residential facilities” that treat persons with “developmental disabilities” (cognitive disability, cerebral palsy, epilepsy or autism), and not to all types of care homes, it does provide a benchmark for what should be considered a “family” with regard to establishing zoning regulations.

### **Other Related Policies, References:**

- Federal Fair Housing Act of 1968 (and as amended in 1988)
- Americans with Disabilities Act of 1990
- Arizona Revised Statutes
- State of Arizona House Bill No. 2107

## **STAFF PROPOSAL**

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Currently, the Zoning Ordinance includes definitions, land use categories and Use Regulations that are either obsolete or outdated; and do not sufficiently take into account the variety of options available for home care in the community. The term “Adult Care Home” is antiquated and is geared (by definition) primarily toward homes that provide care for the elderly. With this amendment other types of care homes, including those that offer care to persons recovering from substance abuse and developmental disabilities, will be recognized and consolidated into a single “Care Home” category.

The current definition of “Family” in the Zoning Ordinance is as follows: *“one (1) or more persons occupying a premise[s] and living as a single housekeeping unit as distinguished from a group occupying a boardinghouse, lodginghouse or hotel herein”.* This definition is proposed to be amended to be consistent with the aforementioned State statute, and to set a limit on the number of persons that can live in a single-family residence and still be considered a family, the objectives being to establish consistency with the intent of single-family zoning and preserve the character of single-family neighborhoods.

While some definitions and land uses are being amended or eliminated outright, others are proposed to be consolidated or in some cases added in support of new or amended land uses. The definitions affected are as follows:

Definition	Add	Amend	Eliminate	Reasoning/Objective
<i>Adult Care Home</i>		X		Change to “Care Home”; clarification
<i>Convalescent Home or Nursing Home</i>			X	Redundant; covered under “Specialized Residential Health Care Facility” use
<i>Disability</i>	X			Identify and define; clarify what constitutes a disability as it relates to “Care Home” (consistent with FHA)
<i>Dwelling</i>		X		Clarification
<i>Family</i>		X		Clarification; limited to 6 adults and their related dependent children
<i>Group Home</i>	X			Identify and define; provide distinction from “Care Home” use; provide for homes with more than 6 adult residents
<i>Health Care Institution</i>	X			Identify and define; provide reference to State law
<i>Minimal Residential Health Care Facility</i>		X		Clarification
<i>Related Dependent Children</i>	X			Identify and define; clarification as it relates to “Family” definition
<i>Residential Health Care Facility</i>	X			Identify and define
<i>Single Housekeeping Unit</i>	X			Identify and define; clarification as it relates to “Care Home” and “Group Home” uses
<i>Specialized Residential Health Care Facility</i>		X		Clarification
<i>Supervisory Care Services</i>	X			Identify and define; clarification as it relates to “Care Home” use



In addition to updating ordinance definitions, Use Regulations in the residential zoning districts must also be updated or added. They are as follows:

<b>Use Regulation</b>	<b>Add</b>	<b>Amend</b>	<b>Eliminate</b>	<b>Reasoning/Objective</b>
<i>Adult Care Home (R1- districts)</i>		X		Change to “Care Home”; amend criteria; consistency with FHA and HB 2107 (all other single-family zoning districts refer to the R1-190 and R1-43 districts for permitted uses)
<i>Day Care Group Home (R1- districts)</i>			X	Redundant; covered under “Day Care Home” use (all other single-family zoning districts refer to the R1-190 and R1-43 districts for permitted uses)
<i>Group Home (in R-3 district)</i>	X			Add to <i>Permitted Uses</i>
<i>Group Home (in R-4 district)</i>	X			Add to <i>Permitted Uses</i>
<i>Group Home (in R-4R district)</i>	X			Add to <i>Permitted Uses</i>
<i>Children’s Group Home or Group Home (in R-5 district)</i>		X		Change to “Group Home”

Additionally, in accordance with the FHA, the proposed ordinance will include provisions that provide those with disabilities the option of requesting a “disability accommodation” from development standards or requirements if the standard or requirement unduly restricts the opportunity for a person with a disability to find adequate housing within the City of Scottsdale. The Zoning Administrator will have the authority to approve a maximum modification of 10% to a development standard or requirement. Any request for accommodation greater than 10% will be subject to approval by the City’s Board of Adjustment (BOA). Refer to Attachment #2 for the proposed BOA criteria.

To provide opportunities for the disabled to live in a single-family residential setting; while preserving as much as possible the integrity of single-family neighborhoods, amendments to the existing use criteria for Adult Care Homes (Care Homes) are proposed. On the following pages are the current criteria, along with proposed changes, and the criterion proposed to be added as part of this amendment.

<b><u>Existing Adult Care Home Criteria</u></b>		
<b>Land Use Criterion</b>	<b>Current</b>	<b>Proposed</b>
<i>Floor Area Ratio</i>	35% of the net lot area (0.35)	No change
<i>Capacity</i>	Maximum of 10 residents	Maximum 10 disabled residents + up to 2 resident staff for a total of 12
<i>Location</i>	Minimum 500-foot separation between care homes in any direction, or 750-foot separation on the same street	1,200-foot separation between care homes
<i>Compatibility</i>	The home and its premises shall be maintained in a clean, well-kept condition that is consistent in materials and design style with homes in the surrounding adjacent neighborhoods	No change



<i>Licensing</i>	Not addressed	<p>Care homes must be licensed by the State of Arizona and must provide proof of licensing by the State of Arizona as a health care facility to the Director of Planning prior to commencement of operations.</p> <ul style="list-style-type: none"> <li>• Location to be conditionally mapped and a permit issued for a Certificate of Occupancy.</li> <li>• After 6 months, if a license has not been secured, location to be removed from map and the accompanying Adult Care (AC) application voided.</li> <li>• Unlicensed homes may fall into a Group Home use category and be restricted to a multi-family residential zoning district (R-3, R-4, R-4R and R-5)</li> </ul>
<i>Safety Inspection</i>	Not addressed	<p>All care homes must pass an initial and annual fire inspection administered by the Scottsdale Fire Department. Proof of such inspection and of correction of any noted deficiencies must be available at the care home at all times</p>
<i>Accommodation</i>	Not addressed	<p>A disabled person may request a disability accommodation from the above criteria or a development standard, pursuant to Section 1.806 of the Zoning Ordinance</p>

## IMPACT ANALYSIS

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### Land Use

Though “Adult Care Homes” have been part of the community for decades, only recently have they been the subject of greater scrutiny; primarily because of the influx of “sober homes”. The proposed text amendment provides opportunities for housing for disabled persons in single-family neighborhoods; while also providing additional oversight and separation to assure homes are properly licensed and helping to prevent conglomeration and saturation that may negatively impact single-family neighborhoods.

### Public Safety

The Police Department, Fire Department and Code Enforcement were all represented at the Open Houses held during the Community Outreach phase of this process. At the Open Houses, several residents expressed concerns about “sober homes” and group homes causing an increase in crime and a disruption to the quality of life in their neighborhoods. When queried, the Police Department indicated that no significant increase in calls for service was or has been received from neighborhoods where a “sober home” or group home is located. In recent months, as the number of care homes and group homes has increased, Code Enforcement has seen an increase in calls from neighbors either expressing concern about the residents of the home, condition of the property, or inquiring as to whether or not the home is operating legally. In some cases, evidence has been found that a home is not operating legally and appropriate action has been taken; however the majority of homes have been found to be operating within current ordinance requirements.

It should also be noted that the City’s Fire Ordinance (Chapter 36-18, Ordinance #4283) establishes occupancy classifications for single-family facilities that provide care and/or accommodations for other than immediate family occupants. Per the ordinance, a “Congregate Living Facility” or “Convalescent Facility” with five (5) or fewer persons residing in the residence is classified as an “R-3” occupancy, and is required to have an approved safety evacuation plan and smoke alarms. A facility with at least six (6) but not more than ten (10) persons residing in the residence is classified as an “R-4” occupancy and is required to have fire sprinklers and fire extinguishers, in addition to an approved safety evacuation plan and smoke alarms. Refer to Attachment #7 for additional information.

### Community Involvement

Extensive community involvement was undertaken during the initial phases of this process. Steps taken include the following:

- Notification of persons on the text amendment Interested Parties list,
- Creation of a web page on the City website to allow the public to track the progress of the amendment, access documentation relevant to the subject, and provide written feedback,
- 1/8-page advertisement in the Arizona Republic,
- Notification via the City’s Facebook, Twitter pages, Scottsdale Planning and Zoning Link and the NextDoor website, and



- Email notification to over 500 Homeowners Associations (through Neighborhood Services)

Additionally, a total of four Community Open Houses were conducted and staff attended two City-sponsored meetings to inform the public and obtain feedback on the proposed amendment. Upwards of 300 people, both residents and industry providers attended the Open Houses and staff received several written and verbal comments. Below is a timeline outlining the Open Houses, community meetings and hearings to date.

- 4/19/17: Open House at Granite Reef Senior Center (+/- 35 attendees)
- 4/26/17: Neighborhood Advisory Commission (informational)
- 4/27/17: Open House at Via Linda Senior Center (+/- 50 attendees)
- 5/16/17: Open House at Appaloosa Library (+/- 120 attendees)
- 6/29/17: Open House at Mountain View Park (+/- 50 attendees)
- 8/30/17: Community Engagement Group Meeting (informational; sponsored by the Police Department)
- 9/27/17: Planning Commission (informational; Study Session)
- 10/11/17: Planning Commission (informational; Non-Action)
- 10/25/17: Planning Commission (Action)

A variety of comments, suggestions and concerns were received during the Open Houses; both from residents and industry providers. An abbreviated summary of feedback is provided below. The first four items in bold print were identified by citizens as the most significant issues, based on the number of comments received. Refer to Attachments 11 and 12 for all written comments.

#### **Comments/Concerns from residents**

- **Public safety**

The Police Department, Fire Department and Code Enforcement were all represented at the Open Houses held during the Community Outreach phase of this process. At the Open Houses, several residents expressed concerns about “sober homes” and group homes causing an increase in crime and a disruption to the quality of life in their neighborhoods. When queried, the Police Department indicated that no significant increase in calls for service was or has been received from neighborhoods where a “sober home” or group home is located.

- **Licensing** - In addition to requiring a State license, comments received suggested that the City should license care homes, including sober homes.

The State has a robust licensing program and the expertise to administer it. The City has no expertise in licensing homes for the disabled, and so it seems advisable to only allow care homes where supervision and care is being provided to be those licensed by the State. This advances

two policies: avoidance of taking on extra licensing and regulatory responsibilities that would require the City to add personnel, and avoidance of imposing City regulations in areas where another jurisdiction, in this case the State, has already extensively regulated the subject activity. Care homes the State does license will be tracked by the State through their license and they must provide proof of their license to the City so that the City may determine whether they meet the other care home criteria; including the 1,200-foot separation requirement.

- **Distinction of uses** - Comments received suggested that elderly care homes should be classified separately from “sober homes”.

The State has authorized cities to impose some requirements on structured sober living homes, subject to the limitations of the FHA and ADA. This “subject to” is significant as it not only prevents the City from discriminating between abled and disabled persons, but also prevents the City from discriminating between types of disabilities without proof of a specific need or threat. This is why staff is not recommending a separate category for “sober living homes” and “assisted living homes”.

- **Enforcement of HOA regulations** - Comments received suggested that the City should enforce HOA regulations prohibiting care homes in residential subdivisions

A resident living in a subdivision with an HOA agrees to live within the parameters of the rules and regulations established by the HOA. It is in essence a “private contract” between the HOA and the resident that, in many cases, may not be consistent with City Zoning Ordinances or Policies. The City has no standing to enforce private contracts. HOA’s are responsible for enforcing their regulations. The City has consistently referred the resident back to the HOA when a conflict arises.

- Model ordinance after Prescott’s ordinance
- Require operators to live at the home; many operators or owners live out-of-state and are not easily accessible when a problem arises
- Identification of existing sober homes under the new regulations (Currently complaint-based)
- Add separation requirements from schools for sober homes and encourage “gender specific” housing
- Require neighborhood notification of proposed sober homes or group homes
- Require greater separation between care homes in larger-lot neighborhoods
- Requiring a City license would help to hold operators accountable
- Residential neighborhoods cannot accommodate care homes with 10 residents; maximum # of residents should be reduced to 6
- 10 residents ok for elderly care homes; not ok for sober homes

**Comments from industry providers**

- Elderly care homes provide a much-needed community service and contribute to the local economy
- Elderly care homes provide residents an opportunity to “age in place” and be close to family
- Reducing number of residents from 10 to 6 is not feasible for elderly care homes; it will force operators to raise prices, thus pricing some elderly residents out of available housing
- “Grandfathering” of existing care homes operating legally at the time of ordinance adoption
- Distinction of uses - elderly care homes should be classified separately from “sober homes”

**Policy Implications**

- Increasing separation requirement will help prevent residential communities from becoming “saturated” by care homes; while still providing opportunities for the disabled to find housing in single-family neighborhoods.
- Requiring proof of licensure from the State should result in greater accountability from care home operators and ensure operators are acting in the best interest of their residents.
- Providing a “disability accommodation” offers some flexibility in criteria and development standards for persons with disabilities to request an exception in cases where a need is demonstrated.

**OTHER BOARDS & COMMISSIONS**

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**Neighborhood Advisory Commission**

Planning staff attended the 4/26/17 hearing to provide information to the Commission about the proposed text amendment and answer questions from Commission members. Refer to Attachment #13.

**Planning Commission**

The Planning Commission heard this case as a Non-Action item at the 10/11/17 hearing. This was the first public hearing regarding this subject and the purpose was to inform the Commission about the intricacies of the subject matter and provide an opportunity for the public to ask questions or provide comments. During the presentation, staff detailed the community outreach efforts, concerns and suggestions raised by the public and providers, challenges in creating the draft ordinance and a summary of the proposed amendment. There were three requests to speak during public comment. Two of the speakers recommended there be a distinction between uses; specifically “sober homes” and elderly care homes. One speaker suggested the proposed ordinance treats “sober homes” differently by requiring group homes with six or more residents to locate in multi-family zoning districts. Another speaker indicated that a limitation on staff in care homes (maximum two staff proposed in draft ordinance) is too restrictive. The speaker indicated that, depending on the care provided, additional staff is often needed to provide adequate care and supervision. It was also suggested Scottsdale should follow both the Prescott and Gilbert



ordinances with regard to licensing of care homes and sober homes. Staff was queried by the Commission as to whether or not the State requires operators to live at the care home, and if there are any penalties for operating an unlicensed care home. Staff responded that they would look into those matters and follow up with the Commission at the next hearing.

Planning Commission heard this case as an Action item at the 10/25/17 hearing. There was one request to speak. The speaker contended that the State has no jurisdiction to regulate sober homes; as such, the City should license them. Additionally, the speaker informed the Commission that a vote taken at the Open Houses resulted in a majority of attendees supporting a distinction in the ordinance between elderly care homes and sober homes. After some discussion and questions directed at staff, the Commission recommended approval with a vote of 5-1.

## **STAFF RECOMMENDATION**

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### **Recommended Approach:**

1. Adopt Ordinance No. 4326 amending the Zoning Ordinance (Ord. No. 455); specifically, Sec. 1.202 (Interpretations and Decisions), Sec. 1.801 (Powers of the Board of Adjustment), Sec. 1.1304 (Enlargement, extension, reconstruction or structural alteration of nonconforming structure; enlargement of nonconforming use), Sec. 3.100 (Definitions), Sec. 5.010 (Single-family Residential (R1-190)), Sec. 5.012 (Use Regulations), Sec. 5.100 (Single-family Residential (R1-43)), Sec. 5.102 (Use Regulations), which affects all other Single-family Residential and Two-Family Residential districts (R1-130, R1-70, R1-35, R1-18, R1-10, R1-7, R1-5 and R-2), Sec. 5.700 (Medium-Density Residential (R-3)), Sec. 5.703 (Use Regulations), Sec. 5.800 (Townhouse Residential (R-4)), Sec. 5.803 (Use Regulations), Sec. 5.900 (Resort/Townhouse Residential (R-4R)), Sec. 5.903 (Use Regulations), Sec. 5.1001 (Multiple-family Residential (R-5)), and Sec. 5.1003 (Use Regulations), add new Sec. 1.806 (Disability Accommodation), and add new Sec. 1.920 (Request for Disability Accommodation) to address various types of care homes and group homes in residential zoning districts.
2. Adopt Resolution No. 10963 declaring “2-TA-2017 – Care Homes/Group Homes Text Amendment,” as a public record.

## **RESPONSIBLE DEPARTMENT**

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### **Planning and Development Services**

Current Planning Services

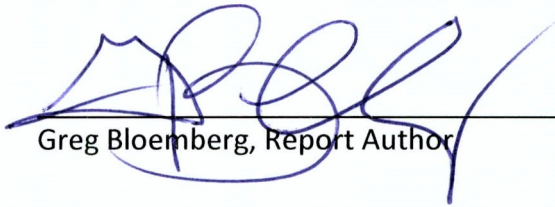
## **STAFF CONTACT**

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**APPROVED BY**

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Greg Bloemberg, Report Author

11-1-17  
Date



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Tim Curtis, AICP, Current Planning Director  
480-312-4210, tcurtis@scottsdaleaz.gov

11/15/2017  
Date



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Randy Grant, Director  
Planning and Development Services  
480-312-2664, rgrant@scottsdaleaz.gov

11/15/17  
Date

## ATTACHMENTS

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1. Ordinance No. 4326
2. Resolution No. 10963  
Exhibit A: 2-TA-2017 – Care Homes/Group Homes Text Amendment
3. Joint Statement from Department of Justice and Department of Housing and Urban Development (FHA)
4. State of Arizona House Bill 2107
5. Arizona Department of Health Services License Types (for Care Homes)
6. Frequently Asked Questions
7. Municipal Comparison Chart
8. Fire Ordinance Requirements
9. Licensed Care Home Location Map
10. Citizen Petition
11. Community Outreach/Public Comment
12. Additional Public Comment (received after 10/11/17 Planning Commission hearing)
13. 4/26/17 Neighborhood Advisory Commission Meeting Minutes
14. 10/11/17 Planning Commission Meeting Minutes
15. 10/25/17 Planning Commission Meeting Minutes
16. 10/25/17 Planning Commission Meeting public comment



ORDINANCE NO. 4326

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, TO APPROVE A TEXT AMENDMENT (2-TA-2017) TO THE ZONING ORDINANCE OF THE CITY OF SCOTTSDALE (ORDINANCE NO. 455), SPECIFICALLY, SEC. 1.202 (INTERPRETATIONS AND DECISIONS), SEC. 1.801 (POWERS OF THE BOARD OF ADJUSTMENT), SEC. 1.1304 (ENLARGEMENT, EXTENSION, RECONSTRUCTION OR STRUCTURAL ALTERATION OF NONCONFORMING STRUCTURE; ENLARGEMENT OF NONCONFORMING USE), SEC. 3.100 (DEFINITIONS), SEC. 5.010 (SINGLE-FAMILY RESIDENTIAL (R1-190)), SEC. 5.012 (USE REGULATIONS), SEC. 5.100 (SINGLE-FAMILY RESIDENTIAL (R1-43)), SEC. 5.102 (USE REGULATIONS), WHICH AFFECTS ALL OTHER SINGLE-FAMILY RESIDENTIAL AND TWO-FAMILY RESIDENTIAL DISTRICTS (R1-130, R1-70, R1-35, R1-18, R1-10, R1-7, R1-5 AND R-2), SEC. 5.700 (MEDIUM-DENSITY RESIDENTIAL (R-3)), SEC. 5.703 (USE REGULATIONS), SEC. 5.800 (TOWNHOUSE RESIDENTIAL (R-4)), SEC. 5.803 (USE REGULATIONS), SEC. 5.900 (RESORT/TOWNHOUSE RESIDENTIAL (R-4R)), SEC. 5.903 (USE REGULATIONS), SEC. 5.1001 (MULTIPLE-FAMILY RESIDENTIAL (R-5)), AND SEC. 5.1003 (USE REGULATIONS), ADD NEW SEC. 1.806 (DISABILITY ACCOMMODATION), AND ADD NEW SEC. 1.920 (REQUEST FOR DISABILITY ACCOMMODATION) TO ADDRESS VARIOUS TYPES OF CARE HOMES AND GROUP HOMES IN RESIDENTIAL ZONING DISTRICTS.

WHEREAS, in response to a citizen petition City staff has conducted research on state and federal law as well as looked at numerous ordinances of other jurisdictions; and

WHEREAS, the City of Scottsdale desires to permit disabled persons to reside in single family residential neighborhoods in compliance with the Fair Housing Act and the Americans with Disabilities Act; and

WHEREAS the City of Scottsdale desires to promote the social and treatment benefits to disabled persons provided in a residential setting by preventing a concentration of facilities for the disabled in any particular area so as to institutionalize that area; and

WHEREAS the City desires to maintain the residential character of its neighborhoods as a quiet place for families of all kinds to thrive; and

WHEREAS, federal and state fair housing laws protect the rights of persons with disabilities to obtain housing and pursuant to federal and state fair housing laws; and

WHEREAS, persons recovering from alcohol and drug addiction are considered persons with disabilities and thus are protected by fair housing laws so long as such persons are not currently using alcohol and drugs; and

WHEREAS, due to the care needs and transient residencies of disabled residents in some residential care facilities, such facilities reportedly result in increased parking demand, increased traffic, and the potential for impacts to the residential character of neighborhoods, which the City Council desires to address by providing limits on the size of both licensed and unlicensed facilities while providing persons with a disability opportunities for housing; and

WHEREAS, the Fair Housing Act does not preempt local zoning laws or preclude the adoption, amendment or enforcement of zoning regulations by the City of Scottsdale pursuant to its local police powers so long as such zoning regulations are consistent with state and federal laws, including the Fair Housing Act as amended; and

WHEREAS, the adoption of zoning ordinances and land use planning is a fundamental function and police power of local government; and

WHEREAS, zoning regulations are adopted and enforced in the City of Scottsdale for the protection of the health, safety and welfare of the public; and

WHEREAS, the State of Arizona licenses certain care homes for people with disabilities, which licensing necessitates the involvement of local jurisdictions in determining life safety code compliance of said care homes; and

WHEREAS, the Fair Housing Act makes it unlawful to utilize land use policies or actions that treat groups of persons with disabilities less favorably than groups of nondisabled persons; and

WHEREAS, the Fair Housing Act does not allow local land use policies or actions that treat groups of persons with some disabilities less favorably than groups of people with other disabilities; and

WHEREAS, clustering of care homes undermines the ability of care homes to achieve normalization and community integration for their residents which is one of the essential purposes of a care home; and

WHEREAS, the City of Scottsdale is hereby amending its zoning ordinance to make the reasonable accommodations required by the Fair Housing Act by removing any terms and conditions that have the effect of limiting or making housing unavailable to people with disabilities while preserving the ability of care homes and group living situations to emulate a family and achieve normalization and community integration of their residents; and

WHEREAS, while no aggregation of more than six adults will constitute a "family," the new zoning provisions establish a reasonable accommodation process for disabled persons who need relief from the limitations of the ordinance; and

WHEREAS, a care home for people with disabilities that has been denied required state licensing or certification would not be allowed due to the state's own licensing or certification laws; and

WHEREAS, current users of illegal controlled substances, persons convicted for illegal manufacture or distribution of a controlled substance, sex offenders, and juvenile offenders, are not considered disabled under the Fair Housing Act, by virtue of that status, and

WHEREAS, the City Council has determined that the proposed amendments will not unreasonably restrict the rights of persons with a disability to fair housing while providing protections and mitigation of impacts to the residential character of neighborhoods, and it is in the best interest of the public health, safety and general welfare of the Town to adopt the proposed amendments; and

WHEREAS, all required public notice was provided and all required public meetings and hearings were held in accordance with applicable state and local laws.

WHEREAS, the Planning Commission held a public hearing on October 25, 2017 to consider a text amendment to the City of Scottsdale Zoning Ordinance, Case No. 2-TA-2017; and

WHEREAS, that certain document entitled "2-TA-2017 – Care Homes/Group Homes Text Amendment," one paper and one digital copies of which are on file in the office of the City Clerk, was declared to be a public record by Resolution No. 10963; and

WHEREAS, the City Council has determined that the subject Zoning Ordinance amendment is in conformance with the General Plan;

NOW THEREFORE BE IT ORDAINED by the Council of the City of Scottsdale that a text amendment to the City of Scottsdale Zoning Ordinance is hereby approved as follows.

Section 1. That the Zoning Ordinance of the City of Scottsdale is hereby amended as specified in that certain document entitled "2-TA-2017 – Care Homes/Group Homes Text Amendment," declared to be a public record by Resolution No. 10963 of the City of Scottsdale, is hereby referred to, adopted, and made a part hereof as if fully set out in this Ordinance.

Section 2. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the document adopted herein is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the City Council of the City of Scottsdale this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

ATTEST:

CITY OF SCOTTSDALE, an  
Arizona municipal corporation

By: \_\_\_\_\_  
Carolyn Jagger, City Clerk

By: \_\_\_\_\_  
W. J. "Jim" Lane, Mayor

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY



Bruce Washburn, City Attorney

By: Patricia J. Boomsma, Assistant City Attorney



RESOLUTION NO. 10963

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK OF THE CITY OF SCOTTSDALE AND ENTITLED "2-TA-2017--CARE HOMES/GROUP HOMES TEXT AMENDMENT."

WHEREAS, State Law permits cities to declare documents a public record for the purpose of incorporation into city ordinances; and

WHEREAS, the City of Scottsdale wishes to incorporate by reference amendments to the Zoning Ordinance, Ordinance No. 455, by first declaring said amendments to be a public record.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Scottsdale, Maricopa County, Arizona, as follows:

Section 1. That certain document entitled "2-TA-2017--Care Homes/Group Homes Text Amendment," attached as Exhibit 'A', a paper and an electronic copy of which are on file in the office of the City Clerk, is hereby declared to be a public record. Said copies are ordered to remain on file with the City Clerk for public use and inspection.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Maricopa County, Arizona this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

ATTEST:

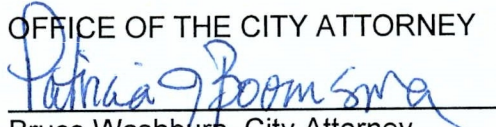
CITY OF SCOTTSDALE, an  
Arizona municipal corporation

By: \_\_\_\_\_  
Carolyn Jagger, City Clerk

By: \_\_\_\_\_  
W. J. "Jim" Lane, Mayor

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY



Bruce Washburn, City Attorney  
By: Patricia J. Boomsma, Assistant City Attorney

Resolution No. 10963

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ATTACHMENT #13

**AMENDMENTS TO ZONING ORDINANCE RELATING TO  
GROUP LIVING AND CARE HOMES**

The City Council of the City of Scottsdale hereby amends the Zoning Ordinance (Ord. No. 455), specifically, Sec. 1.202 (Interpretations and Decisions), Sec. 1.801 (Powers of the Board of Adjustment), Sec. 1.1304 (Enlargement, extension, reconstruction or structural alteration of nonconforming structure; enlargement of nonconforming use), Sec. 3.100 (Definitions), Sec. 5.010 (Single-family Residential (R1-190)), Sec. 5.012 (Use Regulations), Sec. 5.100 (Single-family Residential (R1-43)), Sec. 5.102 (Use Regulations), which affects all other Single-family Residential and Two-Family Residential districts (R1-130, R1-70, R1-35, R1-18, R1-10, R1-7, R1-5 and R-2), Sec. 5.700 (Medium-Density Residential (R-3)), Sec. 5.703 (Use Regulations), Sec. 5.800 (Townhouse Residential (R-4)), Sec. 5.803 (Use Regulations), Sec. 5.900 (Resort/Townhouse Residential (R-4R)), Sec. 5.903 (Use Regulations), Sec. 5.1001 (Multiple-family Residential (R-5)), and Sec. 5.1003 (Use Regulations), and adds new Sec. 1.806 (Disability Accommodation), and new Sec. 1.920 (Request for Disability Accommodation) as specified below, with strikethroughs indicating deleted language and shading indicating new language:

**Sec. 1.202. - Interpretations and decisions.**

A. The provisions of this Zoning Ordinance shall be interpreted and applied by the Zoning Administrator. Any request for a Zoning Ordinance interpretation or decision must be made in writing to the Zoning Administrator. The Zoning Administrator shall respond in writing to such requests for Zoning Ordinance interpretations or other decisions within forty-five (45) days from the date of the written request, provided no building permits have been issued on the subject development. A record of the Zoning Administrator's responses shall be available for public review.

B. The appeal of Zoning Ordinance interpretations or other decisions by the Zoning Administrator may be initiated by any aggrieved person or by any officer, department, board or commission of the city affected by the interpretation or decision of the Zoning Administrator. For purposes of this subsection an aggrieved person is one who receives a particular and direct adverse impact from the interpretation or decision which is distinguishable from the effects or impacts upon the general public. Appeals must be filed with the City Clerk no later than thirty (30) days after the Zoning Administrator issues any written interpretation or decision. Any timely appeal shall be processed pursuant to Section 1.805.

C. When the provisions of this Zoning Ordinance are interpreted or applied they shall be held to be the minimum requirements for the promotion of the public safety, health and general welfare.

D. The presumption established in this Zoning Ordinance is that all general uses of land are permissible within at least one (1) zoning district in the city's planning jurisdiction. The use regulations set forth in each district cannot be all inclusive, and may include general use descriptions that encompass several specific uses. Uses ~~listed~~specified in each district shall be interpreted liberally to include other uses which have similar impacts to the listed uses. However, the use regulations shall not be interpreted to allow more than one principal use

in a dwelling in a residential district shown on Table 4.100.A, or the residential portion of a Planned Community P-C-, or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown in Table 4.100.A, or to allow an unspecified use in one (1) zoning district which more closely relates to a use that is permissible in another zoning district. The Zoning Administrator shall interpret uses within each district.

E. Accessory uses are allowed in all districts. Accessory uses shall not alter the principal~~primary~~ use of building or lot, or adversely affect other properties in the district. All accessory uses shall be reasonably compatible with the types of uses permitted in the surrounding areas.

**Sec. 1.801. – Powers of the Board of Adjustment.**

The Board of Adjustment shall hear all applications for:

A. ~~Vari~~Variances from the provisions of this Zoning Ordinance; ~~The Board shall also hear appeals from the:~~

~~A. B. Appeals from the~~ Zoning Administrator's interpretation of the Zoning Ordinance or other decisions; and

~~B. C. Requests for Disability Accommodation made pursuant to section 1.920; and~~

D. Under the Land Divisions ordinance, the General Manager's interpretations and decisions made on appeals.

[Renumber current 1.806 to 1.807, and insert the following new 1.806:]

**Sec. 1.806. - Disability Accommodation**

A. A disability accommodation from a development standard or separation requirement shall not be authorized unless the Board shall find upon sufficient evidence all of the following:

1. The requested accommodation is requested by or on the behalf of one (1) or more individuals with a disability protected under federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.);
2. The requested accommodation is necessary to afford an individual with a disability equal opportunity to use and enjoy a dwelling;
3. The standard or requirement unduly restricts the opportunity for a person with a disability from finding adequate housing within the City of Scottsdale;
4. The requested accommodation does not fundamentally alter the nature and purpose of the Zoning Ordinance of the City of Scottsdale;
5. The requested accommodation will not impose an undue financial or administrative burden on the City, as "undue financial or administrative burden" is defined in federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.) and interpretive case law;

B. The profitability or financial hardship of the owner/service provider of a facility shall not be considered in determining whether to grant a disability accommodation.



- C. The requested accommodation must comply with all applicable building and fire codes.
- D. The requested accommodation must not, under the specific facts of the application, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.

**Sec. 1.920. Request for Disability Accommodation.**

An applicant may request a disability accommodation from a development standard or separation requirement if the standard or requirement unduly restricts the opportunity for a person with a disability from finding adequate housing within the city of Scottsdale. The zoning administrator may administratively approve up to a ten percent (10%) modification of a development standard or separation requirement upon finding that such a modification will further the policies contained in the Arizona and federal fair housing laws and the Americans with Disabilities Act. All other requests for disability accommodation shall be submitted to the Board of Adjustment as a request for disability accommodation.

**Sec. 1.1304. - Enlargement, extension, reconstruction or structural alteration of nonconforming structure; enlargement of nonconforming use.**

- A. Except as set forth in paragraph (b) of this subsection, no existing structure designed or arranged in a manner not permitted under the regulations of this Zoning Ordinance for the district in which such structure is located shall be enlarged, extended, reconstructed or structurally altered unless such structure together with such enlargement, extension, reconstruction or structural alterations conform in every respect with the regulations specified by this Zoning Ordinance for such district in which said structure is located. Provided nothing herein shall prohibit any reasonable repairs or alterations to such structure. Similarly, except as set forth in paragraph (c) of this subsection, no existing use not permitted under the regulations of this Zoning Ordinance shall be enlarged or extended unless such use conforms in every respect with the regulations specified by this ordinance for the district in which such use is located.
- B. For all dwellings located in residential zoning districts that are not located within an environmentally sensitive lands overlay zone:
  - 1. Structural enlargements, extensions, reconstruction or modifications to dwellings are permitted if:
    - a. The enlargement, extension, reconstruction or modification is made to the ground level story;
    - b. The height of any portion of the dwelling is not increased;
    - c. The total of the initial and any subsequent enlargement, extension, reconstruction or modification constitutes less than fifty (50) percent of the gross floor area of the existing dwelling; and
    - d. The dwelling enlargement, extension, reconstruction, or structural modification conforms to all of the regulations specified by this Zoning Ordinance for such district in which the dwelling is located.
  - 2. Nothing contained in this subsection shall prohibit any reasonable repairs or alterations to such dwelling.

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3. An existing use not permitted under the regulations of this Zoning Ordinance shall not be enlarged or extended unless such use conforms to the regulations specified by this Zoning Ordinance for the district in which the use is located.

C. Any authorized care home that is lawfully located and operating in a residential zoning district on December 5, 2017, may continue to operate in their existing location. Nothing in this section will grandfather a care home operating unlawfully or that is located in violation of the provisions of the Zoning Ordinance of the City of Scottsdale existing on December 5, 2017.

### Section 3.100. Definitions

*Adult care home* shall mean a residential care institution which provides supervisory care, personal care, or custodial care services to adults who require the assistance of no more than one (1) person to walk or to transfer from a bed, chair, or toilet, but who are able to self-propel a wheelchair, as subject to licensing by the State of Arizona dwelling shared as a primary residence by no more than ten adults with a disability that is licensed as a health care institution under Arizona law, and in which on-site supervisory or other care services are provided to the disabled residents. For purposes of this definition, a person must live in the dwelling a minimum of thirty consecutive days for this dwelling to be considered a primary residence. A care home is a principal, not an accessory, use.

*Convalescent home or nursing home* shall mean any place or institution which makes provisions for bed care, or for chronic or convalescent care for one (1) or more persons exclusive of relatives, who by reason of illness or physical infirmity are unable to properly care for themselves. Alcoholics, drug addicts, persons with mental diseases and persons with communicable diseases, including contagious tuberculosis, shall not be admitted or cared for in these homes licensed under the State of Arizona, as a convalescent and nursing home.

*Disability* means a physical or mental impairment that substantially limits one or more major life activities where the person with a disability either has a record of having such impairment or is regarded as having such impairment. A person with a disability shall not include any person currently engaging in the illegal use of controlled substances under Arizona law. The term disability will be interpreted consistent with the Americans with Disabilities Act and the Federal Fair Housing Act.

*Dwelling* shall mean any building, or portion thereof, which that is designed exclusively/principally for residential purposes, and that includes sleeping, cooking and sanitary facilities.

*Family* shall mean one (1) to six (6) adults and, if any, their related dependent children or more persons occupying a premise[s] and living as a single housekeeping unit, as distinguished from a group occupying a boardinghouse, lodginghouse or hotel as herein defined. For purposes of the Zoning Ordinance, "Family" includes a residential facility as that term is defined in Title 36, Chapter 5.1, Article 2 of the Arizona Revised Statutes, in which persons with developmental disabilities live and that is licensed, operated, supported or supervised by the State of Arizona.

*Group home* means a dwelling shared by more than six adults as their primary residence in which no supervisory or other care is provided. For purposes of this definition, a person must

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live in the dwelling a minimum of thirty consecutive days for this dwelling to be considered a primary residence.

*Minimal residential health care facility* shall mean a residential health care facility which provides resident rooms or residential units, and may include independent living units and such services such as central dining, transportation and limited medical assistance.

*Related dependent children* shall mean all persons under the age of 18, or who have been declared dependent by a court of competent jurisdiction, who are related to one of the adults by blood, guardianship, or adoption, or who is the foster child of one of the adults.

*Residential health care facility* shall mean a health care institution with, at a minimum, 24-hour supervisory care services.

*Single housekeeping unit* shall mean a group of one (1) or more persons residing together in a dwelling who share use of and responsibility for common areas, household activities, and responsibilities such as meals, chores, household maintenance, and expenses. This term excludes living situations where an entity or individual other than a resident provides job training or life skill development services on-site, or provides supervisory, medical, personal, or custodial care services to more than six adults residing in the dwelling.

*Specialized residential health care facility* shall mean a health care institution that provides inpatient beds or resident beds and nursing services to persons who need continuous nursing services but who do not require hospital care or direct daily care from a physician, convalescent or nursing home which normally provides medical care and supervision.

*Supervisory care services* means general supervision, including daily awareness of resident functioning and continuing needs, and the ability to intervene in a crisis and to assist in the self-administration of prescribed medications.

### **Sec. 5.012. - Use regulations. [R1-190]**

A. *Permitted uses.* Buildings, structures, or premises shall be used and buildings and structures shall hereafter be erected, altered, or enlarged only for the following uses:

1. Accessory buildings, swimming pools, home occupations and other accessory uses. The landing and taking-off of aircraft is not a valid accessory use in residential districts and is prohibited.
2. Adult care homes; subject to the following criteria:
  - a. *Floor area ratio:* Is limited to thirty-five hundredths (0.35) of the net lot area.
  - b. *Capacity:* The maximum number of residents, other than including up to ten disabled persons, the manager/supervisor, or property owner, and residential staff at the home is twelve ten (4012) per residential lot.
  - c. *Location:* An adult care home shall not be located within seven hundred fiftytwo hundred (7501200) feet, measured from lot line to lot line, of another adult care home on the same street frontage or within five hundred (500) feet in any other direction of another adult care home.



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- d. *Compatibility*: The home and its premises shall be maintained in a clean, well-kept condition, that is consistent in materials and design style with homes in the surrounding or adjacent neighborhood.
  - e. *Criteria*: Care homes must be licensed by the State of Arizona and must provide proof of such licensing by the State of Arizona as a health care institution to the Director of Planning prior to the commencement of operations. All care homes must pass an initial and annual fire inspection administered by the Scottsdale Fire Department. Proof of such inspection and of correction of any noted deficiencies must be available at the care home at all times.
  - f. *Accommodation*: A disabled person may request a disability accommodation from the above criteria or a development standard pursuant to Section 1.806 of this Zoning Ordinance.
- 3. Charter school located on property with a net lot size of one (1) acre or more.
  - 4. Day care home.
  - 5. Day care group home.
  - 6. Dwelling units, single-family, including Vacation rental or Short-term rental; limited to one main dwelling unit per lot.
  - 7. Guest house, as an accessory use subject to the following criteria:
    - a. The cumulative square footage of the guest house(s) shall be no greater than one-half (1/2) the livable square footage of the main dwelling.
    - b. Any guest house shall be connected to the existing water meter for the main dwelling. It shall not be separately metered.
    - c. The guest house shall not be rented or offered for rent independent of the main dwelling.
  - 8. Model homes.
  - 9. Municipal uses.
  - 10. Wireless communications facilities; Types 1, 2, and 3, subject to the requirements of Sections 1.906, 3.100 and 7.200.
  - 11. Private tennis courts.
  - 12. Public, elementary and high schools
  - 13. Temporary sales office buildings and buildings for uses incidental to construction work, to be removed upon completion or abandonment of construction work.
  - 14. Churches and places of worship; subject to Development Review Board approval and compliance with the following standards, as well as those otherwise required in the R1-190 District:
    - a. Lot area: The minimum lot area shall be equal to that required for the district, except that no lot shall be less than twenty thousand (20,000) square feet (net).
    - b. Floor area ratio: In no case shall the gross floor area of the structure(s) exceed an amount equal to 0.20 multiplied by the net lot area.

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- c. Building height: Development Review Board may allow building heights, including, towers, spires, and mechanical equipment (such equipment must be screened) limited to thirty (30) feet in height, and may allow a maximum of ten (10) percent of the roof area to exceed the height limit by fifteen (15) feet. Height and location are subject to the Development Review Board review and approval for compatibility with the established neighborhood character. Maximum permissible heights may not be achievable in all neighborhoods. (This provision supersedes Section 7.100. through 7.102, exceptions to height restrictions, which shall not apply to churches within this district.)
- d. Required open space:
  - i. Minimum: 0.24 multiplied by the net lot area.
  - ii. For building heights over twenty (20) feet: the minimum open space requirement plus 0.004 multiplied by the net lot area for each foot of building height over twenty (20) feet.
  - iii. NAOS may be included in the required open space.
- e. Parking: Parking shall observe the minimum front yard setbacks of the district for all frontages. On streets classified in the Transportation Master Plan as major arterial or greater, parking may be located between the established front building line and the front yard setback. On all other street classifications, parking shall be located behind the established front building line(s).

A minimum of fifteen (15) percent of all parking areas shall be landscaped.

A ten-foot minimum landscaped setback shall be provided where parking is adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.
- f. Lighting: All pole mounted lighting shall be directed down and shielded and shall be a maximum of sixteen (16) feet in height.

All lighting adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A. shall be set back a minimum of thirty (30) feet from the property line. All lighting, other than security, shall be shut off by 10:00 p.m.
- g. Screening: There shall be a minimum six-foot high masonry wall and/or landscape screen, as approved by the Development Review Board, on the side and rear property lines that are adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.

There shall be a three-foot high landscaped berm along all street frontage where parking occurs.

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- h. Access: All churches must have primary access to a street classified in the Transportation Master Plan as a minor collector or greater.

Access to a local or local collector residential street is prohibited when the primary worship center, auditorium or other major gathering place exceeds three thousand (3,000) square feet.

- i. Operations: No outdoor activities shall be permitted after 10:00 p.m.
- j. Noise: Outdoor speakers or paging systems are not allowed.

B. *Uses subject to conditional use permit.*

1. Cemetery (see Section 1.403 for criteria).
2. Ham transmitting or receiving radio antennas in excess of seventy (70) feet.
3. Community buildings and recreational facilities not publicly owned, such as: athletic fields, boys' clubs, etc.
4. Farms and ranches.
5. Golf course (except miniature golf course or commercial driving range).
6. Wireless communications facilities; Type 4, subject to requirements of Sections 1.400, 3.100 and 7.200.
7. Private colleges and universities having a regular curriculum, with their related services and activities.
8. Private school having no room regularly used for housing or sleeping overnight. Subject to Development Review Board approval and compliance with the following standards, including, but not limited to, the following as well as those otherwise required in the R1-190 District.
  - a. Lot area: The minimum lot area shall be equal to that required for the district, except that no lot shall be less than eighty-six thousand (86,000) square feet minimum lot size.
  - b. Floor area ratio: In no case shall the gross floor area of the structure(s) exceed an amount equal to 0.20 multiplied by the net lot area.
  - c. Noise: Outdoor speaker systems or bells are not allowed.
  - d. Required open space:
    - i. Minimum: 0.24 multiplied by the net lot area.
    - ii. For building heights over twenty (20) feet: the minimum open space requirement plus 0.004 multiplied by the net lot area for each foot of building height over twenty (20) feet.
    - iii. NAOS may be included in the required open space.
  - e. Parking: Parking shall be allowed in the front yard setbacks of the district for schools on streets classified in the Transportation Master Plan as minor collector or greater. There shall be a three-foot high landscaped berm or wall along the street frontage where parking occurs. On all other street classifications, parking shall be located behind the established front building line(s). A minimum of fifteen (15) percent of all parking areas shall be landscaped in addition to open space in



- d. above. A twenty-foot minimum landscaped setback shall be provided where parking is adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.
- f. Lighting: All pole mounted lighting shall be directed down and shielded and shall be a maximum of sixteen (16) feet in height. All lighting adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A., shall be setback a minimum of thirty (30) feet from the property line. All lighting, other than security, shall be turned off by 10:00 p.m., unless otherwise approved through a special event permit.
- g. Screening: There shall be a minimum six-foot high masonry wall and/or landscape screen, as approved by the Development Review Board, on the side and rear property lines adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.
- h. Access: All private schools shall have frontage on a street classified in the Transportation Master Plan as a minor collector or greater. Side street access to a local collector residential street is prohibited when the number of students allowed to attend the school is greater than two hundred fifty (250). A drop off area shall be provided that accommodates a minimum of five (5) cars at one (1) time.
- i. Operations: No outdoor activities shall be permitted after 8:00 p.m. unless otherwise approved through a special event permit. Any additions to, expansions of or proposed playgrounds or outdoor activity areas shall be setback fifty (50) feet from any single-family residential district shown on Table 4.100.A., or the single-family residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the single-family residential districts shown on Table 4.100.A. property line (including right-of-way width) or setback twenty-five (25) feet from any Two-family Residential R-2, Medium Density Residential R-3, Townhouse Residential R-4, Resort/Townhouse Residential R-4R, Multiple-family Residential R-5 or Manufactured Home M-H district property line (including right-of-way width). All playgrounds and outdoor activity areas shall be screened from any residential district shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A. by a minimum six-foot high screen wall and/or landscape screen, as approved by the Development Review Board.
- j. Building design: All buildings shall be designed to be compatible with the surrounding residential neighborhood. All building elevations shall be approved by the Development Review Board.
- k. Circulation plan: The applicant shall submit a circulation plan to ensure minimal conflicts between the student drop-off area, potential van and bus drop-off area, parking, access driveways, pedestrian and bicycle paths on site.

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9. Public utility buildings, structures or appurtenances thereto for public service uses.
10. Recreational uses (see section 1.403 for specific uses and development criteria for each).

### **Sec. 5.102. - Use regulations. [R1-43]**

A. *Permitted uses.* Buildings, structures or premises shall be used and buildings and structures shall hereafter be erected, altered or enlarged only for the following uses:

1. Accessory buildings, swimming pools, home occupations and other accessory uses. The landing and taking-off of aircraft is not a valid accessory use in residential districts and is prohibited.
2. Adult care homes; subject to the following criteria:
  - a. Floor area ratio: Is limited to thirty-five hundredths (0.35) of the net lot area.
  - b. Capacity: The maximum number of residents, including up to ten disabled persons, other than the manager/supervisor, or property owner, and residential staff at the home is ten twelve (1240) per residential lot.
  - c. Location: An adult care home shall not be located within seven hundred fifty (750) twelve hundred (1200) feet, measured from lot line to lot line, of another adult care home on the same street frontage or within five hundred (500) feet in any other direction of another adult care home.
  - d. Compatibility: The home and its premises shall be maintained in a clean, well-kept condition that is consistent in materials and design style with homes in the surrounding or adjacent neighborhood.
  - e. Parking: All parking for the property owner residents and any employees shall be provided in off-street locations but in no case shall parking occupy more than three-tenths (0.3) of the required front yard.
  - f. Criteria: Care homes must provide proof of licensing as a health care institution by the State of Arizona to the Director of Planning prior to the commencement of operations. All care homes must pass an initial and annual fire inspection administered by the Scottsdale Fire Department. Proof of such inspection and of correction of any noted deficiencies must be available at the care home at all times.
  - g. Accommodation: A disabled person may request a disability accommodation from the above criteria or a development standard pursuant to Section 1.806 of this Zoning Ordinance.
3. Charter school located on property with a net lot size of one (1) acre or more.
4. Day care home.
5. Day care group home.
6. Dwelling units, single-family, including Vacation rental or Short-term rental, limited to one main dwelling per lot.
7. Guest houses, as an accessory use subject to the following criteria:
  - a. The cumulative square footage of the guest house(s) shall be no greater than one-half (1/2) the livable square footage of the main dwelling.

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- b. The guest house shall be connected to the water meter for the main dwelling. It shall not be separately metered.
- c. The guest house shall not be rented or offered for rent independent of the main dwelling.
- 8. Model homes.
- 9. Municipal uses.
- 10. Wireless communications facilities; Types 1, 2, and 3, subject to the requirements of Sections 1.906, 3.100 and 7.200.
- 11. Private tennis courts.
- 12. Public, elementary and high schools.
- 13. Temporary sales office buildings and buildings for uses incidental to construction work, to be removed upon completion or abandonment of construction work.
- 14. Churches and places of worship; subject to Development Review Board approval and compliance with the following standards, as well as those otherwise required in the R1-43 District:
  - a. Lot area: The minimum lot area shall be equal to that required for the district, except that no lot shall be less than twenty thousand (20,000) square feet (net).
  - b. Floor area ratio: In no case shall the gross floor area of the structure(s) exceed an amount equal to 0.20 multiplied by the net lot area.
  - c. Building height: Development Review Board may allow building heights, including towers, spires, and mechanical equipment (such equipment must be screened) limited to thirty (30) feet in height, and may allow a maximum of ten (10) percent of the roof area to exceed the height limit by fifteen (15) feet. Height and location are subject to the Development Review Board review and approval for compatibility with the established neighborhood character. Maximum permissible heights may not be achievable in all neighborhoods. (This provision supersedes Sections 7.100 through 7.102, exceptions to height restrictions, which shall not apply to churches within this district.)
  - d. Required open space.
    - i. Minimum: 0.24 multiplied by the net lot area.
    - ii. For building heights over twenty (20) feet: the minimum open space requirement plus 0.004 multiplied by the net lot area for each foot of building height over twenty (20) feet.
    - iii. NAOS may be included in the required open space.
  - e. Parking: Parking shall observe the minimum front yard setbacks of the district for all frontages. On streets classified in the Transportation Master Plan as major arterial or greater, parking may be located between the established front building line and the front yard setback. On all other street classifications, parking shall be located behind the established front building line(s). A minimum of fifteen (15) percent of all parking areas shall be landscaped. A ten-foot minimum landscape setback shall be provided where parking is adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential



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Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.

f. Lighting: All pole mounted lighting shall be directed down and shielded and shall be a maximum of sixteen (16) feet in height. All lighting adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A., shall be set back a minimum of thirty (30) feet from the property line. All lighting, other than security, shall be shut off by 10:00 p.m.

- g. Screening: There shall be a minimum six-foot high masonry wall and/or landscape screen, as approved by the Development Review Board, on the side and rear property lines that are adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.

There shall be a three-foot high landscaped berm along all street frontages where parking occurs.

- h. Access: All churches must have primary access to a street classified in the Transportation Master Plan as a minor collector or greater.

Access to a local or local collector residential street is prohibited when the primary worship center, auditorium or other major gathering place exceeds three thousand (3,000) square feet.

- i. Operations: No outdoor activities shall be permitted after 10:00 p.m.

- j. Noise: Outdoor speakers or paging systems are not allowed.

B. *Uses subject to conditional use permit.*

1. Cemetery (see section 1.403 for criteria).
2. Community buildings and recreational facilities not publicly owned, such as: Athletic fields, boys' clubs, etc.
3. Farms.
4. Golf course (except miniature golf course or commercial driving range).
5. Ham transmitting or receiving radio antennas in excess of seventy (70) feet.
6. Wireless communications facilities; Type 4, subject to requirements of Sections 1.400, 3.100 and 7.200.
7. Private colleges and universities having a regular curriculum, with their related services and activities.
8. Private school having no room regularly used for housing or sleeping overnight. Subject to Development Review Board approval and compliance with standards, including, but not limited to, the following as well as those otherwise required in the R1-43 District.

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- a. Lot area: The minimum lot area shall be equal to that required for the district, except that no lot shall be less than eighty-six thousand (86,000) square feet minimum lot size.
- b. Floor area ratio: In no case shall the gross floor area of the structure(s) exceed an amount equal to 0.20 multiplied by the net lot area.
- c. Noise: Outdoor speaker systems or bells are not allowed.
- d. Required open space:
  - i. Minimum: 0.24 multiplied by the net lot area.
  - ii. For building heights over twenty (20) feet: the minimum open space requirement plus 0.004 multiplied by net lot area for each foot of building height over twenty (20) feet.
  - iii. NAOS may be included in the required open space.
- e. Parking: Parking shall be allowed in the front yard setbacks of the district for schools on streets classified in the Transportation Master Plan as minor collector or greater. There shall be a three-foot high landscaped berm or wall along the street frontage where parking occurs. On all other street classifications, parking shall be located behind the established front building line(s). A minimum of fifteen (15) percent of all parking areas in addition to open space in d. above shall be landscaped. A twenty-foot minimum landscaped setback shall be provided where parking is adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.
- f. Lighting: All pole mounted lighting shall be directed down and shielded and shall be a maximum of sixteen (16) feet in height. All lighting adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A., shall be setback a minimum of thirty (30) feet from the property line. All lighting, other than security, shall be turned off by 10:00 p.m., unless otherwise approved through a special event permit.
- g. Screening: There shall be a minimum six-foot high masonry wall and/or landscape screen, as approved by the Development Review Board, on the side and rear property lines adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.
- h. Access: All private schools shall have frontage on a street classified in the Transportation Master Plan as a minor collector or greater. Side street access to a local collector residential street is prohibited when the number of students allowed to attend the school is greater than two hundred fifty (250). A drop off area shall be provided that accommodates a minimum of five (5) cars at one (1) time.
- i. Operations: No outdoor activities shall be permitted after 8:00 p.m. unless otherwise approved through a special event permit. Any additions to, expansions

of or proposed playgrounds or outdoor activity areas shall be setback fifty (50) feet from the property line (including right-of-way width) of any single-family residential district shown on Table 4.100.A., or the single-family residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the single-family residential districts shown on Table 4.100.A. or setback twenty-five (25) feet from any Two-family Residential R-2, Medium Density Residential R-3, Townhouse Residential R-4, Resort/Townhouse Residential R-4R, Multi-family Residential R-5 or Manufactured Home M-H district property line (including right-of-way width). All playgrounds and outdoor activity areas shall be screened from any residential district shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A. by a minimum six-foot high screen wall and/or landscape screen, as approved by the Development Review Board.

- j. Building design: All buildings shall be designed to be compatible with the surrounding residential neighborhood. All building elevations shall be approved by the Development Review Board.
  - k. Circulation plan: The applicant shall submit a circulation plan to ensure minimal conflicts between the student drop-off area, potential van and bus drop-off area, parking, access driveways, pedestrian and bicycle paths on site.
9. Public utility buildings, structures or appurtenances thereto for public service uses.
10. Recreational uses including commercial stables, ranches and tennis clubs (see section 1.403 for specific uses and development criteria for each).

### **Sec. 5.703. - Use regulations. [R-3]**

A. *Permitted uses.* Buildings, structures or premises shall be used and buildings and structures shall hereafter be erected, altered or enlarged only for the following uses:

- 1. **Group homes.**
- 2. Day care home.
- 3. Dwelling unit(s), including Vacation rental or Short-term rental.
- 4. Accessory buildings; swimming pool, private home occupations and other accessory uses. The landing and taking-off of aircraft is not a valid accessory use in residential districts and is prohibited.
- 5. Temporary buildings for uses incidental to construction work to be removed upon completion or abandonment of construction work.
- 6. Model dwelling units.
- 7. Municipal uses.
- 8. Wireless communications facilities; types 1, 2, and 3, subject to the requirements of Sections 1.906, 3.100 and 7.200.

B. *Uses permitted by conditional use permit.*



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1. Wireless communications facilities; type 4, subject to requirements of sections 1.400, 3.100 and 7.200.

2. Residential health care facility (see section 1.403 for criteria except as modified in section 5.704.C.)

### **Sec. 5.803. - Use regulations. [R-4]**

A. *Permitted uses.* Building, structures or premises shall be used and buildings and structures shall hereafter be erected, altered or enlarged only for the following uses:

1. Single-family dwelling having either party walls or walled courtyards, including Vacation rental or Short-term rental.

2. Accessory buildings and uses customarily incident to the permitted uses, including private garage, home occupations, swimming pools and recreation buildings. The landing and taking-off of aircraft is not a valid accessory use in residential districts and is prohibited.

~~3. Group homes.~~

~~4. Municipal uses.~~

~~3.15.~~ Wireless communications facilities; Types 1, 2, and 3, subject to the requirements of Sections 1.906, 3.100 and 7.200.

~~46.~~ Temporary sales office buildings and model homes.

~~57.~~ Churches and places of worship.

~~68.~~ Day care home.

B. *Permitted uses by conditional use permit.*

1. Wireless communications facilities; Type 4, subject to requirements of sections 1.400, 3.100 and 7.200.

2. Residential health care facility (see section 1.403 for criteria except as modified in section 5.804.D.)

### **Sec. 5.903. - Use regulations. [R-4R]**

A. *Permitted Uses*

1. Travel Accommodation.

2. Dwelling units having either party walls or walled courtyards, including Vacation rental or Short-term rental.

3. Accessory buildings and uses customarily incidental to the permitted uses, including private garages, home occupations, swimming pool, recreation buildings and walled driveway entrance.

~~4. Group homes.~~

~~5. Municipal uses.~~

~~56.~~ Wireless communications facilities, Types 1, 2 and 3, subject to the requirements of Sections 1.906, 3.100 and 7.200.

~~67.~~ Churches and places of worship.

- ~~78.~~ Day care home.
- B. *Permitted uses by conditional use permit.*
  - 1. Golf courses.
  - 2. Wireless communications facilities; Type 4, subject to requirements of sections 1.400, 3.100 and 7.200.
  - 3. Recreational uses (see section 1.403 for specific uses and development criteria for each).

**Sec. 5.1003. - Use regulations. [R-5]**

- A. *Permitted uses.* Buildings, structures or premises shall be used and buildings and structures shall hereafter be erected, altered or enlarged only for the following uses:
  - 1. Accessory buildings; swimming pool; home occupations; and other accessory uses. The landing and taking-off of aircraft is not a valid accessory use in residential districts and is prohibited.

~~2.~~ **Group home.**

- ~~23.~~ Day-care home.
- ~~34.~~ Dwelling, single-family detached or attached, including Vacation rental or Short-term rental.
- ~~45.~~ Dwelling, multiple family.
- ~~56.~~ Municipal uses.
- ~~67.~~ Wireless communications facilities; Types 1, 2, and 3, subject to the requirements of Sections 1.906, 3.100 and 7.200.
- ~~78.~~ School: Public and charter, elementary and high.
- ~~89.~~ Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of construction work.
- ~~910.~~ Temporary sales office buildings and model homes.
- ~~1011.~~ Churches and places of worship.

B. *Uses permitted by conditional use permit.*

- 1. Commercial and/or ham transmitting or receiving radio and television antennas in excess of seventy (70) feet.
- 2. Community buildings or recreational fields not publicly owned.
- ~~3. Convent.~~
- ~~43.~~ Day-care center.
- ~~54.~~ Golf course, regulation or par-three, that is incidental to and located within the development.
- ~~6. Orphanage.~~
- ~~75.~~ Plant nursery; provided, however, that all materials (other than plant materials) shall be screened from view by a solid fence or wall at least six (6) feet in height, and further that a

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completely enclosed building having a minimum floor area of five hundred (500) square feet shall be provided.

~~86.~~ Private club, ~~fraternity, sorority and lodges.~~

~~97.~~ Private lake, semi-public lake, tennis courts.

~~108.~~ Private school having no room regularly used for housing or sleeping overnight. Subject to Development Review Board approval and compliance with the following standards, as well as those otherwise required in the R-5 District.

a. Lot area: The minimum lot area shall be equal to that required for the district, except that no lot shall be less than forty-three thousand (43,000) square feet (net).

b. Floor area ratio: In no case shall the gross floor area of the structure(s) exceed an amount equal to 0.20 multiplied by the net lot area.

c. Noise: Outdoor speaker system or bells are not allowed if the school building is within one hundred (100) feet of a single-family dwelling or multifamily dwelling unit.

d. Required open space.

i. Minimum: 0.24 multiplied by the net lot area.

ii. For building heights over twenty (20) feet: the minimum open space requirement plus 0.004 multiplied by the net lot area for each foot of building height over twenty (20) feet.

iii. NAOS may be included in the required open space.

e. Parking: Parking shall be allowed in the front yard setbacks of the district for schools on streets classified in the Transportation Master Plan as minor collector or greater. There shall be a three-foot high landscaped berm or wall along the street frontage where parking occurs. On all other street classifications, parking shall be located behind the established front building line(s). A minimum of fifteen (15) percent of all parking areas shall be landscaped. A twenty-foot minimum landscaped setback shall be provided where parking is adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.

f. Lighting: All pole mounted lighting shall be directed down and shielded and shall be a maximum of sixteen (16) feet in height. All lighting adjacent to residential districts shall be setback a minimum of thirty (30) feet from the property line. All lighting, other than security, shall be turned off by 10:00 p.m., unless otherwise approved through a special event permit.

g. Screening: There shall be a minimum six-foot high masonry wall and/or landscape screen, as approved by the Development Review Board, on the side and rear property lines adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.

h. Access: All private schools shall have frontage on a street classified in the Transportation Master Plan as a minor collector or greater. Side street access to a



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local collector residential street is prohibited when the number of students allowed to attend the school is greater than two hundred fifty (250). A drop off area shall be provided that accommodates a minimum of five (5) cars at one (1) time.

i. Operations: No outdoor activities shall be permitted after 8:00 p.m. unless otherwise approved through a special event permit. No playground or outdoor activity area shall be located within fifty (50) feet of any single-family residential district shown on Table 4.100.A., or the single-family residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the single-family residential districts shown on Table 4.100.A., or within twenty-five (25) feet of any Two-family Residential R-2, Medium Density Residential R-3, Townhouse Residential R-4, Resort/Townhouse Residential R-4R, Multiple-family Residential R-5 or Manufactured Home M-H district. All playgrounds and outdoor activity areas shall be screened from any residential district shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A., by a minimum six-foot high screen wall.

j. Building design: All buildings shall be designed to be compatible with the surrounding residential neighborhood. All building elevations shall be approved by the Development Review Board.

~~449.~~ Public buildings other than hospitals.

~~102.~~ Public utility buildings, structures or appurtenances thereto for public service uses.

~~113.~~ Recreational uses.

~~124.~~ Residential health care facility.

~~135.~~ Travel accommodation.

16. Wireless communications facilities; Type 4, subject to requirements of sections 1.400., 3.100., and 7.200.

### 36-2061. Definitions

In this article, unless the context otherwise requires:

1. "Certifying organization" means an organization that certifies homes as sober living homes and is affiliated with a national organization recognized by the department whose primary function is to improve access to and the quality of sober living residences through standards, education, research and advocacy.
2. "Medication-assisted treatment" means the use of pharmacological medications that are approved by the United States food and drug administration, in combination with counseling and behavioral therapies, to provide a whole patient approach to the treatment of substance use disorders.
3. "Sober living home" means any premises, place or building that provides alcohol-free or drug-free housing and that:
  - (a) Promotes independent living and life skills development.
  - (b) May provide activities that are directed primarily toward recovery from substance use disorders.
  - (c) Provides a supervised setting to a group of unrelated individuals who are recovering from substance use disorders.
  - (d) Does not provide any medical or clinical services or medication administration on-site, except for verification of abstinence.

**36-401. Definitions; adult foster care**

A. In this chapter, unless the context otherwise requires:

1. "Accredited health care institution" means a health care institution, other than a hospital, that is currently accredited by a nationally recognized accreditation organization.
2. "Accredited hospital" means a hospital that is currently accredited by a nationally recognized organization on hospital accreditation.
3. "Adult behavioral health therapeutic home" means a residence for individuals who are at least eighteen years of age, have behavioral health issues and need behavioral health services that does all of the following for those individuals:
  - (a) Provides room and board.
  - (b) Assists in acquiring daily living skills.
  - (c) Coordinates transportation to scheduled appointments.
  - (d) Monitors behaviors.
  - (e) Assists in the self-administration of medication.
  - (f) Provides feedback to case managers related to behavior.
4. "Adult day health care facility" means a facility that provides adult day health services during a portion of a continuous twenty-four-hour period for compensation on a regular basis for five or more adults who are not related to the proprietor.
5. "Adult day health services" means a program that provides planned care supervision and activities, personal care, personal living skills training, meals and health monitoring in a group setting during a portion of a continuous twenty-four-hour period. Adult day health services may also include preventive, therapeutic and restorative health-related services that do not include behavioral health services.
6. "Adult foster care home" means a residential setting that provides room and board and adult foster care services for at least one and no more than four adults who are participants in the Arizona long-term care system pursuant to chapter 29, article 2 of this title or contracts for services with the United States department of veterans affairs and in which the sponsor or the manager resides with the residents and integrates the residents who are receiving adult foster care into that person's family.
7. "Adult foster care services" means supervision, assistance with eating, bathing, toileting, dressing, self-medication and other routines of daily living or services authorized by rules adopted pursuant to section 36-405 and section 36-2939, subsection C.
8. "Assisted living center" means an assisted living facility that provides resident rooms or residential units to eleven or more residents.
9. "Assisted living facility" means a residential care institution, including an adult foster care home, that provides or contracts to provide supervisory care services, personal care services or directed care services on a continuous basis.
10. "Assisted living home" means an assisted living facility that provides resident rooms to ten or fewer residents.

**ATTACHMENT #15**



11. "Behavioral health services" means services that pertain to mental health and substance use disorders and that are either:
- (a) Performed by or under the supervision of a professional who is licensed pursuant to title 32 and whose scope of practice allows for the provision of these services.
  - (b) Performed on behalf of patients by behavioral health staff as prescribed by rule.
12. "Construction" means the building, erection, fabrication or installation of a health care institution.
13. "Continuous" means available at all times without cessation, break or interruption.
14. "Controlling person" means a person who:
- (a) Through ownership, has the power to vote at least ten percent of the outstanding voting securities.
  - (b) If the applicant or licensee is a partnership, is the general partner or a limited partner who holds at least ten percent of the voting rights of the partnership.
  - (c) If the applicant or licensee is a corporation, an association or a limited liability company, is the president, the chief executive officer, the incorporator or any person who owns or controls at least ten percent of the voting securities. For the purposes of this subdivision, corporation does not include nonprofit corporations.
  - (d) Holds a beneficial interest in ten percent or more of the liabilities of the applicant or the licensee.
15. "Department" means the department of health services.
16. "Directed care services" means programs and services, including supervisory and personal care services, that are provided to persons who are incapable of recognizing danger, summoning assistance, expressing need or making basic care decisions.
17. "Direction" means authoritative policy or procedural guidance for the accomplishment of a function or activity.
18. "Director" means the director of the department of health services.
19. "Facilities" means buildings that are used by a health care institution for providing any of the types of services as defined in this chapter.
20. "Freestanding urgent care center":
- (a) Means an outpatient treatment center that, regardless of its posted or advertised name, meets any of the following requirements:
    - (i) Is open twenty-four hours a day, excluding at its option weekends or certain holidays, but is not licensed as a hospital.
    - (ii) Claims to provide unscheduled medical services not otherwise routinely available in primary care physician offices.
    - (iii) By its posted or advertised name, gives the impression to the public that it provides medical care for urgent, immediate or emergency conditions.
    - (iv) Routinely provides ongoing unscheduled medical services for more than eight consecutive hours for an individual patient.

(b) Does not include the following:

(i) A medical facility that is licensed under a hospital's license and that uses the hospital's medical provider number.

(ii) A qualifying community health center pursuant to section 36-2907.06.

(iii) Any other health care institution licensed pursuant to this chapter.

(iv) A physician's office that offers extended hours or same-day appointments to existing and new patients and that does not meet the requirements of subdivision (a), item (i), (iii) or (iv) of this paragraph.

21. "Governing authority" means the individual, agency, partners, group or corporation, appointed, elected or otherwise designated, in which the ultimate responsibility and authority for the conduct of the health care institution are vested.

22. "Health care institution" means every place, institution, building or agency, whether organized for profit or not, that provides facilities with medical services, nursing services, behavioral health services, health screening services, other health-related services, supervisory care services, personal care services or directed care services and includes home health agencies as defined in section 36-151, outdoor behavioral health care programs and hospice service agencies. Health care institution does not include a community residential setting as defined in section 36-551.

23. "Health-related services" means services, other than medical, that pertain to general supervision, protective, preventive and personal care services, supervisory care services or directed care services.

24. "Health screening services" means the acquisition, analysis and delivery of health-related data of individuals to aid in the determination of the need for medical services.

25. "Hospice" means a hospice service agency or the provision of hospice services in an inpatient facility.

26. "Hospice service" means a program of palliative and supportive care for terminally ill persons and their families or caregivers.

27. "Hospice service agency" means an agency or organization, or a subdivision of that agency or organization, that is engaged in providing hospice services at the place of residence of its clients.

28. "Inpatient beds" or "resident beds" means accommodations with supporting services, such as food, laundry and housekeeping, for patients or residents who generally stay in excess of twenty-four hours.

29. "Intermediate care facility for individuals with intellectual disabilities" has the same meaning prescribed in section 36-551.

30. "Licensed capacity" means the total number of persons for whom the health care institution is authorized by the department to provide services as required pursuant to this chapter if the person is expected to stay in the health care institution for more than twenty-four hours. For a hospital, licensed capacity means only those beds specified on the hospital license.

31. "Medical services" means the services that pertain to medical care and that are performed at the direction of a physician on behalf of patients by physicians, dentists, nurses and other professional and technical personnel.

32. "Modification" means the substantial improvement, enlargement, reduction or alteration of or other change in a health care institution.

33. "Nonproprietary institution" means any health care institution that is organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or

individual, or that is operated by the state or any political subdivision of the state.

34. "Nursing care institution" means a health care institution that provides inpatient beds or resident beds and nursing services to persons who need continuous nursing services but who do not require hospital care or direct daily care from a physician.

35. "Nursing services" means those services that pertain to the curative, restorative and preventive aspects of nursing care and that are performed at the direction of a physician by or under the supervision of a registered nurse licensed in this state.

36. "Organized medical staff" means a formal organization of physicians, and dentists where appropriate, with the delegated authority and responsibility to maintain proper standards of medical care and to plan for continued betterment of that care.

37. "Outdoor behavioral health care program" means an agency that provides behavioral health services in an outdoor environment as an alternative to behavioral health services that are provided in a health care institution with facilities. Outdoor behavioral health care programs do not include:

(a) Programs, facilities or activities that are operated by a government entity or that are licensed by the department as a child care program pursuant to chapter 7.1 of this title.

(b) Outdoor activities for youth that are designated to be primarily recreational and that are organized by church groups, scouting organizations or similar groups.

(c) Outdoor youth programs licensed by the department of economic security.

38. "Personal care services" means assistance with activities of daily living that can be performed by persons without professional skills or professional training and includes the coordination or provision of intermittent nursing services and the administration of medications and treatments by a nurse who is licensed pursuant to title 32, chapter 15 or as otherwise provided by law.

39. "Physician" means any person who is licensed pursuant to title 32, chapter 13 or 17.

40. "Recidivism reduction services" means services that are delivered by an adult residential care institution to its residents to encourage lawful behavior and to discourage or prevent residents who are suspected of, charged with or convicted of one or more criminal offenses, or whose mental health and substance use can be reasonably expected to place them at risk for the future threat of prosecution, diversion or incarceration, from engaging in future unlawful behavior.

41. "Recidivism reduction staff" means a person who provides recidivism reduction services.

42. "Residential care institution" means a health care institution other than a hospital or a nursing care institution that provides resident beds or residential units, supervisory care services, personal care services, behavioral health services, directed care services or health-related services for persons who do not need continuous nursing services.

43. "Residential unit" means a private apartment, unless otherwise requested by a resident, that includes a living and sleeping space, kitchen area, private bathroom and storage area.

44. "Respite care services" means services that are provided by a licensed health care institution to persons otherwise cared for in foster homes and in private homes to provide an interval of rest or relief of not more than thirty days to operators of foster homes or to family members.

45. "Substantial compliance" means that the nature or number of violations revealed by any type of inspection or investigation of a health care institution does not pose a direct risk to the life, health or safety of patients or residents.



46. "Supervision" means direct overseeing and inspection of the act of accomplishing a function or activity.
47. "Supervisory care services" means general supervision, including daily awareness of resident functioning and continuing needs, the ability to intervene in a crisis and assistance in the self-administration of prescribed medications.
48. "Temporary license" means a license that is issued by the department to operate a class or subclass of a health care institution at a specific location and that is valid until an initial licensing inspection.
49. "Unscheduled medical services" means medically necessary periodic health care services that are unanticipated or cannot reasonably be anticipated and that require medical evaluation or treatment before the next business day.
- B. If there are fewer than four Arizona long-term care system participants receiving adult foster care in an adult foster care home, nonparticipating adults may receive other types of services that are authorized by law to be provided in the adult foster care home as long as the number of adults served, including the Arizona long-term care system participants, does not exceed four.
- C. Nursing care services may be provided by the adult foster care licensee if the licensee is a nurse who is licensed pursuant to title 32, chapter 15 and the services are limited to those allowed pursuant to law. The licensee shall keep a record of nursing services rendered.

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- b. Has the potential to cause the individual to be psychologically or physiologically dependent on alcohol or other drug or chemical; and
  - c. Impairs, reduces, or destroys the individual's social or economic functioning.
219. "Substance abuse transitional facility" means a class of health care institution that provides behavioral health services to an individual over 18 years of age who is intoxicated or may have a substance abuse problem.
220. "Substance use disorder" means a condition in which the misuse or dependence on alcohol or a drug results in adverse physical, mental, or social effects on an individual.
221. "Substance use risk" means an individual's unique likelihood for addiction, misuse, diversion, or another adverse consequence resulting from the individual being prescribed or receiving treatment with opioids.
222. "Substantial" when used in connection with a modification means:
- a. An addition or removal of an authorized service;
  - b. The addition or removal of a colocator;
  - c. A change in a health care institution's licensed capacity, licensed occupancy, respite capacity, or the number of dialysis stations;
  - d. A change in the physical plant, including facilities or equipment, that costs more than \$300,000; or
  - e. A change in the building where a health care institution is located that affects compliance with:
    - i. Applicable physical plant codes and standards incorporated by reference in R9-10-104.01, or
    - ii. Physical plant requirements in the specific Article in this Chapter applicable to the health care institution.
223. "Substantive review time-frame" means the same as in A.R.S. § 41-1072.
224. "Supportive services" has the same meaning as in A.R.S. § 36-151.
225. "Surgical procedure" means the excision of or incision in a patient's body for the:
- a. Correction of a deformity or defect;
  - b. Repair of an injury; or
  - c. Diagnosis, amelioration, or cure of disease.
226. "Swimming pool" has the same meaning as "semipublic swimming pool" in A.A.C. R18-5-201.
227. "System" means interrelated, interacting, or interdependent elements that form a whole.
228. "Tapering" means the gradual reduction in the dosage of a medication administered to a patient, often with the intent of eventually discontinuing the use of the medication for the patient.
229. "Tax ID number" means a numeric identifier that a person uses to report financial information to the United States Internal Revenue Service.
230. "Telemedicine" has the same meaning as in A.R.S. § 36-3601.
231. "Therapeutic diet" means foods or the manner in which food is to be prepared that are ordered for a patient.
232. "Therapist" means an occupational therapist, a physical therapist, a respiratory therapist, or a speech-language pathologist.
233. "Time-out" means providing a patient a voluntary opportunity to regain self-control in a designated area from which the patient is not physically prevented from leaving.
234. "Transfer" means a health care institution discharging a patient and sending the patient to another licensed health care institution as an inpatient or resident without intending that the patient be returned to the sending health care institution.
235. "Transport" means a licensed health care institution:
- a. Sending a patient to a receiving licensed health care institution for outpatient services with the intent of the patient returning to the sending licensed health care institution, or
  - b. Discharging a patient to return to a sending licensed health care institution after the patient received outpatient services from the receiving licensed health care institution.
236. "Treatment" means a procedure or method to cure, improve, or palliate an individual's medical condition or behavioral health issue.
237. "Treatment plan" means a description of the specific physical health services or behavioral health services that a health care institution anticipates providing to a patient.
238. "Unclassified health care institution" means a health care institution not classified or subclassified in statute or in rule.
239. "Vascular access" means the point on a patient's body where blood lines are connected for hemodialysis.
240. "Volunteer" means an individual authorized by a health care institution to work for the health care institution on a regular basis without compensation from the health care institution and does not include a medical staff member who has clinical privileges at the health care institution.
241. "Working day" means a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state and federal holiday or a statewide furlough day.

**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4). Amended by exempt rulemaking at 22 A.A.R. 1035, pursuant to Laws 2015, Ch. 158, § 3; effective May 1, 2016 (Supp. 16-2). Amended by final rulemaking at 24 A.A.R. 3020, effective January 1, 2019 (Supp. 18-4). Amended by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by final expedited rulemaking, at 25 A.A.R. 3481 with an immediate effective date of November 5, 2019 (Supp. 19-4).

**R9-10-102. Health Care Institution Classes and Subclasses; Requirements**

- A.** A person may apply for a license as one of the following classes or subclasses of health care institution:
1. General hospital,
  2. Rural general hospital,
  3. Special hospital,
  4. Behavioral health inpatient facility,
  5. Nursing care institution,
  6. Intermediate care facility for individuals with intellectual disabilities,
  7. Recovery care center,
  8. Hospice inpatient facility,
  9. Hospice service agency,
  10. Behavioral health residential facility,

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11. Adult residential care institution,
12. Assisted living center,
13. Assisted living home,
14. Adult foster care home,
15. Outpatient surgical center,
16. Outpatient treatment center,
17. Abortion clinic,
18. Adult day health care facility,
19. Home health agency,
20. Substance abuse transitional facility,
21. Behavioral health specialized transitional facility,
22. Counseling facility,
23. Adult behavioral health therapeutic home,
24. Behavioral health respite home,
25. Unclassified health care institution, or
26. Pain management clinic.

**B.** A person shall apply for a license for the class or subclass that authorizes the provision of the highest level of physical health services or behavioral health services the proposed health care institution plans to provide.

**C.** The Department shall review a proposed health care institution's scope of services to determine whether the requested health care institution class or subclass is appropriate.

**D.** A health care institution shall comply with the requirements in Article 17 of this Chapter if:

1. There are no specific rules in another Article of this Chapter for the health care institution's class or subclass, or
2. The Department determines that the health care institution is an unclassified health care institution.

**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 24 A.A.R. 3020, effective January 1, 2019 (Supp. 18-4). Amended by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

**R9-10-103. Licensing Exceptions**

- A.** A health care institution license is required for each health care institution facility except:
1. A facility exempt from licensing under A.R.S. § 36-402, or
  2. A health care institution's administrative office.
- B.** The Department does not require a separate health care institution license for:
1. A satellite facility of a hospital under A.R.S. § 36-422(F);
  2. An accredited facility of an accredited hospital under A.R.S. § 36-422(G);
  3. A facility operated by a licensed health care institution that is:
    - a. Adjacent to and contiguous with the licensed health care institution premises; or
    - b. Not adjacent to or contiguous with the licensed health care institution but connected to the licensed health care institution facility by an all-weather enclosure and:
      - i. Owned by the health care institution, or
      - ii. Leased by the health care institution with exclusive rights of possession;

4. A mobile clinic operated by a licensed health care institution; or
5. A facility located on grounds that are not adjacent to or contiguous with the health care institution premises where only ancillary services are provided to a patient of the health care institution.

**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

**R9-10-104. Approval of Architectural Plans and Specifications**

- A.** For approval of architectural plans and specifications for the construction or modification of a health care institution that is required by this Chapter to comply with any of the physical plant codes and standards incorporated by reference in R9-10-104.01, an applicant shall submit to the Department an application packet including:
1. An application in a Department-provided format provided by the Department that contains:
    - a. For construction of a new health care institution:
      - i. The health care institution's name, street address, city, state, zip code, telephone number, and e-mail address;
      - ii. The name and mailing address of the health care institution's governing authority;
      - iii. The requested health care institution class or subclass; and
      - iv. If applicable, the requested licensed capacity, licensed occupancy, respite capacity, and number of dialysis stations for the health care institution;
    - b. For modification of a licensed health care institution that requires approval of architectural plans and specifications:
      - i. The health care institution's license number,
      - ii. The name and mailing address of the licensee,
      - iii. The health care institution's class or subclass, and
      - iv. The health care institution's existing licensed capacity, licensed occupancy, respite capacity, or number of dialysis stations; and the requested licensed capacity, licensed occupancy, respite capacity, or number of dialysis stations for the health care institution;
    - c. The health care institution's contact person's name, street mailing address, city, state, zip code, telephone number, and e-mail address;
    - d. The name, street mailing address, city, state, zip code, telephone number, and e-mail address of:
      - i. The project architect; or
      - ii. If the construction or modification of the health care institution does not require a project architect, the project engineer or other individual responsible for the completion of the construction or modification;
    - e. A narrative description of the project;
    - f. The estimated total project cost including the costs of:
      - i. Site acquisition,
      - ii. General construction,
      - iii. Architect fees,



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comprehensive written request for additional information or a supplemental request for information, including, if applicable, documentation of corrections required in a statement of deficiencies, within the time prescribed in subsection (C)(3)(b), the Department shall deny the application.

4. The Department shall issue a license if the Department determines that the applicant or licensee and the sober living home, including the premises, are in substantial compliance with A.R.S. Title 36, Chapter 18, Article 4, and this Chapter.
5. If the Department denies a license, the Department shall send to the applicant or licensee a written notice of denial setting forth the reasons for denial and all other information required by A.R.S. § 41-1076.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**R9-12-107. Denial, Revocation, or Suspension of a License**

- A. The Department may deny an application or suspend or revoke a license to operate a sober living home if:
  1. An applicant or licensee does not meet the application requirements contained in R9-12-103(A) or R9-12-104(A), as applicable;

2. A licensee does not comply with requirements in A.R.S. Title 36, Chapter 18, Article 4, or this Chapter;
  3. A licensee does not correct the deficiencies according to the plan of correction specified in R9-12-201(J)(1) by the time stated in the plan of correction;
  4. An applicant or licensee provides false or misleading information as part of an application; or
  5. The nature or number of violations revealed by any type of inspection or investigation of a sober living home poses a direct risk to the life, health, or safety of a resident or another individual on the premises.
- B. In determining which action in subsection (A) is appropriate, the Department shall consider the direct risk to the life, health, or safety of a resident in the sober living home based on:
    1. Repeated violations of statutes or rules,
    2. Pattern of violations,
    3. Types of violation,
    4. Severity of violation, and
    5. Number of violations.
  - C. An applicant or licensee may appeal the Department's determination in subsection (A) according to A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**Table 1.1. Time-frames (in calendar days)**

Type of approval	Statutory authority	Overall time-frame	Administrative completeness review time-frame	Substantive review time-frame
Application for a license under R9-12-103	A.R.S. § 36-2062	90	30	60
Renewal of a license under R9-12-104	A.R.S. § 36-2062	30	10	20
Changes affecting a license, including modifications	A.R.S. § 36-2062	60	30	30

**Historical Note**

Table 1.1 made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**ARTICLE 2. SOBER LIVING HOME REQUIREMENTS****R9-12-201. Administration**

- A. A licensee of a sober living home:
  1. Has the authority and responsibility for the management of the sober living home, including when the licensee designates another individual or contracts with a person to accomplish an action or perform a service;
  2. Shall establish, in writing, the scope of services to be provided by the sober living home;
  3. Shall designate, in writing, an individual, who may be the licensee, as the manager of the sober living home; and
  4. Shall ensure that the knowledge, skills, and experience of the manager and any other staff of the sober living home are sufficient to carry out the scope of services established according to subsection (A)(2).
- B. A licensee shall ensure that:
  1. A manager:
    - a. Is at least 21 years of age;
    - b. Is sober and has maintained sobriety for at least one year;
  2. Policies and procedures are established, documented, and implemented to:
    - a. Prevent or address any concerns or complaints from individuals living in the surrounding neighborhood by:
      - i. Identifying an individual for individuals living in the surrounding neighborhood to contact to discuss a concern;
      - ii. Requiring the identified individual to respond to a concern or complaint, even if the issue cannot be resolved; and
    - c. Resides on the premises of only the one sober living home;
    - d. Has documentation of current training in cardiopulmonary resuscitation; and
    - e. Is directly accountable to the licensee for:
      - i. The daily operation of the sober living home;
      - ii. Enforcing all policies and procedures, house rules, and other requirements of the sober living home; and
      - iii. All services provided by or at the sober living home;

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- iii. Ensuring that requirements for residents and visitors related to parking, noise emanating from the sober living home, smoking, cleanliness of the public space near the sober living home, and loitering in front of the sober living home or near-by homes are established, known to residents, and enforced; and
    - b. Promote the safety of the surrounding neighborhood, to comply with A.R.S. § 36-2062(A)(3); and
  - 3. Policies and procedures are established, documented, and implemented to protect the health and safety of a resident that cover:
    - a. Recordkeeping;
    - b. Resident acceptance;
    - c. Resident rights;
    - d. Orientation of a resident to:
      - i. The premises of the sober living home,
      - ii. The resident's rights and responsibilities,
      - iii. The prohibition of the possession of alcohol or illicit drugs at the sober living home,
      - iv. Services offered by or coordinated through the sober living home,
      - v. Drug and alcohol testing practices, and
      - vi. Expectations about food preparation and chores;
    - e. Drug and alcohol testing conducted by an independent testing facility certified under 42 C.F.R. 493 for the sober living home and other assessments of sobriety, including:
      - i. The frequency of testing or assessment, based on the residents accepted; and
      - ii. The compounds included in the testing panel or, if applicable, an assessment methodology, based on the sober living home's scope of services and residents accepted;
    - f. Allowing the acceptance and retention as a resident of an individual:
      - i. Who is receiving and will continue to receive medication-assisted treatment;
      - ii. Who has a co-occurring behavioral health issue, as defined in A.A.C. R9-10-101; or
      - iii. If included in the scope of services established according to subsection (A)(2), has a co-occurring medical condition;
    - g. House meetings, including:
      - i. Frequency;
      - ii. Typical duration; and
      - iii. Participation requirements, if applicable;
    - h. The provision of services, including:
      - i. Facilitating peer support activities;
      - ii. If applicable, providing other services on the premises to support sobriety or improve independent living;
      - iii. If applicable, coordinating the provision of services to support sobriety provided by other persons; and
      - iv. Referring a resident to other persons for the provision of services to support sobriety;
    - i. Residents' records, including electronic records if applicable;
    - j. The establishment, updating, and enforcement of house rules, including:
      - i. If applicable, curfews;
      - ii. Requirements related to chores, smoking, and visitors; and
    - iii. Requirements for the storage, security, and use of a resident's prescription medications or over-the-counter drugs;
  - k. Management of all monies received or spent by the sober living home, including:
    - i. Accounting for monies received by residents;
    - ii. Prohibiting a requirement for an individual or resident to sign a document relinquishing the resident's public assistance benefits, such as medical assistance, case assistance, or supplemental nutrition assistance program benefits, as a condition of residency; and
    - iii. Providing copy of the record of the resident's account to the resident or the resident's representative upon request;
  - l. Specific steps for:
    - i. A resident to file a complaint,
    - ii. The sober living home to respond to a resident's complaint, and
    - iii. The prevention of retaliation against a resident who files a complaint;
  - m. How the licensee or the manager will respond to:
    - i. A resident's loss of sobriety; or
    - ii. A resident's sudden, intense, or out-of-control behavior to prevent harm to the resident or another individual;
  - n. The provision of naloxone, including requirements for:
    - i. Informing the residents, the manager, and any other staff of the availability and location of the naloxone on the premises of the sober living home;
    - ii. Providing training to the manager and any other staff on the correct use of naloxone; and
    - iii. Ensuring the naloxone provided is available and not beyond the listed expiration date; and
  - o. Termination of residency, including:
    - i. Planning for termination of residency when the services provided by the sober living home are no longer needed by a resident, including assisting the resident to find other housing;
    - ii. Coordinating the relocation of a resident to a health care institution or another sober living home if the resident needs services outside the scope of services provided by the sober living home;
    - iii. Coordinating the relocation of a resident to another sober living home or other housing option if the resident terminates residency; and
    - iv. Addressing factors that may negatively impact the surrounding neighborhood.
- C. A licensee shall:
1. Not act as a patient's representative; and
  2. Ensure that a manager, an employee, or a family member of a manager or employee does not act as a resident's representative.
- D. If a manager has a reasonable basis, according to A.R.S. § 46-454, to believe abuse or exploitation of a resident has occurred on the premises, the manager shall:
1. If applicable, take immediate action to stop the suspected abuse or exploitation;
  2. Immediately report the suspected abuse or exploitation of the resident according to A.R.S. § 46-454;
  3. Document:
    - a. The suspected abuse or exploitation,

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- b. Any action taken according to subsection (D)(1), and
    - c. The report in subsection (D)(2); and
  - 4. Maintain the documentation in subsection (D)(3) for at least 12 months after the date of the report in subsection (D)(2).
- E. A manager shall notify:
  - 1. A resident's representative, family member, or other emergency contact designated by the resident according to R9-12-202(C)(2):
    - a. Within one calendar day after:
      - i. The resident's death, or
      - ii. The resident has an illness or injury that requires immediate intervention by an emergency medical services provider or treatment by a health care provider; and
    - b. Within seven calendar days after the manager determines that a resident is:
      - i. Incapable of handling financial affairs, or
      - ii. Not complying with the residency agreement; and
  - 2. The Department, in a Department-provided format, of a resident's death, within one working day after the resident's death, if the resident's death is required to be reported according to A.R.S. § 11-593.
- F. If a sober living home provides or arranges transportation for residents, a manager shall ensure that the vehicle used for transportation:
  - 1. Is in good working order, and
  - 2. Has a seat belt for each occupant of the vehicle.
- G. A manager shall ensure that the following are conspicuously posted in a sober living home:
  - 1. The license of the sober living home;
  - 2. The name and contact information for the individual or business organization controlling the sober living home; and
  - 3. A statement of resident's rights, including:
    - a. The right to file a complaint about the manager or the sober living home,
    - b. How to file a complaint about the manager or the sober living home, and
    - c. The phone number for the unit in the Department responsible for licensing and monitoring the sober living home.
- H. A licensee shall ensure that a personnel record is established for a manager and any other staff of a sober living home that includes the individual's:
  - 1. Name;
  - 2. Date of birth;
  - 3. Contact telephone number; and
  - 4. Documentation of:
    - a. Verification of skills and knowledge sufficient to carry out the sober living home's scope of services;
    - b. Training in the use of naloxone; and
    - c. If applicable:
      - i. Certification in cardiopulmonary resuscitation, and
      - ii. Compliance with subsection (B)(1)(b).
- I. A licensee shall ensure that:
  - 1. The manager or other staff of the sober living home is on the premises within 30 minutes after notification by the Department of the Department's presence at the sober living home; and
  - 2. The Department is allowed immediate access to all:
    - a. Areas of the premises;
    - b. Information in records pertaining to the sober living home or residents, except as prohibited by 42 CFR, Part 2; and
    - c. Staff or residents of the sober living home who are on the premises.
- J. If the Department notifies the licensee of noncompliance with requirements in A.R.S. Title 36, Chapter 18, Article 4, or this Chapter, the licensee shall:
  - 1. Within 14 calendar days after the date of the Department's notice of noncompliance, establish a plan of correction, if applicable, for correction of a deficiency; and
  - 2. Ensure that a deficiency listed on the plan of correction is corrected within 30 calendar days after the date of the plan of correction or within a time period the Department and the licensee agree upon in writing.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**R9-12-202. Residency Agreements**

- A. Within three calendar days before or at the time of acceptance into a sober living home, an individual requesting to be a resident of the sober living home shall provide proof of sobriety to the manager of the sober living home.
- B. A manager shall not accept or retain an individual as a resident of a sober living home if the individual:
  - 1. Is not at least 18 years of age,
  - 2. Cannot provide proof of sobriety, or
  - 3. Needs more support to maintain sobriety than is within the scope of services for the sober living home.
- C. Before or at the time of an individual's acceptance by a sober living home, a manager shall ensure that there is a documented residency agreement between the individual and the sober living home that includes:
  - 1. The individual's name;
  - 2. The name and phone number of an emergency point of contact, which may be a family member or another individual designated by the individual;
  - 3. Information about the individual's:
    - a. Length of sobriety;
    - b. History of previous recovery activities; and
    - c. Source of referral to the sober living home, if applicable;
  - 4. Terms of occupancy, including:
    - a. Date of occupancy or expected date of occupancy,
    - b. Resident responsibilities, and
    - c. Responsibilities of the sober living home;
  - 5. The consequences of a loss of sobriety;
  - 6. A description of the room for the individual to occupy;
  - 7. A list of the services to be provided by the sober living home to a resident;
  - 8. The fees to be charged to the individual for residency in the sober living home;
  - 9. A list of the services available from the sober living home at an additional fee or charge and the associated fees or charges;
  - 10. The policy for refunding fees, charges, or deposits;
  - 11. The policy and procedure for a resident to terminate residency, including terminating residency because services were not provided to the resident according to the residency agreement;
  - 12. The policy and procedure for a sober living home to terminate residency;
  - 13. A statement that a resident has a right to file a complaint about the sober living home, manager, or licensee and a description of the complaint process;



## Heather Dukes

5064 E. Yucca Street  
Scottsdale, AZ 85254  
602.320.8866

CITY OF SCOTTSDALE  
Board of Adjustment  
3939 N. Drinkwater Boulevard  
Scottsdale, AZ 85251

October 20, 2021

RE: Supplemental Narrative in Support of Disability Accommodation/Reasonable Accommodation Application to the City of Scottsdale Board of Adjustment – 7910 and 7920 E. Wilshire Drive, Scottsdale, Arizona 85257 (the “Property”) – Case No. 8-BA-2021

Dear Board of Adjustment Members,

On behalf of my clients, Scottsdale Recovery II, LLC, a Delaware limited liability company, and Centered Living, LLC, an Arizona limited liability company (collectively the “**Applicant**”), I submit this supplemental narrative to the Board of Adjustment in support of the Applicant’s reasonable accommodation and disability accommodation application for the above-referenced Property (the “**Accommodation Application**”). This Accommodation Application has been filed pursuant to the federal and Arizona Fair Housing Acts<sup>1</sup> and Sections 1.801, 1.806 and 1.920 of the City of Scottsdale Zoning Ordinance (the “**Zoning Ordinance**”) for the purpose of allowing up to four disabled, sober adults to live within each condominium dwelling unit at the above-referenced Property within the Medium Density Residential (R-3) zoning district. To achieve this purpose, the Applicant respectfully requests that the Board of Adjustment grant one of the following accommodations from the Zoning Ordinance:

1. An accommodation allowing two to four disabled, sober adults to live as a “family” in each dwelling unit on the Property within the R-3 zoning district, or
2. An accommodation allowing two to four disabled, sober adults to live in each dwelling unit on the Property as a “care home” within the R-3 zoning district and within 1,200 feet of another care home licensed as an assisted living facility for the elderly.

This narrative and the enclosed exhibits are intended to supplement the September 29, 2021 Accommodation Application and are being submitted at least 14 calendar days prior to

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<sup>1</sup> This Reasonable Accommodation Application is being filed pursuant to Federal Fair Housing Act 42 U.S.C. § 3604(f)(3)(B) and Arizona Fair Housing Act, Ariz. Rev. Stat. § 41-1491, as well as relevant caselaw pertaining to reasonable accommodations of zoning ordinances.

the Board's hearing in accordance with Section 403 of the Board of Adjustment Rules of Procedure effective October 1, 2021.

The Applicant previously submitted an appeal of a Zoning Administrator's Interpretation which determined that the proposed sober living use of the Property would constitute a "Care Home" and would not be permitted in the R-3 zoning district (the "**ZA Interpretation**"; Case No. 6-BA-2021). The appeal of the ZA Interpretation and the Accommodation Application are currently scheduled for the November 3<sup>rd</sup> Board of Adjustment hearing. In the event the Accommodation Application is granted for the Property, the appeal of the ZA Interpretation would no longer be necessary.

I. **JURISDICTION AND AUTHORITY OF BOARD OF ADJUSTMENT TO GRANT ACCOMMODATION APPLICATIONS.**

The powers of the Board of Adjustment are set forth in Section 1.801 of the Zoning Ordinance as follows:

Section 1.801 – Powers of the Board of Adjustment.

- A. Variances from the provisions of this Zoning Ordinance;
- B. Appeals from the Zoning Administrator's interpretation of the Zoning Ordinance or other decisions;
- C. **Requests for Disability Accommodation made pursuant to Section 1.920;** and
- D. Under the Land Divisions ordinance, the General Manager's interpretations and decisions made on appeals.

Emphasis added. Section 1.920 of the Zoning Ordinance provides guidance as to when the Zoning Administrator or the Board of Adjustment may grant an accommodation.

Section 1.920 – Request for Disability Accommodation

An applicant may request a disability accommodation from a development standard or separation requirement if the standard or requirement unduly restricts the opportunity for a person with a disability from finding adequate housing within the City of Scottsdale. The zoning administrator may administratively approve up to a ten percent (10%) modification of a development standard or separation requirement upon finding that such a modification will further the policies contained in the Arizona and federal fair housing laws and the Americans with Disabilities Act. All other requests for

disability accommodation shall be submitted to the Board of Adjustment as a request for disability accommodation.

Emphasis added.

Neither Section 1.806 nor Section 1.920 specifically prohibit a reasonable accommodation request pertaining to land uses allowed in certain zoning districts. Any attempt to do so would be contrary to the reasonable accommodation rights we are afforded under the federal and Arizona Fair Housing Acts. It would also violate the Supremacy Clause.

The Fair Housing Act is a “broad mandate to eliminate discrimination against and equalize housing opportunities for disabled individuals.” *Canady v. Prescott Canyon Estates Homeowners Ass’n*, 204 Ariz. 91, 93 (App.2002). “Because it is a broad remedial statute, its provisions are to be generously construed and its exemptions must be read narrowly.” *Id.*

The 1988 amendments to the federal Fair Housing Act (the “FHA”) require cities and towns to accept and “make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such persons [with disabilities] equal opportunity to use and enjoy a dwelling.” 42 U.S.C. § 3604(f)(3)(B). Across the country, the “reasonable accommodation requirement has been applied to zoning ordinances and other land use regulations and practices.” *Canady*, 204 Ariz. at 94. The City’s disability accommodation procedure and its regulation of care homes are not exempt from Fair Housing Act mandates and the requirement to make reasonable accommodations of certain zoning ordinance provisions on a case-by-case basis. No caselaw has been found which has upheld a City’s right to preclude or reject a FHA reasonable accommodation request by disabled residents as a result of a local zoning ordinance limiting reasonable accommodation applications to only certain claims.

The application of the Supremacy Clause in this instance was also addressed in the 2016 Joint Statement issued by the Department of Housing and Urban Development and the Department of Justice titled “State and Local Land Use Laws and Practices and the Application of the Fair Housing Act” (the “**2016 Joint Statement**”). The 2016 Joint Statement advises cities and towns that the FHA makes it unlawful to refuse to accept and make reasonable accommodations to zoning ordinance provisions when such accommodations may be necessary to afford disabled persons an equal opportunity to use and enjoy a dwelling. The 2016 Joint Statement references the Supremacy Clause of the U.S. Constitution as the basis for enforcing federal laws such as the FHA regardless of scenarios when a city’s zoning ordinance has conflicting rules and requirements.

As established by the Supremacy Clause of the U.S. Constitution, federal laws such as the Fair Housing Act take precedence over conflicting state and local



laws. The Fair Housing Act thus prohibits state and local land use and zoning laws, policies, and practices that discriminate based on a characteristic protected under the Act. Prohibited practices as defined in the Act include making unavailable or denying housing because of a protected characteristic.

Emphasis added. See 2016 Joint Statement, pg. 2. As a result of the Supremacy Clause, the City of Scottsdale may not limit the scope of a reasonable accommodation under the Fair Housing Act. Scottsdale Recovery is entitled to request a reasonable accommodation to allow a sober living use in the R-3 multifamily zoning district because such prohibition is discriminatory against disabled individuals and denies housing because of a protected characteristic.

Furthermore, the House Committee Report on the FHAA indicates that Congress intended the FHAA to apply to “local land use and health and safety laws, regulations, practices or decisions which discriminate against individuals with handicaps.” 1988 U.S.C.C.A.N. at 2185. In fact, the House Committee Report made it abundantly clear that any discriminatory rule or policy is not defensible simply because of the manner in which such rule or practice has traditionally been constituted or carried out. Instead, such rules, policies and practices must be modified in some instances to accommodate the needs of the disabled.

New [FHAA] subsection 804(f)(3)(B) makes it illegal to refuse to make reasonable accommodation in rules, policies, practices, or services if necessary to permit a person with handicaps equal opportunity to use and enjoy a dwelling. The concept of “reasonable accommodation” has a long history in regulations and case law dealing with discrimination on the basis of handicap . . . A discriminatory rule, policy, practice, or service is not defensible simply because that is the manner in which such rule or practice has traditionally been constituted. This section would require that changes be made to such traditional rules or practices if necessary to permit a person with handicaps an equal opportunity to use and enjoy a dwelling.

*Giebler v. M&B Associates*, 343 F.3d 1143, 1148-49 (9th Cir.2003), citing H.R. REP. NO. 100-711, at 25 (1988), reprinted in 1988 U.S.C.C.A.N. 2173, 2186 (internal citations omitted). With this legislative history in mind, courts have interpreted “the FHAA’s accommodation provisions with the specific goals of the FHAA in mind: ‘to protect the right of handicapped persons to live in the residence of their choice in the community,’ and ‘to end the unnecessary exclusion of persons with handicaps from the American mainstream.’” *Giebler*, 343 F.3d at 1149, internal citations omitted.

In this case, the City of Scottsdale Board of Adjustment must accept Scottsdale Recovery’s request for a reasonable accommodation of the City’s Zoning Ordinance provision which prevents care homes from operating within the R-3 multi-family zoning district. The City

has adopted discriminatory rules and policies that are not defensible simply because the City has precluded all care homes in multi-family residential districts since its 2017 text amendment. Furthermore, there are no limitations in the FHAA which prevent Scottsdale Recovery from making this reasonable accommodation request. As set forth in the House Committee Report referenced above, the City of Scottsdale is required to consider and make changes to traditional rules or practices when it is necessary to permit a person with disabilities an equal opportunity to use and enjoy a dwelling, such as a condominium dwelling unit with several amenities and benefits that are instrumental in assisting disabled individuals who are choosing sobriety.

II. BACKGROUND INFORMATION REGARDING PROPERTY, PROPOSED USE, AND OPERATOR.

A. Description of Condominium Property and Surroundings.

The Property is located approximately 300 feet west of the N. Hayden Road and E. Wilshire Drive intersection with an address of 7910 and 7920 E. Wilshire Drive. In 1984, the Property was platted with condominium units<sup>2</sup> and construction was completed approximately the same year. The Property is currently developed with 12 residential condominium units total.<sup>3</sup> Each condominium unit includes a kitchen with floor plans offering two bedrooms and two bathrooms. The units are approximately 1,100 s.f. in size, allowing up to four persons to reside in each unit. A heavily landscaped common area with a pool, heated spa, gazebo and fireplace is located at the center of the Property. There is nothing about the exterior of the condominium buildings that indicates it is inhabited by disabled residents.

Prior to the Applicant acquiring the Property in June 2021, the Trullies condominiums were marketed for an extended period of time as furnished, luxury short-term rentals.

The Property's condominium structure and its current R-3 zoning is compatible with the area, being predominantly developed with multi-family residential uses in the City of Scottsdale's R-3, R-4 and R-5 zoning districts. As shown by the aerial photographs attached as **Exhibit 1**, the Coronado Golf Course is also located to the west of the Property, offering an open space amenity to residents living in close proximity.

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<sup>2</sup> See Cortese Condominium plat recorded on May 9, 1984 in Book 266 of Maps, Page 50, MCR.

<sup>3</sup> The Property was originally platted for a 2-building (10-unit) condominium development. Since that time, a prior property owner converted the two front units to four units and new addresses were approved by the City of Scottsdale for a total of 12 units. The Applicant will continue to work with staff to resolve this discrepancy in the unit count.

At this location, Hayden Road is a heavily-traveled arterial street with approximately 29,000 average daily vehicle trips (as of 2018). The posted speed limit along Hayden Road is 45 mph. A radar speed sign has been installed on the east side of Hayden Road, just north of Wilshire Drive as an attempted traffic calming measure. The Wilshire Drive and Hayden Road intersection is not signalized, preventing direct access for pedestrians or bicyclists to cross Hayden Road and travel east and west along Wilshire Drive.

An existing Care Home named Our Parents House is located within 1,200 feet of the Property, but is located at 2524 North 80<sup>th</sup> Place, across Hayden Road. The care home is a licensed assisted living facility providing directed care services to the elderly under ADHS License No. AL9081H. Directed care services are “programs and services, including supervisory and personal care services, that are provided to persons who are incapable of recognizing danger, summoning assistance, expressing need or making basic care decisions.”<sup>4</sup> Our Parents House and the Applicant’s sober living community are two very distinct types of community residences, differing in the age and disabilities of the residents, as well as care and services provided (no care services are provided at the sober living community). In addition, the two properties differ in the type of residential housing being offered to disabled individuals: Our Parents House is a single-family residence versus the Applicant’s Property is a multi-family residential/condominium development.

**B. Experience of Condominium Purchaser and Sober Living Operator.**

The Applicant, Michelle Siwek of Scottsdale Recovery II, LLC and Centered Living, LLC, is a long-time operator in the community and has significant expertise in owning and operating both state-licensed behavioral health residential facilities (where care is administered to residents) and sober living homes (strictly housing where care is NOT administered to residents). Since 2011, she has provided various residential options and treatment programs for disabled individuals in recovery and has been a longstanding member of the Arizona Recovery Housing Association. Ms. Siwek is the current owner and operator of Scottsdale Recovery with 5 locations in Scottsdale, including a residential behavioral health facility, an outpatient clinic, two sober living homes, and a corporate office building with plans to offer detoxification treatment in the future. Scottsdale Recovery has Joint Commission accreditation and certification and complies with the highest national standards for safety and quality in behavioral health. As the owner and operator of these facilities, Ms. Siwek is well-versed in distinguishing between the varying levels of treatment offered in detoxification centers and behavioral health residential facilities. In contrast, sober living homes provide no such care, offering only a safe and supportive place for individuals to reside in a conventional family setting. See Declaration of Michelle Siwek attached hereto as **Exhibit 2**.

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<sup>4</sup> See A.R.S. § 36-401.A.16.



In order to demonstrate the professionalism and expertise of the Applicant in this matter, the following exhibits have been produced:

1. PowerPoint slides providing Scottsdale Recovery's mission statement, good neighbor policy, statistics demonstrating that approximately 80 percent of Scottsdale Recovery's clients are local residents of Arizona, and statistics providing a glimpse of the achievements and improvements experienced by Scottsdale Recovery alumni. See **Exhibit 13** attached hereto.
2. Letters of support from Scottsdale Recovery alumni describing their experiences with Scottsdale Recovery housing and programs. See **Exhibit 14** attached hereto.
3. Google reviews of Scottsdale Recovery. See **Exhibit 15** attached hereto.
4. Women to Watch 2021 article on Michelle Siwek and Scottsdale Recovery, attached as **Exhibit 16**.

C. **Proposed Use of the Property.**

The Property was purchased by the Applicant to provide housing to adults who have completed several stages of recovery from substance use disorders and are using the tools they learned in treatment to live independently and reintegrate into the community. The Property will be licensed by the Arizona Department of Health Services ("ADHS") as a sober living home, meaning that no care services will be provided to the residents. Treatment and care services are not necessary onsite. The individuals residing on the Property will have already received such services and completed necessary programs to progress along their path of recovery and reintegrate into the community. The goal is to provide individuals who have advanced far enough in their recovery to live more independently and practice independent living skills in a mutually supportive family setting. The site will not be licensed as a "health care institution" under Arizona law.

The Applicant is renting each of the condominium units to two to four sober adults in accord with the definition of "family" in Scottsdale's Zoning Ordinance. Each condominium unit will operate as and emulate a family. In each unit, the residents will have access to a kitchen to cook their own meals and a washer and dryer to perform their own laundry. Cleanliness and upkeep of the unit is the responsibility of the individuals living in the condominium units. No care services will be provided to the residents. There will be no assistance with the self-administration of medication, no laundry services or cleaning services offered, and no full-service kitchen to serve meals to residents. Those responsibilities, once again, are the responsibility of the family living in each unit.

The Property offers 20 parking spaces onsite with vehicular access restricted by two gates. The 20 parking spaces are more than adequate to serve the needs of the sober living

use. Notably, no resident vehicles are at the Property. The Applicant provides transportation for the residents by providing three to four vans with a 12-15 person capacity each. These vans are parked at the Property.

Scottsdale Recovery Staff are available at the Property 24 hours a day. The staff arrive at the property in three shifts. For each shift, between two and four Scottsdale Recovery staff are onsite, using one of the condominium units as their space to perform necessary paperwork and meet with residents. Landscaping and maintenance workers may also park in the onsite parking spaces occasionally. Staff, landscaping and maintenance workers have all been instructed to park their vehicles onsite behind the gate. No vehicles associated with Scottsdale Recovery will park along Wilshire Drive. See Trip Generation and Parking Statement attached hereto as **Exhibit 19** for a more detailed analysis.

Monday through Saturday, residents are transported from the Property to Scottsdale Recovery Center for classes, therapy, activities, appointments, employment assistance, etc. Scottsdale Recovery Center is located at 10446 N. 74<sup>th</sup> Street, Suite 150 in Scottsdale, AZ. During the week, the residents typically leave the Property at 7:30 am and return around 4:30 pm. On Saturdays, the residents are away from the Property from 8:30 am to approximately 3:30 pm. When the residents return home at the end of the day, they make dinner, perform chores, interact with one another, and prepare for bed. Thus, the sober living use operates like many other families in the area who are gone during the day for work and school and return to their homes in the evening.

The residents are permitted to have visitors during certain times of the day, but all visitation occurs offsite at the Scottsdale Recovery Center, not at the Property.

The residents are not court mandated individuals. They do not receive any care or treatment at the Property, and are not being held against their will. The Property is strictly a housing use, and the residents living there are choosing to be in recovery so that they may return to their families and live productive lives, addiction free.

The Applicant will operate the proposed sober living homes in compliance with Title 9 Chapter 12 of the Arizona Administrative Code, which outlines policies and procedures that have been established and implemented to protect the health and safety of sober living home residents. Those policies and procedures address recordkeeping, resident acceptance, resident rights and the orientation of new residents. Orientation for new residents includes an overview of the premises, the resident's rights and responsibilities, the prohibition of the possession of alcohol or illicit drugs at the sober living home, services offered by or coordinated through the sober living home, drug and alcohol testing practices, and expectations about food preparation and chores. The sober living home may also provide or coordinate certain services, including facilitating peer support activities to support sobriety or improve independent living, and referring a resident to other persons for the provision of services to support sobriety.

Notably, none of the sober living home policies and procedures set forth in Title 9, Chapter 12 of the Arizona Administrative Code allow a sober living home to provide supervisory care services or other care services to the residents, nor is it licensed as a health care institution.

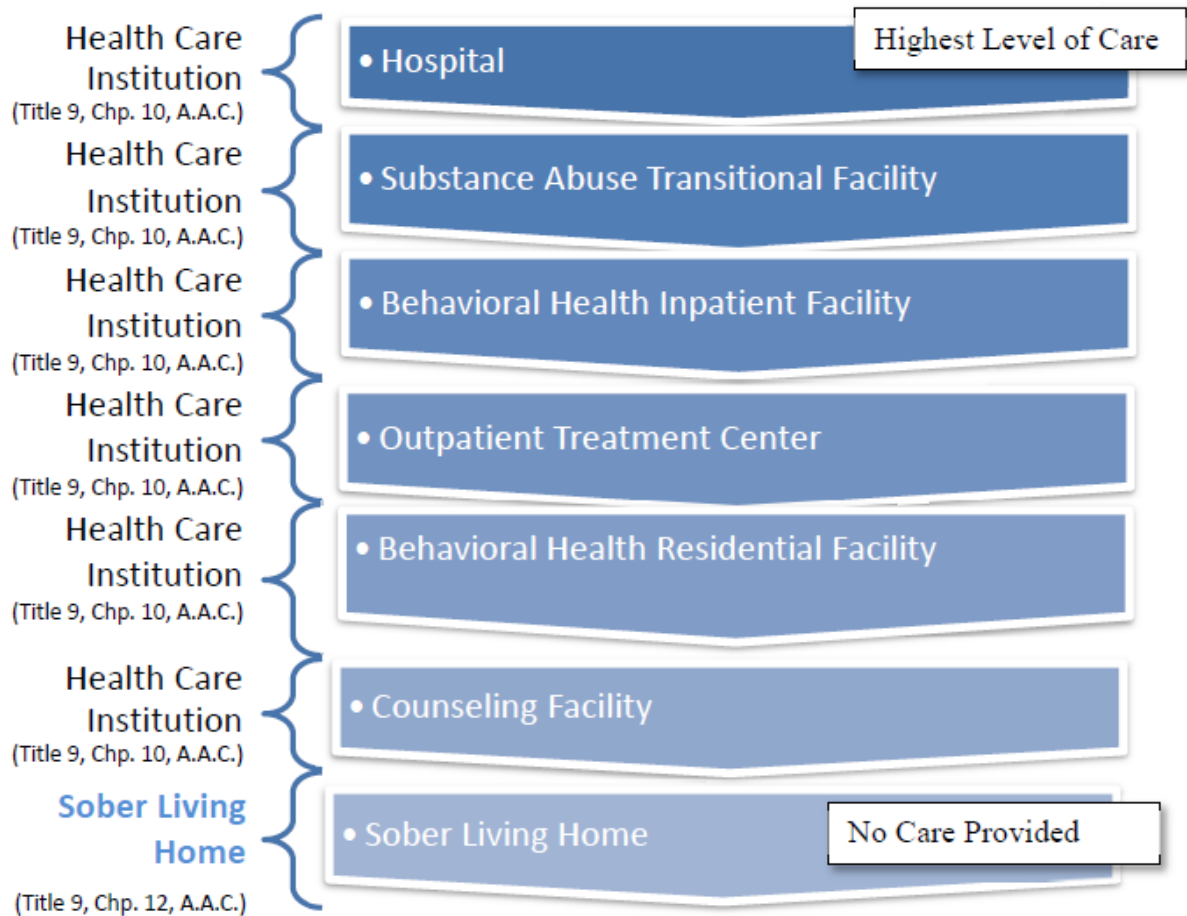
D. Differences between Health Care Institution and Proposed Sober Living Units.

It is important to note that each person recovering from a substance use disorder has an individual path to recovery. Yet, most individuals addicted to substances start their initial path to recovery by seeking treatment from or enrolling in “health care institutions” licensed by ADHS, which provide various levels of care. For purposes of understanding the differences between a health care institution and a sober living home, a flowchart of the health care institution options and associated levels of care is provided below. The flowchart, together with Title 9 of the Arizona Administrative Code, clearly demonstrate that ADHS regulates health care institutions in a different manner than sober living homes due, in part, to the administration of care offered in health care institutions.

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**PATH TO RECOVERY**  
*Compare “Health Care Institution” Definitions in A.A.C. Title 9, Chapter 10<sup>2</sup>*  
*vs. “Sober Living Home” Definition in A.A.C. Title 9, Chapter 12<sup>3</sup>*



*See* Health Care Institution Definitions in Title 9, Chapter 10 of the Arizona Administrative Code (“A.A.C”), attached hereto as **Exhibit 3**.

*See* Sober Living Home Definitions in Ariz. Rev. Stat. § 36-2061 and Title 9, Chapter 12 of the A.A.C., attached hereto as **Exhibit 4**.

III. OVERVIEW OF HOUSING DISCRIMINATION PREVENTING DISABLED SOBER INDIVIDUALS FROM SEEKING HOUSING IN A MULTI-FAMILY RESIDENTIAL COMMUNITY IN SCOTTSDALE.

The Applicant is requesting that the Board of Adjustment issue a reasonable accommodation to allow the proposed sober living use in the R-3 zoning district at this particular location pursuant to the federal Fair Housing Act [42 U.S.C. § 3604(f)(3)(B)] and the nearly identical protections set forth in Arizona's Fair Housing Act [Ariz.Rev.Stat. § 41-1491]. This Accommodation Application should be granted to Scottsdale Recovery and its disabled residents as result of the following:

1. The City's Zoning Ordinance is facially discriminatory. The Ordinance prohibits care homes for the disabled in multifamily zoning districts but allows group homes and vacation rentals for non-disabled residents in multifamily zoning districts.
2. Scottsdale Recovery and its disabled residents have been subjected to disability-based disparate treatment as a result of the City's implementation of the Zoning Ordinance and the interpretation issued in 6-BA-2021.
3. The Zoning Ordinance and the City's implementation of the Ordinance have a disparate impact on persons with disabilities.

IV. ACCOMMODATION APPLICATION

The Applicant has submitted this Accommodation Application to allow the proposed sober living use at the Property within the R-3 zoning district. Specifically, the Applicant respectfully requests that the Board of Adjustment grant one of the following accommodations from the Zoning Ordinance:

1. An accommodation allowing two to four disabled, sober adults to live as a "family" in each dwelling unit on the Property within the R-3 zoning district, or
2. An accommodation allowing two to four disabled, sober adults to live in each dwelling unit on the Property as a "care home" within the R-3 zoning district and within 1,200 feet of another care home licensed as an assisted living facility for the elderly.

For purposes of hearing and deciding this Accommodation Application, we hereby incorporate all information and evidence submitted by the Applicant as part of Case No. 6-BA-2021, which is attached hereto.

A. Applicant has Submitted Evidence to the Board Satisfying all Disability Accommodation Tests in the Zoning Ordinance and Pursuant to Caselaw.

The federal Fair Housing Act is “a broad mandate to eliminate discrimination against and equalize housing opportunities for disabled individuals.”<sup>5</sup> Arizona courts have recognized that, “[b]ecause it is broad remedial statute, its provisions are to be generously construed and its exemptions must be read narrowly” in “recognition of the important goal of preventing housing discrimination.”<sup>6</sup> Both the FHA and the Arizona Fair Housing laws state that unlawful acts of “discrimination” against persons with disabilities include “a refusal to make a reasonable accommodation in rules, policies, practices or services if the accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling.”<sup>7</sup> This guidance must be kept in mind as the following accommodation criteria are analyzed.

Pursuant to Section 1.806 of the Zoning Ordinance, this Accommodation Application must be authorized if the applicant can submit sufficient evidence satisfying the following criteria (some of which has been noted below as being contrary to federal and state Fair Housing Act caselaw):

1. The requested accommodation is requested by or on the behalf of one (1) or more individuals with a disability protected under federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.).

The Applicant has submitted this Accommodation Application pursuant to the federal and state Fair Housing Laws on behalf of the disabled residents living at the Property who are recovering from substance use and alcohol addiction.

The residents at the Property are considered “handicapped” under the 1988 amendments to the FHA, unlike other groups of unrelated, non-disabled persons. “Handicap” means, with respect to a person, (1) a physical or mental impairment which substantially limits one or more of such person’s major life activities, (2) a record of having such an impairment, or (3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 802 of the Controlled Substances Act (21 U.S.C. 802)).<sup>8</sup> This request for a disability accommodation is for those disabled individuals who are recovering addicts and alcoholics.

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<sup>5</sup> See *Canady vs. Prescott Canyon Estate Homeowners Ass’n*, 204 Ariz. 91, 93, 60 P.3d 231, 233 (App.2002).

<sup>6</sup> *Id.* (Internal citations omitted).

<sup>7</sup> See 42 U.S.C.A. § 3604(f)(2)(A)-(C) and (3)(B); see also A.R.S. § 41-1491.19(B)(1) and (E)(2).

<sup>8</sup> See 42 U.S.C. 3602(h).



The residents of the Property are also considered “disabled” under Arizona’s Fair Housing Laws. Section 41-1491(5) of Ariz. Rev. Stat. defines the term “disability” as follows:

5. “*Disability*” means a mental or physical impairment that substantially limits at least one major life activity, a record of such an impairment or being regarded as having such an impairment. Disability does not include current illegal use of or addiction to any drug or illegal or federally controlled substance. Disability shall be defined and construed as the term is defined and construed by the Americans with disabilities act of 1990 (P.L. 101-336) and the ADA amendments act of 2008 (P.L. 110-325; 122 Stat. 3553).

The Joint Statement issued by the Department of Housing and Urban Development (HUD) and the Department of Justice dated November 10, 2016 (the “**Joint Statement**”) clarifies the types of impairments included within the term “physical and mental impairment,” as underlined above. The Joint Statement confirms that this term “includes, but is not limited to, diseases and conditions such as . . . drug addiction (other than addiction caused by current illegal use of a controlled substance) and alcoholism.” Emphasis added. The residents residing at the Property are not permitted to use controlled substances or alcohol. The residents are sober. Therefore, they are considered to be persons with disabilities.

Within the Ordinance approving the Care Home Text Amendment, Ordinance No. 4326, the City Council recognized in their recitals that “a person recovering from alcohol and drug addiction are considered persons with disabilities and thus are protected by fair housing laws so long as such persons are not currently using alcohol and drugs.” See **Exhibit 7** attached hereto.

Based upon these federal and state definitions of “handicap” and “disability,” the examples provided in the Joint Statement and the recitals in the City’s Text Amendment Ordinance 4326, the requested accommodation is requested on the behalf of one or more individuals with a disability protected under federal and Arizona fair housing laws.

2. The requested accommodation is necessary to afford an individual with a disability equal opportunity to use and enjoy a dwelling.

To show that an accommodation is necessary, the Applicant must show that, but for the accommodation, the disabled individuals residing at the Property “likely will be denied an equal opportunity to enjoy the housing of their choice.”<sup>9</sup> The caselaw of Arizona and

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<sup>9</sup> Emphasis added. *Cook v. Town of Colorado City Ariz.*, 934 F. Supp.2d 1097, 1117 (D.Arizona 2013); *U.S. v. California Mobile Home Park Management Co.*, 107 F.3d 1374, 1380 (9<sup>th</sup> Cir. 1997) (quoting *Smith & Lee Assocs., Inc., v. City of Taylor*, 102 F.3d 781, 795 (6<sup>th</sup> Cir.1996)).

throughout the country reaffirms a disabled person's right to choose a dwelling or a community of their choice, as demonstrated by the excerpt below from *Canady v. Prescott Canyon Estates Homeowners Ass'n*:

Equal opportunity gives handicapped individuals the right to choose to live in neighborhoods of their choice because that right serves to end their exclusion from mainstream society . . . To succeed with their claim, aggrieved parties must show that, without an accommodation, "they likely will be denied an equal opportunity to enjoy the housing of their choice."<sup>10</sup>

In this case, it is obvious that an accommodation is necessary to allow sober disabled individuals the opportunity to live in housing of their choice – particularly condominium units in the R-3 zoning district. Thus far, City staff have interpreted this sober living use to be a "care home" that cannot be located in any multifamily zoning district, thus denying a disabled population the equal opportunity to live in a supportive, licensed sober living environment in any multi-family housing units throughout the City of Scottsdale.

With increases in the number of individuals recovering from a disability associated with opioid and drug addiction (due, in part, to the ongoing opioid epidemic and recent COVID pandemic), there is a great demand and need for licensed sober living homes to provide supportive housing for sober individuals in recovery.

In the event the City continues to interpret this use as a care home, it is important to note that several of the care homes within the City of Scottsdale, and particularly the area surrounding the Applicant's Property, provide care services to elderly disabled residents under an assisted living home license issued by the Arizona Department of Health Services. Both the City of Scottsdale's interactive online Care Home Map and the Arizona Department of Health Services current list of licensed residential facilities confirms the prevalence of assisted living homes throughout the City. The assisted living homes do not specialize in providing treatment, care or housing for substance abuse and alcohol disorders, and the Applicant would not be providing care services to senior residents. Under a sober living home license, the Applicant would be providing housing to sober individuals in recovery. No care or treatment is provided at Trullies.

The City's prohibition on care homes being located in all multi-family zoning districts and the across-the-board application of a 1200-foot separation requirement to all care homes and licensed sober living homes, regardless of their licensure type and services provided, is causing a disparate impact on the availability of housing throughout Scottsdale for sober, disabled individuals. Based upon the City's Care Home Map and the Applicant's involvement in the sober living industry, there appears to be only one other opportunity for disabled adults to live in a sober multifamily living environment in all of Scottsdale. It is the Applicant's understanding from

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<sup>10</sup> Emphasis added. Internal citations omitted. See *Canady*, 204 Ariz. At 94, 60 P.3d at 234.

City staff that the one other sober living facility has been allowed to operate in a multifamily zoning district because it has not sought a sober living home license from the state of Arizona. Curiously, sober living home licensure is now required by the State. Thus, it may ultimately be determined that the one alternative location in a multifamily district is operating unlawfully. On the other hand, the Applicant in this case is committed to complying with all state laws regarding sober living licensure.

The physical setting of the Trullies property is therapeutic and unique. It is a beautifully constructed property with outdoor spaces, mature landscaping, and pool amenities. Without an accommodation in this unique instance, disabled residents recovering from alcohol and substance use who are wanting to live in a residential condominium environment with inviting open spaces and amenities will be denied an equal opportunity to use and enjoy dwellings in a community of their choice.

3. The standard or requirement unduly restricts the opportunity for a person with a disability from finding adequate housing within the City of Scottsdale.

The City's application of its "care home" definition to licensed sober living units providing housing to less than 6 individuals restricts this disabled class from finding adequate housing of its choice throughout the City of Scottsdale – particularly in all multifamily districts. Furthermore, the 1,200-foot separation between care homes further restricts housing opportunities for sober disabled adults due to the prevalence of assisted living homes in Scottsdale.

Arizona caselaw has determined that this analysis is not limited to whether the disabled person has adequate housing opportunities within an entire city.<sup>11</sup> Other jurisdictions have also recognized that the law dictates "that a handicapped individual must be allowed to enjoy a particular dwelling, not just some dwelling somewhere in the town."<sup>12</sup> By preventing sober living homes and care homes in all multifamily zoning districts, the City of Scottsdale's Zoning Ordinance and interpretations of that Ordinance unduly restrict the opportunity for disabled persons recovering from substance and alcohol abuse to find adequate housing of their choice.

Moreover, the ongoing opioid epidemic has worsened as a result of stressors during the prolonged COVID pandemic. The Arizona Department of Health Services has not released the number of opioid deaths in 2020 and 2021, but its former director estimated in early

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<sup>11</sup> See *Canady*, 204 Ariz. at 94, 60 P.3d at 234 (citing *Smith & Lee Assoc., Inc. v. City of Taylor*, 102 F.3d 781, 794-95 (6<sup>th</sup> Cir.1996)).

<sup>12</sup> Emphasis added. *Oxford House, Inc. v. City of Baton Rouge*, 932 F.Supp.2d 683 at 694 (M.D. La.2013) (quoting *Oxford House, inc. v. Town of Babylon*, 819 F. Supp. 1179, 1186 (E.D.N.Y. 1993)).



February 2021 a roughly 69% increase from 2019. Even before the COVID pandemic, Arizona has been attempting to combat the opioid issue. In July 2019, Governor Doug Ducey issued the “Arizona Opioid Action Plan Version 2.0” with one of the goals in the plan being directly related to the supportive environments that sober living homes provide:

“Isolation is harmful to one’s health; lack of social connection is a risk factor for adverse outcomes, including substance use . . . The previous Surgeon General has a platform that discussed the Loneliness Epidemic, as it has been shown that isolation is harmful to one’s health and social connection and relationships are beneficial.” See **Exhibit 25** attached hereto.

Denying this Accommodation Application will restrict a disabled class from finding adequate housing in a therapeutic environment intended to prevent isolation and to support healthy social connections and relationships. There are currently not enough available resources for those seeking sober living housing. It is a fundamental stepping-stone to long-term sobriety and prevents residents from feeling isolated. The accommodation is necessary to provide adequate housing for this disabled class in the midst of a worsening opioid epidemic statewide.

4. The requested accommodation does not fundamentally alter the nature and purpose of the Zoning Ordinance of the City of Scottsdale.

In *Canady v. Prescott Canyon Estates Homeowner’s Ass’n*, Division One of the Arizona Court of Appeals recognized that there is an “affirmative duty to reasonably accommodate disabled persons” regardless of whether the accommodation would “make an affirmative change in an otherwise valid policy.” It is likely that the City will attempt to claim that the Zoning Ordinance and its interpretations of the Ordinance are valid policies in this case – particularly the Zoning Ordinance provision prohibiting care homes in all multifamily districts, the 1200-foot separation standards between care homes, and the interpretation that the proposed sober living use is a “care home” rather than a “family.” Despite those attempts, this Board and the City has an affirmative duty to reasonably accommodate disabled persons on a case-by-case basis.

A reasonable accommodation process was made part of the City of Scottsdale Zoning Ordinance by a legislative action of the City Council. By adding a formal process to the Zoning Ordinance, the policy-makers of the City recognized the federal and state Fair Housing Act requirements pertaining to reasonable accommodations and the possibility that a particular standard or requirement in the Zoning Ordinance could unduly restrict the opportunity of disabled persons from finding adequate housing. The City’s typical goals of uniformity and promoting public health, safety and welfare through zoning do not provide a sufficient reason for applying interpretations and separation requirements to the detriment of a protected class

of citizens. Zoning Ordinances were never intended to impose a set of steadfast requirements to all property, as demonstrated by the variance and use permit processes created by state statute and recognized by counties and cities throughout the state.

Moreover, the requested accommodation does not fundamentally alter the nature and purpose of the Zoning Ordinance or the City of Scottsdale's land use goals and policies set forth in its General Plan. When looking at the specific goals and policies of the City's General Plan 2001, it is apparent that granting this accommodation would further the City's purposes by promoting the following policies under Goal No. 6 of the General Plan's Housing Element:

- Encourage the increase availability and integration of a variety of housing that supports flexibility, mobility, independent living, and services for all age groups and those with special needs, and
- Support existing and future policies and techniques that providing housing opportunities to meet the unique housing needs of young working families, the elderly, and the disabled.

In addition, the proposed use is very similar in nature to the uses allowed and developed in the surrounding multifamily zoning districts. The following two federal cases support our request for a reasonable accommodation to allow the proposed sober living use at the R-3 zoned Property and support the Applicant's claims in support of this 4<sup>th</sup> criterion:

In *Judy B. v. Borough of Tioga*, 889 F. Supp. 792 (M.D. Pa. 1995), the court held that requiring a local jurisdiction to either grant a use variance or waive requirements under the Zoning Ordinance, so that an entity could convert a former motel into residences for individuals with disabilities, constituted a reasonable accommodation under the FHA. In *Judy B. v. Borough of Tioga*, the motel property was located in a restricted commercial/industrial (CI) zone, that was surrounded on three sides by a medium-density residential district. The court emphasized that such relief would require an extremely modest accommodation in the borough's zoning rules, since the CI district where the property was located permitted uses such as professional and business offices, personal convenience services, and "other uses which shall be similar in character" as the proposed use. The court noted that the proposed use was consistent with the character of the surrounding neighborhood and would not adversely impact neighboring property owners, but rather would, if anything, subject the neighborhood to less traffic and fewer parking problems and disruptions than the former motel use or any/all of the uses expressly permitted in the CI zoning district.

In *Corporation of Episcopal Church in Utah v. West Valley City*, 119 F. Supp. 2d 1215 (D. Utah 2000), a church and association sought approval to build a residential treatment facility for recovery drug addicts and alcoholics in a residentially zoned area of the city. The Court granted summary judgment to the applicants because the city had refused to make a reasonable accommodation under the FHA after it denied a permit to build the facility

because the zoning ordinance did not allow halfway houses and similar uses in the residential zoning district applicable to the property. The city argued that the accommodation requested by the applicants was unreasonable in that it would require a drastic change in policy, but the court responded that no evidence whatsoever had been established other than complaints of neighbors.

The facts in Scottsdale Recovery's case are very similar to the cases cited above, in which a local jurisdiction fails to make a reasonable accommodation for disabled individuals because a group living environment for disabled individuals is prohibited in a certain zoning district. The cases cited above confirm that a municipality's zoning ordinance is subject to the FHAA standards and is a proper subject matter for a reasonable accommodation request when such ordinance prevents disabled individuals from living in certain zoning districts. The cases also support the conclusion that an accommodation allowing disabled housing in a certain zoning district does not fundamentally alter the nature and purpose of the Zoning Ordinance when the disabled housing is compatible with surrounding zoning and uses (regardless of complaints by neighbors).

Finally, for over 10 years, the Applicant has operated sober living homes that are integrated with their surrounding communities, ensuring that no changes are made to the general character and policies applicable to those areas. The Applicant has not had any prior complaints associated with its sober living homes and has operated for the benefit of those recovering from substance abuse and addiction. The Applicant's households function as the equivalent of a family and allow recovering persons to provide one another with continual mutual support as well as mutual monitoring to prevent relapse. The potential recovery of people who are disabled from prior alcoholism and substance use is greatly enhanced by this mutual support and monitoring. The quality and nature of the relationships among the residents are akin to a family. These relationships, the sober living programs and schedules, and a safe, therapeutic housing environment are all necessary for an effective recovery process. Based upon these facts and the cases cited above, the proposed use of the Property as sober living will not alter the nature or the purpose of the City of Scottsdale Zoning Ordinance.

5. The requested accommodation will not impose an undue financial or administrative burden on the City, as "undue financial or administrative burden" is defined in federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.) and interpretive case law.

Allowing disabled, sober residents to live as a family in each unit at the Trullies Property will not impose an undue financial or administrative burden on the City of Scottsdale. The Applicant is not requesting that the City of Scottsdale build housing for disabled residents. Rather, it is requesting that the City remove a discriminatory obstacle to housing for the disabled in a unique circumstance. The FHA places an affirmative duty on the municipality to



accommodate the needs of persons with disabilities by making exceptions to the way zoning ordinances are applied in order to afford the disabled the same opportunity to housing as those who are not disabled.

6. The profitability or financial hardship of the owner/service provider of a facility shall not be considered in determining whether to grant a disability accommodation.

The City of Scottsdale has enacted an objectionable reasonable accommodation criterion in an attempt to prevent the Board from evaluating the profitability or financial hardship upon CL Holdings as part of this reasonable accommodation request. In the recent case, *Valencia v. City of Springfield, Illinois*, 883 F.3d 959 (7<sup>th</sup> Cir.2018), the 7<sup>th</sup> Circuit of the United States Court of Appeals found that the City of Springfield discriminated against disabled residents when the City denied their application for a conditional use permit (similar to a reasonable accommodation request) to allow them to occupy a residence located within 600 feet of another home occupied by disabled residents. The Court confirmed that the determination of whether a requested accommodation is reasonable or not is “a highly-fact specific inquiry and requires balancing the needs of the parties.” *Id.* at 968. When balancing the needs of the parties, the 7<sup>th</sup> Circuit recognized that the trier of fact may consider evidence that is not typically objective and easily ascertainable, such as subjective human costs:

Some costs related to reasonableness “may be objective and easily ascertainable.” For example, “some governmental costs associated with the specific program at issue may be a matter of simply looking at a balance sheet.” Other costs “may be more subjective and require that the court demonstrate a good deal of wisdom in appreciating the intangible but very real human costs associated with the disability in question.” This refers to “those intangible values of community life that are very important if that community is to thrive and is to address the needs of its citizenry.”

The intangible values of community life and the benefits derived therefrom by disabled persons recovering from substance and alcohol abuse is set forth in detail in the Declarations of Michelle Siwek and Daniel Lauber, attached hereto as **Exhibits 2 and 5**. These intangible values should be considered by the Board of Adjustment when balancing the needs of the parties to determine whether the requested accommodation in this matter is reasonable.

7. The requested accommodation must comply with all applicable building and fire codes.

The Applicant will comply with all applicable building and fire codes.

8. The requested accommodation must not, under the specific facts of the application, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.

This Accommodation Application and the supporting exhibits demonstrate that an accommodation allowing sober living at the particular Property in the R-3 zoning district would not result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.

Denying the requested reasonable accommodation based upon the stereotypes and unsubstantiated fears of neighbors and property owners would violate the Fair Housing Act and the Equal Protection Clause. In *City of Cleburne v. Tex. V. Cleburne Living Center*, 473 U.S. 432, 448, 105 S.Ct. 3249, 3258-59 (1985), the U.S. Supreme Court found that “mere negative attitudes, or fear, unsubstantiated by factors which are properly cognizable in a zoning proceedings, are not permissible bases for treating a home for the mentally retarded differently from apartment houses, multiple dwellings and the like” and the City “may not avoid the strictures of [the Equal Protection] Clause by deferring to the wishes and objections of some fraction of the body politic.” In the Joint Statement, it was also recognized that “imposing restrictions on housing because of alleged public safety concerns that are based on stereotypes about the residents’ or anticipated residents’ membership in a protected class” would violate the Fair Housing Act.” See **Exhibit 6** attached hereto. Similarly, denying a reasonable accommodation request based upon such stereotypes would violate the Fair Housing Act. The Joint Statement has made it clear that state and local governments are prohibited from enacting or applying zoning and land use laws upon meritless claims and emotions by members of the community:

When enacting or applying zoning or land use laws, state and local governments may not act because of the fears, prejudices, stereotypes, or unsubstantiated assumptions that community members may have about current or prospective residents because of the residents’ protected characteristics. Doing so violates the Act, even if the officials themselves do not personally share such bias. For example . . . a local government may not block a group home or deny a requested reasonable accommodation in response to neighbors’ stereotypical fears or prejudices about persons with disabilities or a particular type of disability. Of course, a city council or zoning board is not bound by everything that is said by every person who speaks at a public hearing. It is the record as a whole that will be determinative. (Emphasis added).

Emails sent to the City in opposition to this case have cited to generalized and alleged public safety, traffic and property concerns based upon stereotypes, misinformation, and prejudicial beliefs, as well as several extraneous issues unrelated to the requested disability

accommodation. These claims by the opposition should not be considered by the Board in deciding whether to grant this Accommodation Application.

To the contrary, the Applicant has submitted substantial evidence proving that, under the specific facts of this case, a Board decision granting the reasonable accommodation would not result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.

B. Applicant's Accommodation Application is Supported by the 2016 Joint Statement by HUD and Department of Justice.

The court decisions referenced above are reinforced by the 2016 Joint Statement, which provides several examples of local land use and zoning laws that may violate the Fair Housing Act, many of which are at issue in the case at hand:

- *“Prohibiting . . . housing based on the belief that the residents will be members of a particular protected class, such as race, disability, or familial status. . . .”* See 2016 Joint Statement, pg. 3.
  - In this case, the City of Scottsdale has interpreted 2 to 4 disabled individuals living in a sober living environment to be a “care home.” Care homes are prohibited in all multi-family residential dwelling units throughout the City with the knowledge that such residents are members of a disabled class.
- *“Imposing restrictions or additional conditions on group housing for persons with disabilities that are not imposed on families or other groups of unrelated individuals . . . .”* *Id.*
  - In this case, the City of Scottsdale has imposed a zoning ordinance restriction on group housing for persons with disabilities by prohibiting all care homes in multifamily residential zoning districts. Meanwhile, this restriction is not imposed on group housing for persons without disabilities. Group homes are permitted in multifamily residential districts.
- *“Refusing to provide reasonable accommodations to land use or zoning policies when such accommodations may be necessary to allow persons with disabilities to have an equal opportunity to use and enjoy housing.”* *Id.*
  - In this case, the City of Scottsdale cannot refuse to accept or provide a reasonable accommodation of the zoning ordinance policy preventing care homes in all multifamily residential districts because such accommodation is necessary to allow persons with disabilities to have an equal opportunity to use and enjoy multifamily housing.



- *“Prohibiting . . . multi-family housing may have a discriminatory effect on persons because of their membership in a protected class and, if so, would violate the Act absent a legally sufficient justification.” Id. At 5.*
  - In this case, the City of Scottsdale is prohibiting all multi-family housing for persons with disabilities wanting to live in a group living situation that the City’s defines as a “care home”. Persons with disabilities, including those in alcohol and substance use recovery, are members of a protected class that are being negatively impacted by the discriminatory effects of the Zoning Ordinance. The City has presented no legally sufficient justification for making care homes or sober living uses a prohibited use in multifamily residential districts.
- *“Prohibiting group homes in single-family neighborhoods or prohibiting group homes for persons with certain disabilities.” Id. at pg. 8.*
  - In this case, the City of Scottsdale Zoning Ordinance prohibits certain group homes for persons with disabilities in multi-family neighborhoods, which is discriminatory as well.
- *“Enacting an ordinance that has an unjustified discriminatory effect on persons with disabilities who seek to live in a group home in the community.” Id. at pg 8.*
  - In this case, the City of Scottsdale has enacted a Zoning Ordinance with an unjustified discriminatory effect on persons with disabilities who seek to live in a care home or a sober living environment in a multifamily residential district.
- *“Local zoning and land use laws that treat groups of unrelated persons with disabilities less favorably than similar groups of unrelated persons without disabilities violate the Fair Housing Act. For example, suppose a city’s zoning ordinance defines a “family” to include up to a certain number of unrelated persons living together as a household unit, and gives such a group of unrelated persons the right to live in any zoning district without special permission from the city. If that ordinance also prohibits a group home having the same number of persons with disabilities in a certain district or requires it to seek a use permit, the ordinance would violate the Fair Housing Act. The ordinance violates the Act because it treats people with disabilities less favorably than families and unrelated persons without disabilities.”*
  - In this case, the City’s interpretation of its Zoning Ordinance violates the FHAA in exactly this manner. A family of 2-4 unrelated adults living together as a household unit are allowed to live in any zoning district without special permission from the City of Scottsdale. On the other hand, the same Zoning Ordinance prohibits 2 to 4 unrelated, disabled adults living together as a household unit in all multifamily residential districts. The Zoning Ordinance violates the FHAA because it treats people with disabilities less favorably than families and unrelated persons without disabilities. Therefore, a reasonable accommodation request is justified and proper.

In conclusion, the Applicant respectfully requests a decision from the Board of Adjustment granting this Accommodation Application to allow the proposed sober living use at the Property in the R-3 zoning district.

If you need additional information or documentation in order to process this appeal, please do not hesitate to contact me at [hdukesesq@gmail.com](mailto:hdukesesq@gmail.com) or by phone at 602.320.8866. Thank you.

Very truly yours,

*/s/ Heather N. Dukes*

Heather N. Dukes

602.320.8866 | [hdukesesq@gmail.com](mailto:hdukesesq@gmail.com)

**TABLE OF APPLICANT'S EXHIBITS****Case No. 8-BA-2021**

October 20, 2021

<b>Exhibit</b>	<b>Exhibit Date</b>	<b>Exhibit Description</b>
<b>A</b>	05/13/2021	Initial Narrative filed in Case No. 6-BA-2021 (seeking interpretation that 2-4 sober disabled individuals can live in a dwelling unit as a "family" in the R-3 Zoning District)
<b>B</b>		Supplemental Narrative filed in Case No. 6-BA-2021
<b>1</b>	-	Aerial Photographs
<b>2</b>	05/13/2021	Declaration of Michelle Siwek
<b>3</b>	Current as of 08/17/2021	Excerpt from Arizona Administrative Code Title 9, Chapter 10 – Health Care Institutions
<b>4</b>	Current as of 08/17/2021	Excerpt from Arizona Administrative Code Title 9, Chapter 12 – Sober Living Homes; Arizona Revised Statutes Section 36-2061
<b>5</b>	05/13/2021	Declaration of Daniel Lauber
<b>6</b>	11/10/2016	Joint Statement of the Department of Housing and Urban Development (HUD) and the Department of Justice titled "State and Local Land Use Laws and Practices and the Application of the Fair Housing Act"
<b>7</b>	12/05/2017	City of Scottsdale Ordinance 4326
<b>8</b>	12/05/2017	City of Scottsdale Resolution 10963
<b>9</b>	12/05/2017	City Council Report and Attachment 5 listing ADHS Health Care Institution Uses (for Care Homes)
<b>10</b>	01/11/2018	Zoning Administrator Interpretation that Sober Living Home located at 12012 N. 68 <sup>th</sup> Place is a "Family"
<b>11</b>	Current as of 08/17/2021	Table of Contents for Arizona Revised Statutes Title 36
<b>12</b>	11/01/2014	Arizona Department of Health Services (ADHS) Substantive Policy Statement titled "Interpretation of Health Care Institution"
<b>13</b>	08/17/2021	Scottsdale Recovery PowerPoint Slides
<b>14</b>	-	Letters of Support from Scottsdale Recovery alumni
<b>15</b>	-	Google Reviews of Scottsdale Recovery
<b>16</b>		Article on Michelle Siwek and Scottsdale Recovery
<b>17</b>	07/19/2021	Neighborhood Notification Information and Mailing Receipt
<b>18</b>	08/18/2021	Email from ADHS confirming Sober Living Homes are Not Licensed as Health Care Institutions
<b>19</b>	10/20/2021	Vehicular Trip Generation and Parking Analysis prepared by CivTech
<b>20</b>	10/20/2021	Property Value Impact Statement prepared by Radojka Lala Smith of eXp Realty.
<b>21</b>		Crime Maps for Former Sober Living Home operated by the Applicant
<b>22</b>		2001 General Plan Excerpts Related to Housing
<b>23</b>		Naloxone Information from ADHS
<b>24</b>	10/12/2021	ADHS List of Licensed Residential Facilities in the City of Scottsdale as of 10/12/2021



**TABLE OF APPLICANT'S EXHIBITS**

**Case No. 8-BA-2021**

October 20, 2021

<b>25</b>	10/3/2021	"How the Opioid Epidemic was Worsened by the COVID-19 Pandemic", <u>Arizona Republic</u> , Drew Favakeh.
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May 13, 2021

## **VIA EMAIL**

Randy Grant, Zoning Administrator  
City of Scottsdale  
Planning and Development Services  
3939 N. Drinkwater Boulevard  
Scottsdale, AZ 85251

**Re: Request for Zoning Interpretation for Condominium Property Located at  
7910 and 7920 E. Wilshire Drive (the “Property”)**

Dear Mr. Grant:

On behalf of our client, Scottsdale Recovery II, LLC, a Delaware limited liability company (“SRII”), we submit this request for a zoning interpretation finding the proposed residential use of the above-referenced Property to be permitted in the Medium Density Residential (R-3) zoning district as “dwelling units” to be occupied by families or a “group home” pursuant to Table 5.703 and relevant definitions in Section 3.100 of the City of Scottsdale Zoning Ordinance (the “Ordinance”).

Due to our client’s pending purchase of the Property, we would respectfully request receiving an interpretation decision no later than Thursday, June 10, 2021.

## **I. ZONING ADMINISTRATOR’S AUTHORITY.**

Pursuant to Sections 1.202.A and 1.202.D of the Ordinance, the provisions of the Ordinance “shall be interpreted and applied by the Zoning Administrator” and “[t]he Zoning Administrator shall interpret uses within each district.” This request seeks an interpretation of the allowable uses within the Medium Density Residential (R-3) zoning district and, thus, falls within the authority of the Zoning Administrator to interpret uses within each district.

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City of Scottsdale  
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## II. BACKGROUND INFORMATION.

### A. Description of Condominium Property.

The Property is located approximately 300 feet west of the N. Hayden Road and E. Wilshire Drive intersection with an address of 7910 and 7920 E. Wilshire Drive. The Property is currently developed with 12 residential condominium units total. Each condominium unit includes a kitchen with floor plans offering two bedrooms and two bathrooms. The units are approximately 1,100 s.f. in size, allowing up to four persons to reside in each unit. A heavily landscaped common area with a pool, heated spa, gazebo and fireplace is located at the center of the Property.

In 1984, the Property was platted with condominium units<sup>1</sup> and construction was completed approximately the same year. The Property's condominium structure and its current R-3 zoning is compatible with the area, being predominantly developed with multi-family residential uses in the City of Scottsdale's R-3, R-4 and R-5 zoning districts. As shown by the aerial photographs attached as **Exhibit 1**, the Coronado Golf Course is also located to the west of the Property, offering an open space amenity to residents living in close proximity.

#### **Photographs of Condominium Internal Courtyard and Pool Area**



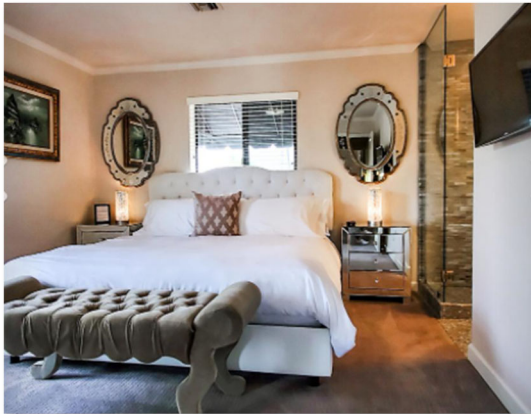
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<sup>1</sup> See Cortese Condominium plat recorded on May 9, 1984 in Book 266 of Maps, Page 50, MCR.



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## Photographs of Condominium Units



### **B. Experience of Condominium Purchaser.**

The Manager of SRII, Michelle Siwek, is a long-time operator in the community and has significant expertise in owning and operating both state-licensed behavioral health residential facilities (where care is administered to residents) and sober living homes (where care is NOT administered to residents). Since 2011, she has provided various residential options and treatment programs for disabled individuals in recovery and has been a longstanding member of the Arizona Recovery Housing Association. Ms. Siwek is the current owner and operator of SRII with 5 locations in Scottsdale, including a residential behavioral health facility, an outpatient clinic, two sober living homes, and a corporate office building with plans to offer detoxification treatment in the future. SRII has Joint Commission accreditation and certification and complies with the highest national standards for safety and quality in behavioral health. As the owner and operator of these facilities, Ms. Siwek is well-versed in distinguishing between the varying levels of treatment offered in detoxification centers and behavioral health residential facilities. In contrast, sober living homes provide no such care, offering only a safe and supportive place for individuals

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to reside in a conventional family setting. *See* Declaration of Michelle Siwek attached hereto as **Exhibit 2.**

## **C. Proposed Use of Property.**

The Property will be purchased by SRII to provide housing to adults who have completed several stages of recovery from substance use disorders and are using the tools they learned in treatment to live independently and reintegrate into the community. The Property will be licensed by the Arizona Department of Health Services (“ADHS”) as a sober living home, meaning that no care services will be provided to the residents. Treatment and care services are not necessary onsite. The individuals residing on the Property will have already received such services and completed necessary programs to progress along their path of recovery and reintegrate into the community. The goal is to provide individuals who have advanced far enough in their recovery to live more independently and practice independent living skills in a mutually supportive family setting. The site will not be licensed as a “health care institution” under Arizona law.

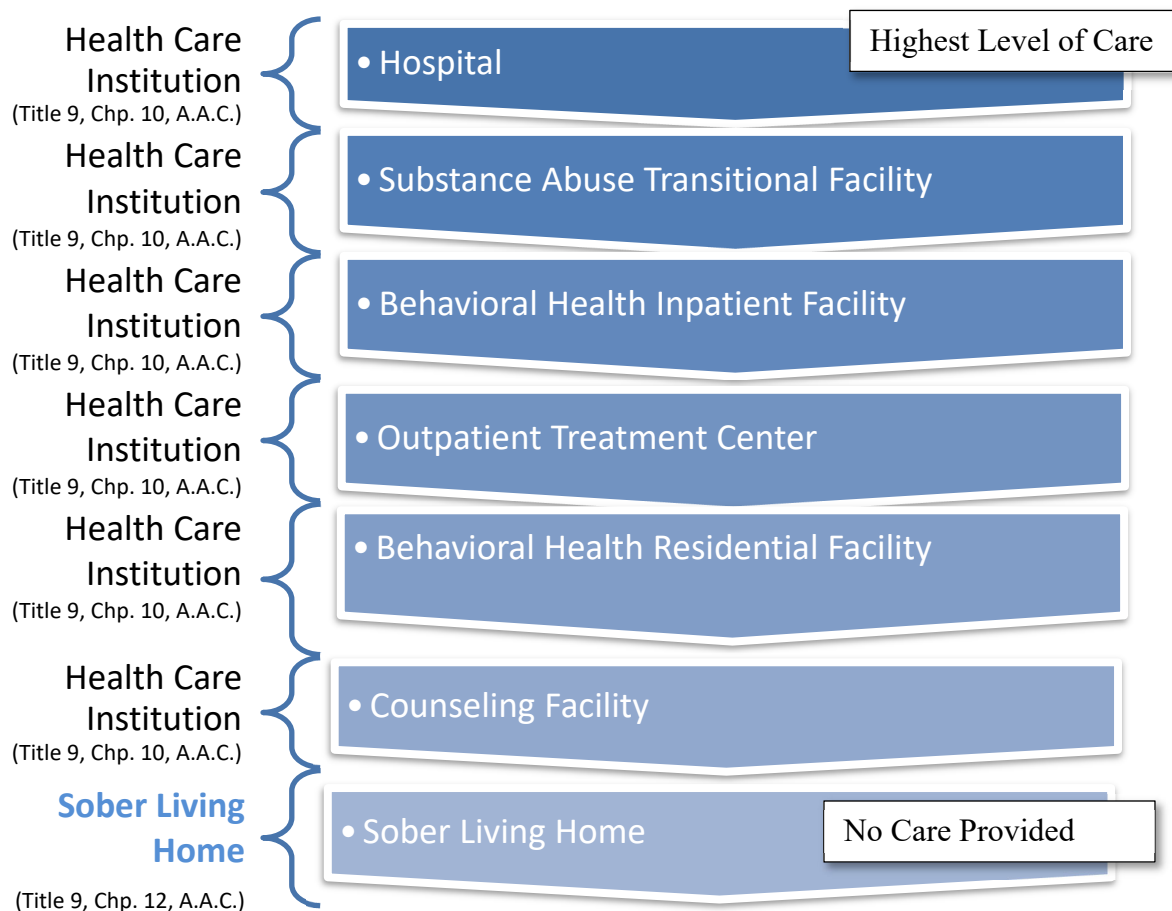
SRII proposes to rent each of the condominium units to two to four adults. Each condominium unit will operate as and emulate a family. In each unit, the residents will have access to a kitchen to cook their own meals and a washer and dryer to perform their own laundry. Cleanliness and upkeep of the unit is the responsibility of the individuals living in the condominium units. No care services will be provided to the residents. There will be no assistance with the self-administration of medication, no laundry services or cleaning services offered, and no full-service kitchen to serve meals to residents. Those responsibilities, once again, are the responsibility of the family living in each unit.

## **D. Differences between Health Care Institution & Proposed Sober Living Units.**

It is important to note that each person recovering from a substance use disorder has an individual path to recovery. Yet, most individuals addicted to substances start their initial path to recovery by seeking treatment from or enrolling in “health care institutions” licensed by ADHS, which provide various levels of care. For purposes of understanding the differences between a health care institution and a sober living home, a flowchart of the health care institution options and associated levels of care is provided below. The flowchart, together with Title 9 of the Arizona Administrative Code, clearly demonstrate that ADHS regulates health care institutions in a different manner than sober living homes due, in part, to the administration of care offered in health care institutions.

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**PATH TO RECOVERY**  
*Compare “Health Care Institution” Definitions in A.A.C. Title 9, Chapter 10<sup>2</sup>*  
*vs. “Sober Living Home” Definition in A.A.C. Title 9, Chapter 12<sup>3</sup>*



<sup>2</sup> See Health Care Institution Definitions in Title 9, Chapter 10 of the Arizona Administrative Code (“A.A.C”), attached hereto as **Exhibit 3**.

<sup>3</sup> See Sober Living Home Definitions in Ariz. Rev. Stat. § 36-2061 and Title 9, Chapter 12 of the A.A.C., attached hereto as **Exhibit 4**.



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## **E. Results of Pre-Application Meeting with City Staff.**

On Thursday, April 22<sup>nd</sup>, SRII held a pre-application meeting with staff to discuss the proposed residential use of each condominium unit on the Property by up to four disabled individuals in their later stages of substance use recovery. At that meeting, City staff opined that, at first impression, the sober living proposal would likely be best defined as a “care home” and, if so, would not be typically permitted in the Medium Density Residential (R-3) zoning district. In support of their opinion, staff also stated that it was the intention of the City to exclude sober living homes from multifamily residential districts during the last Zoning Ordinance amendment addressing such uses. We respectfully disagree with this initial opinion and offer more specific details regarding the operational characteristics of the use proposed herein.

## **III. INTERPRETATION REQUEST.**

### **A. Question.**

Whether the proposed residential use of the 12-unit condominium buildings would be permitted as of right in the Medium Density Residential (R-3) zoning district under the permitted use of “dwelling units” and/or “group home” in Table 5.703?

### **B. Analysis.**

Since the pre-application meeting, our firm has evaluated the Zoning Ordinance definitions and have aligned them with the applicable state statutes and regulations. In summary, the definition of “care home” in the City of Scottsdale Zoning Ordinance neither defines nor applies to SRII’s use of the Property as sober living dwelling units being occupied by a family of two to four disabled individuals in each unit. Below is a summary of our findings and research for the Zoning Administrator’s consideration and interpretation.

Ultimately, SRII is seeking an interpretation from the Zoning Administrator finding that the proposed residential use of the Property is permitted within the Medium Density Residential (R-3) zoning district as either a:

1. “dwelling unit” occupied by a “family,” or
2. a use analogous to a “group home.”

In contrast, the proposed use of the Property does not meet the definition of “care home” for two reasons: (i) the Property will not be licensed as a health care institution under Arizona law, and (ii) no on-site supervisory or other care services will be provided to the residents. Furthermore, the City cannot characterize the proposed use of each condominium unit as a care home prohibited in the R-3 district when the City’s definition of “family” allows up to six adults to reside in a dwelling unit. When the proposed use fits within the cap of six adults in the

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Ordinance's definition of "family," the use must be allowed as of right in all residential zoning districts the same as any other family or single housekeeping unit. To prevent such use in the R-3 zoning district would be discriminatory on its face, imposing a different standard for disabled occupants based solely on them having a disability.

## 1. The proposed use is not a care home.

Section 3.100 of the Ordinance defines a "care home" as a "dwelling shared as a primary residence by no more than 10 adults with a disability that is licensed as a health care institution under Arizona law, and in which on-site supervisory or other care services are provided to the disabled residents." Emphasis added. For purposes of this definition, "a person must live in the dwelling a minimum of thirty (30) consecutive days for this dwelling to be considered a primary residence" and "a care home is a principal, not an accessory, use."

The proposed use of the Property does not meet the definition of a "care home" because the condominium units will not be licensed as a "health care institution" under Arizona law. SRII will obtain a sober living home license from ADHS, however, such license is not a "health care institution." Health care institution licenses are governed by Title 9, Chapter 10 of the Arizona Administrative Code. Sober living home licenses are separate and apart from the health care institution licenses, being set forth in Title 9, Chapter 12 of the Arizona Administrative Code. The differences between a health care institution license and a sober living home license are significant, given the fact that care is administered by professionals in a health care institution. Again, no such care is provided in a sober living home.

The state definition of health care institution includes several services involving the administration of care that would not be provided by SRII as a sober living facility.<sup>4</sup> A.R.S. § 36-401.A(22) defines a "health care institution" as:

*[E]very place, institution, building or agency, whether organized for profit or not, that provides facilities with medical services, nursing services, behavioral health services, health screening services, other health-related services, supervisory care services, personal care services or directed care services and includes home health agencies as defined in section 36-151, outdoor behavioral health care programs and hospice service agencies. Health care institution does not include a community residential setting as defined in section 36-551.*

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<sup>4</sup> The Ordinance does not define "health care institution." Therefore, the statutory definition from Ariz. Rev. Stat. § 36-401.A(22) is provided.

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No medical services<sup>5</sup>, behavioral health services<sup>6</sup>, health screening services<sup>7</sup> or other health related services<sup>8</sup> will be provided at the Property. There will be no supervisory care services<sup>9</sup>, personal care services<sup>10</sup> or directed care services<sup>11</sup> offered to the residents. The two to four residents living in each dwelling unit will operate as a family and will not be monitored or supervised by a doctor, physician or other nursing staff. There will be no assistance with activities of daily living, no general supervision on a daily basis, and no assistance with the self-administration of prescribed medications. Altogether, none of the care services listed in the definition of “health care institution” will be provided at the Property, and SRII will not be seeking a license as a health care institution (or any class or subclass thereof). In fact, the Arizona Administrative Code provides a list of uses requiring a health care institution license from the state in Section R9-10-102 titled “Health Care Institution Classes and Subclasses; Requirements.” Notably, sober living homes are not included in that list.<sup>12</sup>

The City’s definition of “care home” in the Ordinance also includes the requirement that the health care institution provide “on-site supervisory or other care services.” The term “supervisory care services” is defined in both Ariz. Rev. Stat. Section 36-401.A(47) and Section 3.100 of the Ordinance as “general supervision, including daily awareness of resident functioning and continuing needs, the ability to intervene in a crisis and assistance in the self-administration

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<sup>5</sup> “‘Medical services’ means the services that pertain to medical care and that are performed at the direction of a physician on behalf of patients by physicians, dentists, nurses and other professional and technical personnel.” *See* Ariz. Rev. Stat. § 36-401.A(31).

<sup>6</sup> “‘Behavioral health services’ means services that pertain to mental health and substance use disorders and that are either: (a) Performed by or under the supervision of a professional who is licensed pursuant to title 32 and whose scope of practice allows for the provision of these services, (b) Performed on behalf of patients by behavioral health staff as prescribed by rule.” *See* Ariz. Rev. Stat. § 36-401.A(11).

<sup>7</sup> “‘Health screening services’ means the acquisition, analysis and delivery of health-related data of individuals to aid in the determination of the need for medical services.” *See* Ariz. Rev. Stat. § 36-401.A(24).

<sup>8</sup> “‘Health-related services’ means services, other than medical, that pertain to general supervision, protective, preventive and personal care services, supervisory care services or directed care services.” *See* Ariz. Rev. Stat. § 36-401.A(23).

<sup>9</sup> “‘Supervisory care services’ means general supervision, including daily awareness of resident functioning and continuing needs, the ability to intervene in a crisis and assistance in the self-administration of prescribed medications.” *See* Ariz. Rev. Stat. § 36-401.A(47); *see also* Section 3.100 of Ordinance.

<sup>10</sup> “‘Personal care services’ means assistance with activities of daily living that can be performed by persons without professional skills or professional training and includes the coordination or provision of intermittent nursing services and the administration of medications and treatments by a nurse who is licensed pursuant to title 32, chapter 15 or as otherwise provided by law.” *See* Ariz. Rev. Stat. § 36-401.A(38).

<sup>11</sup> “‘Directed care services’ means programs and services, including supervisory and personal care services, that are provided to persons who are incapable of recognizing danger, summoning assistance, expressing need or making basic care decisions.” *See* Ariz. Rev. Stat. § 36-401.A(16).

<sup>12</sup> *See* Health Care Institution Classes and Subclasses in A.A.C. R9-10-102, attached hereto as **Exhibit 3**.



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of prescribed medications.” General supervision of the residents will not be provided on-site. There will be no manager living in the individual units to monitor daily resident functioning, to intervene in a crisis and to assist in the self-administration of prescribe medications.

The term “other care services” in the definition of “care home” is not a defined term under our state statutes, regulations or the City’s Ordinance. It would be reasonable to interpret the phrase “other care services” to include all of the care services listed under the definition of “health care institution,” as referenced above in the footnotes on page 8 of this letter.

Again, there will be no care services offered at the Property. Instead, the residents will be provided a safe and supportive environment in a family setting within each unit. At most, the residents will be provided the information and services required in the sober living home regulations in A.A.C. Section R9-12-205, such as:

1. The location of all exits in the home and the route to evacuate in an emergency,
2. The location of the first aid kit,
3. The use of the kitchen in the home, including operation of the appliances, use of the food storage areas, and removal of garbage and refuse,
4. The use of the washing machine and dryer,
5. The dates, time and location of house meetings,
6. The prohibition of possession of alcohol or illicit drugs, and
7. Review and discussion of specific resident requirements and policies specific to the home.<sup>13</sup>

Notably, Title 9, Chapter 12 of the Arizona Administrative Code (applicable to sober living homes) does not use the term “care” throughout the regulations to describe any aspect of or the services provided by a sober living home. In fact, not only are “health care institutions” and “sober living homes” regulated by two different chapters in Title 9 of the Arizona Administrative Code, the sober living home regulations in Title 9, Chapter 12 identify “sober living homes” and “health care institutions” as being two entirely different uses. Specifically, A.A.C. Section R9-12-201.B.3.o.ii states that a sober living home must have policies and procedures established for terminating a residency, including “coordinating the relocation of a resident to a health care institution or another sober living home.”<sup>14</sup> Thus, the state regulations

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<sup>13</sup> See A.A.C. Section R9-12-205 attached hereto as **Exhibit 4**.

<sup>14</sup> Emphasis added. See A.A.C. Section R9-12-201.B.3.o.ii attached hereto as **Exhibit 4**.

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clearly distinguish a health care institution from a sober living home use due to the care services provided in a health care institution.

In conclusion, the proposed use by SRII cannot be deemed a “care home” because: (i) the dwelling units on the Property will not be licensed as a health care institution under Arizona law, and (ii) no on-site supervisory or other care services are being provided which would require such a license by the state.

## **2. The use of the Property is allowed as a “family.”**

The proposed use of the Property (two to four disabled individuals living in each dwelling unit) satisfies the definition of “family” and “single house-keeping unit” and is, therefore, permitted in the Medium Density Residential (R-3) zoning district as of right.

A “dwelling unit” is defined in Section 3.100 of the Ordinance as “one (1) or more rooms in a dwelling designed for occupancy by one (1) family for living purposes and having its own cooking and sanitary facilities.” Each of the 12 condominium units on the Property constitutes a dwelling unit designed for occupancy by one family for living purposes.

Section 3.100 of the Ordinance also defines a “**family**” as “one (1) to six (6) adults and, if any, their related dependent children occupying a premise[s] and living as a single housekeeping unit.” In this case, the two to four adults living in each dwelling unit (condominium unit) will be living as a single housekeeping unit. A “**single housekeeping unit**” is defined in the Ordinance as:

*[A] group of one (1) or more persons residing together in a dwelling who share use of and responsibility for common areas, household activities, and responsibilities such as meals, chores, household maintenance, and expenses. This term excludes living situations where an entity or individual other than a resident provides job training or life skill development services on-site, or provides supervisory, medical, personal, or custodial care services to more than six (6) adults residing in the dwelling.*

The two to four individuals living in each condominium unit will reside together and share use of and responsibility for common areas, household activities and the responsibilities listed in the definition above (meals, household maintenance, etc). Job training or life skill development services will not be provided on-site, and none of the care services listed above will be provided to the two to four individuals living as a family in each dwelling.

Based upon the City’s definitions for “dwelling unit”, “family” and “single housekeeping unit” in the Ordinance, the proposed use would constitute a family living in each condominium unit and would be permitted within the Property’s R-3 zoning district as of right. Like any other

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dwelling, when a sober living home fits within the cap of six adults in the Ordinance's definition of "family," it must be allowed as of right in all residential districts the same as any other family or housekeeping unit. The City may not impose any additional zoning requirements or prevent residences for six or fewer people with disabilities from locating within the R-3 zoning district or any other district where dwellings are allowed. If the City were to impose additional zoning requirements or prevent this use in the R-3 zoning district, it would be doing so solely on the basis that the occupants have disabilities. Legally, two to four individuals living together in each condominium unit constitutes a family like all other families in Scottsdale, and preventing those individuals from living in a condominium unit in the R-3 zoning district would constitute housing discrimination on its face.<sup>15</sup>

The Joint Statement issued by the Department of Housing and Urban Development and the Department of Justice dated November 10, 2016 addresses the particular issue in this case. Section 13 of the Joint Statement cautions municipalities to adopt, interpret and enforce their zoning ordinances uniformly when applying restrictions to a family of unrelated persons with or without disabilities.

***13. Can a state or local government limit the number of individuals who reside in a group home in a residential neighborhood?***

*Neutral laws that govern groups of unrelated persons who live together do not violate the Act so long as (1) those laws do not intentionally discriminate against persons on the basis of disability (or other protected class), (2) those laws do not have an unjustified discriminatory effect on the basis of disability (or other protected class), and (3) state and local governments make reasonable accommodations when such accommodations may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling.*

***Local zoning and land use laws that treat groups of unrelated persons with disabilities less favorably than similar groups of unrelated persons without disabilities violate the Fair Housing Act. For example, suppose a city's zoning ordinance defines a "family" to include up to a certain number of unrelated persons living together as a household unit, and gives such a group of unrelated persons the right to live in any zoning district without special permission from the city. If that ordinance also prohibits a group home having the same number of persons with disabilities in a certain district or requires it to seek a use permit, the ordinance would violate the Fair Housing Act. The ordinance violates the Act***

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<sup>15</sup> See Declaration of Daniel Lauber attached hereto as **Exhibit 5**.



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*because it treats persons with disabilities less favorably than families and unrelated persons without disabilities.*<sup>16</sup>

The Joint Statement reflects the majority opinion of the courts and an interpretation that, under Scottsdale's zoning, two to four disabled adults living as a single housekeeping unit in each condominium on the Property needs to be permitted as of right in the R-3 zoning district, just like any other family unit in Scottsdale that consists of two to four unrelated adults *without* a disability.

### 3. The proposed use could be analogous to a group home.

A “**group home**” is defined in Section 3.1000 of the Ordinance as a “dwelling shared by more than six (6) adults as their primary residence in which no supervisory or other care is provided.” For purposes of this definition, the Ordinance also requires “a person must live in the dwelling a minimum of thirty (30) consecutive days for this dwelling to be considered a primary residence.”

In this case, each condominium unit is not being shared by more than six adults, but the dwellings will serve as their residence in which no supervisory or other care is provided. Thus, in comparing the “care home” and “group home” definitions in Section 3.100 of the Zoning Ordinance, the proposed use of this property would be more analogous to a group home, and therefore would be permitted as of right in the Medium Density Residential (R-3) zoning district.

### C. Conclusion.

We respectfully request your review and consideration of this supplemental information regarding the proposed use of the Property and the Fair Housing concerns inherent in this request to allow up to four disabled individuals to live as a family in a condominium unit within the Medium Density Residential (R-3) zoning district. Alternatively, we would request that you find the proposed use of the Property to be a group home allowable in the R-3 zoning district as of right.

If you have any questions or need additional information to process this interpretation, please do not hesitate to contact me at [hdukes@swlaw.com](mailto:hdukes@swlaw.com) or at 602.320.8866. You may also contact Senior Urban Planner, Noel Griemsmann, at [ngriemsmann@swlaw.com](mailto:ngriemsmann@swlaw.com). Due to our client's pending purchase of the Property, we would respectfully request receiving an interpretation decision no later than **Thursday, June 10, 2021**. Thank you in advance.

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<sup>16</sup> Emphasis added. See Joint Statement of the Department of Housing and Urban Development and the Department of Justice titled “State and Local Land Use Laws and Practices and the Application of the Fair Housing Act” dated November 10, 2016, attached hereto as **Exhibit 6**.

# Snell & Wilmer

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Very truly yours,

Snell & Wilmer L.L.P.

*/s/ Heather N. Dukes*

Heather N. Dukes

Enclosures

Cc: Joseph Padilla, Esq.

## Heather Dukes

5064 E. Yucca Street  
Scottsdale, AZ 85254  
602.320.8866

Board of Adjustment  
CITY OF SCOTTSDALE  
3939 N. Drinkwater Boulevard  
Scottsdale, AZ 85251

August 18, 2021

RE: Supplemental Narrative in Support of Appeal of Zoning Interpretation to the  
City of Scottsdale Board of Adjustment – 7910 and 7920 E. Wilshire Drive,  
Scottsdale, Arizona 85257 (the “Property”)

Dear Board of Adjustment Members,

On behalf of my clients, Scottsdale Recovery II, LLC, a Delaware limited liability company and Centered Living, LLC, an Arizona limited liability company (collectively “**Scottsdale Recovery**”), I submit this supplemental narrative to the Board of Adjustment in support of Scottsdale Recovery’s appeal of the Zoning Administrator’s Interpretation dated June 23, 2021 with regard to the above-referenced Property (the “**Zoning Administrator’s Interpretation**”). This narrative and the enclosed exhibits are intended to supplement the May 13, 2021 Interpretation Application filed with the Zoning Administrator and are being submitted at least 14 calendar days prior to the Board’s hearing in accordance with Section 403 of the Board of Adjustment Rules of Procedure.

The Zoning Administrator’s Interpretation determined that the proposed sober living use of the Property would constitute a “Care Home” and would not be permitted in the Medium Density Residential (R-3) zoning district. For the reasons set forth in the attached Interpretation Application dated May 13, 2021 and this supplemental narrative, the Zoning Administrator’s Interpretation is erroneous, and therefore is being appealed to the Board of Adjustment as arbitrary, capricious or an abuse of discretion.



I. **ADDITIONAL EXHIBITS REGARDING SCOTTSDALE RECOVERY AND PROPOSED SOBER LIVING HOME USE.**

A detailed overview of Scottsdale Recovery, its manager, Michelle Siwek, and the proposed sober living home use at the Trullies condominiums was previously provided in the May 13, 2021 narrative filed with the City. The following additional exhibits submitted with this supplement provide further information that explains why the zoning administrator's interpretation is wrong:

A. **Additional description of sober living home use.** As mentioned in the May 13, 2021 narrative, each condominium unit will house a family of two to four adults — in accord with the definition of “family” in Scottsdale’s Zoning Ordinance — who have completed several stages of recovery from substance use disorders. In each unit, the residents will have access to a kitchen to cook their own meals and a washer and dryer to perform their own laundry. No care services or supervisory care services will be provided to the residents onsite. Each dwelling unit will serve as a home to a family under the city’s own definition of “family.”

Scottsdale Recovery will operate the proposed sober living homes in compliance with Title 9 Chapter 12 of the Arizona Administrative Code, which outlines policies and procedures that have been established and implemented to protect the health and safety of sober living home residents. Those policies and procedures address recordkeeping, resident acceptance, resident rights and the orientation of new residents. Orientation for new residents includes an overview of the premises, the resident’s rights and responsibilities, the prohibition of the possession of alcohol or illicit drugs at the sober living home, services offered by or coordinated through the sober living home, drug and alcohol testing practices, and expectations about food preparation and chores. The sober living home may also provide or coordinate certain services, including facilitating peer support activities to support sobriety or improve independent living, and referring a resident to other persons for the provision of services to support sobriety. Notably, none of the sober living home policies and procedures set forth in Title 9, Chapter 12 of the Arizona Administrative Code allow a sober living home to provide supervisory care services or other care services to the residents, nor is it licensed as a health care institution.

B. **Additional Information Regarding Scottsdale Recovery.** In addition to the information provided in the May 13, 2021 narrative regarding Scottsdale Recovery’s various services and programs offered to individuals recovering from substance use, the following exhibits are submitted to demonstrate the professionalism, expertise and experience of Scottsdale Recovery and its manager, Michelle Siwek.

1. PowerPoint Slides providing Scottsdale Recovery’s mission statement, good neighbor policy, statistics demonstrating that approximately 80 percent of

Scottsdale Recovery's clients are local residents of Arizona, and statistics providing a glimpse of the achievements and improvements experienced by Scottsdale Recovery alumni. *See* **Exhibit 13** attached hereto.

2. Letters of support from Scottsdale Recovery alumni describing their experiences with Scottsdale Recovery housing and programs. *See* **Exhibit 14** attached hereto.

3. Google reviews of Scottsdale Recovery and the following links to news and media reports covering their programs and services offered to the community. *See* **Exhibit 15** attached hereto; *see also* the information and videos provided at the following link: <https://scottsdalerecovery.com/press-src-in-the-news/> and <https://scottsdalerecovery.com/blog/>.

4. Women to Watch 2021 article on Michelle Siwek and Scottsdale Recovery, attached here as **Exhibit 16**.

5. Neighborhood notification letter sent to all property owners within 750 feet of the Property, inviting neighbors to a meeting at the sober living home to learn about the use and programs offered by Scottsdale Recovery. Only one neighbor attended the neighborhood meeting (who offered her support at the end of the meeting), and another neighbor called Scottsdale Recovery staff to learn more information. *See* **Exhibit 17** attached hereto.

## II. SUPPLEMENTAL INFORMATION AND EVIDENCE IN RESPONSE TO THE ZONING ADMINISTRATOR'S INTERPRETATION DATED JUNE 23, 2021.

The remainder of this supplemental narrative addresses various statements and conclusions in the Zoning Administrator's interpretation that are erroneous, arbitrary, capricious or an abuse of discretion.

### A. **The Zoning Administrator's Interpretation erroneously concluded that the proposed use of each condominium unit is not permitted as a "family."**

The Zoning Administrator's Interpretation erroneously concludes that two to four disabled residents living in a condominium unit does not constitute a "family" allowed to occupy a residential unit as permitted as of right in the R-3 zoning district. This misinterpretation is directly contrary to the plain language of the City's definitions of "family" and "single housekeeping unit" in its Zoning Ordinance, the City's prior acknowledgments that distinctions between disabled and non-disabled families of 6 adults or fewer are discriminatory and prohibited by law, and controlling caselaw applying the Fair Housing Act.

The Zoning Administrator's Interpretation states:

"2. The proposed use is not permitted as of right.

"A dwelling unit, by city definition, is intended for occupancy by a family and the city's family definition is very inclusive. When there is a state license involved for the purpose of regulating care services in a dwelling, that dwelling uniquely qualifies under the city's Care Home definition. A family is a component of a dwelling, and a licensed dwelling is a care home."

Interestingly, the Zoning Administrator's Interpretation acknowledges that the City's "family" definition is very inclusive but fails to apply the definition in an inclusive manner. For ease of reference, the "dwelling unit", "family" and "single housekeeping unit" definitions from Section 3.100 of the Zoning Ordinance are set forth below. Together their plain language demonstrates that two to four disabled adults living in a dwelling unit constitute a "family" for zoning purposes regardless of whether care services are being provided or a state license has been issued for the location.

**Dwelling unit** shall mean one (1) or more rooms in a dwelling designed for occupancy by one (1) family for living purposes and having its own cooking and sanitary facilities.

**Family** shall mean one (1) to six (6) adults and, if any, their related dependent children occupying a premise[s] and living as a single housekeeping unit. For purposes of the Zoning Ordinance, "*Family*" includes a residential facility as that term is defined in Title 36, Chapter 5.1, Article 2 of the Arizona Revised Statutes, in which persons with developmental disabilities live and that is licensed, operated, supported or supervised by the State of Arizona.

**Single housekeeping unit** shall mean a group of one (1) or more persons residing together in a dwelling who share use of and responsibility for common areas, household activities, and responsibilities such as meals, chores, household maintenance, and expenses. This term excludes living situations where an entity or individual other than a resident provides job training or life skill development services on-site, or provides supervisory, medical, personal, or custodial care services to more than six (6) adults residing in the dwelling. (Emphasis added).

When read together, the definitions of “family” and “single housekeeping unit” allow up to 6 adults, regardless of disability, to live together as a family in a dwelling unit located in any residential zoning district in the City. The definitions specifically allow up to 6 adults to live as a family, even when care services are provided that would require a health care institution license from the state (i.e. supervisory, medical, personal, or custodial care services). This is consistent with Fair Housing caselaw and the City’s several statements in its Council Report dated December 5, 2017 and Ordinance 4326, such as:

- “Because it is settled law that persons recovering from substance abuse are ‘disabled’ for purposes of the FHA and the ADA, *the City may not impose more restrictions on homes where persons recovering from substance abuse live than it does on families.*” See City Council Report, **Exhibit 9**, page 4. *[Emphasis added]*
- “The State of Arizona Revised Statutes (ARS) includes regulations for ‘residential facilities’ in single-family neighborhoods. Per Section 36-582 of the ARS, *a residential facility which serves six (6) or fewer persons shall be considered a residential use of property for the purposes of all local zoning ordinances if such facility provides care on a twenty-four-hour basis. The residents and operator of such a facility shall be considered a family for the purposes of any law or zoning ordinance which relates to residential use of property.* While this regulation applies only to ‘residential facilities’ that treat persons with ‘developmental disabilities’ (cognitive disability, cerebral palsy, epilepsy, or autism), and not to all types of care homes, it does provide a benchmark for what should be considered a ‘family’ with regard to establishing zoning regulations.” Emphasis provided. See City Council Report, **Exhibit 9**, page 5.
- “Whereas, the Fair Housing Act makes it unlawful to utilize land use policies or actions that treat groups of persons with disabilities less favorably than groups of nondisabled persons.” See Ordinance 4326, **Exhibit 7**, page 2.
- “Whereas, the Fair Housing Act does not allow local land use policies or actions that treat groups of persons with some disabilities less favorably than groups of people with other disabilities.” See Ordinance 4326, **Exhibit 7**, page 2.
- “Whereas, the City of Scottsdale is hereby amending its zoning ordinance to make the reasonable accommodations required by the Fair Housing Act by removing any terms and conditions that have the effect of limiting or making housing unavailable to people with disabilities while preserving the ability of care homes and group living situations to emulate a family and



achieve normalization and community integration of their residents.” See Ordinance 4326, **Exhibit 7**, page 2.

- “Whereas, while no aggregation of more than six adults will constitute a “family,” the new zoning provisions establish a reasonable accommodation process for disabled persons who need relief from the limitations of the ordinance.” See Ordinance 4326, **Exhibit 7**, page 2.

The above quotations from documents the City of Scottsdale has adopted demonstrate how far from legal standards the Zoning Administrator’s Interpretation has strayed. Under the plain language of the City’s own definitions, two to four adults would be permitted to live in a dwelling unit in the R-3 zoning district as a “family”, even if those adults were receiving various types of care services. But, in the event those same two to four adults are disabled and choosing to live in a sober environment, those adults are no longer allowed to live in the R-3 zoning district as a “family.” But for their disabilities, the adults wanting to live in the Trullies dwelling units would be permitted to do so without restriction. The Zoning Administrator’s Interpretation not only violates the Fair Housing Act by using land use policies and zoning decisions to treat groups of persons with disabilities less favorably than groups of the same number of nondisabled persons, but also treats groups of persons with some disabilities less favorably than groups of people with other disabilities (i.e. four adults with a substance abuse disability are not permitted to live in the R-3 zoning district as a “family,” but four adults with a developmental disability are permitted to live in the R-3 zoning district as a “family” pursuant to A.R.S. § 36-582 and the Zoning Ordinance definition of “family”). The plain language — and therefore the correct interpretation — of the City’s Zoning Ordinance requires the City to treat each of the Scottsdale Recovery condominium units as a dwelling unit, each occupied by a family.

- B. The Zoning Administrator’s Interpretation fails to acknowledge sober living homes have never been licensed as a health care institution and that the City has issued a prior interpretation finding a sober living home to be a “family.”**

The Zoning Administrator’s Interpretation states that “the city uses the State’s licensing requirements to determine ‘care home’ applicability” and that “this application of zoning has been the City’s practice for years.” Unfortunately, the Zoning Administrator’s Interpretation fails to provide key information regarding the State’s licensing requirements at the time the City adopted its “care home” definition or the important State licensing distinctions that are currently in effect — both of which lead to a conclusion and finding that the proposed sober living home is not a “care home.” Furthermore, the Zoning Administrator’s Interpretation fails to acknowledge that the City has issued a prior interpretation finding a sober living home with no more than 6 unrelated adults to constitute a “family.”

The following timeline of events supports a finding that the proposed sober living home is a “family” based upon: (1) the City’s longstanding policy to characterize sober living homes with no more than six unrelated adults as a “family” and (2) its decision to implement a “care home” definition which requires licensing as a health care institution.

1. On December 5, 2017, the Scottsdale City Council adopted a text amendment creating a definition for “care home” which required state licensure as a health care institution, amending the definitions of “family” and “group home”, providing certain separation requirements between care homes, and adding new sections to the ordinance pertaining to disability accommodations (the “2017 Text Amendment”). See Ordinance 4326 and Resolution 10963 attached hereto as Exhibits 7 and 8, respectively.

2. As of December 5, 2017 and through the first half of 2018, sober living homes were not licensed by the State of Arizona and were considered by the City of Scottsdale to be a “family” or a “group home,” depending on the number of adults living in the dwelling. On the other hand, residential facilities that provided various levels and types of care to residents were required to be licensed by the State of Arizona as “health care institutions”, such as behavioral health residential facilities and assisted living homes. Therefore, behavioral health residential facilities, assisted living homes and all other residential facilities providing care to residents and licensed by ADHS as a health care institution were deemed to be “care homes” after the 2017 Text Amendment. In fact, the City of Scottsdale staff prepared an Attachment 5 to the City Council Report dated December 5, 2017 which listed all of the subcategories of licensed health care institutions that would be included in the care home definition. Notably, sober living homes were NOT listed in Attachment 5 as a health care institution subcategory. Once again, sober living homes were not licensed by the state as a health care institution at the time of the 2017 Text Amendment, and therefore were not included in the “care home” definition. See City of Scottsdale City Council Report dated December 5, 2017 and Attachment 5 listing Arizona Department of Health Services health care institution licensure types (for Care Homes), attached as **Exhibit 9**.

3. On January 11, 2018, the Zoning Administrator issued a decision on a request to convert an existing “sober living home” at 12012 N. 68<sup>th</sup> Place to a “behavioral health residential facility,” which is a state-licensed subcategory of a health care institution. As part of the decision, the Zoning Administrator determined that a sober living home which provides no care to residents is a “family” under the Zoning Ordinance (the “2018 Interpretation”).

By way of background, the owner of the sober living home wanted to transition to providing onsite care services to its 10 to 14 residents, which then required the owner to: (1) obtain a state-issued health care institution license as a “behavioral health residential facility” and (2) obtain permission from the City to operate a care home within 750 feet of

another care home. As part of the application to the City, the owner described the sober living home use that had occurred at 12012 N. 68<sup>th</sup> Place since 2011, as follows:

*“It is important to note, Centered Living has been operating as a sober living residence since 2011 and is integrated in the community and neighborhood.... Centered Living has not had any complaints and has operated for the benefit of those recovering from substance abuse.... The Centered Living household functions as the equivalent of a family and allows recovering persons to provide one another with continual mutual support as well as mutual monitoring to prevent relapse. The potential recovery of people who are handicapped or disabled by reasons of alcoholism or drug abuse and are in recovery are greatly enhanced by the mutual support and mutual monitoring provided by living with other recovering persons. The quality and nature of the relationship among the residents are akin to that of a family. The need of groups of unrelated recovering alcoholics and substance abusers to live in a structured, safe and therapeutic environment is necessary to the recovery process.... “*

After considering this description of the sober living home use that had been operating since 2011, the Zoning Administrator issued the following decision as part of the 2018 Interpretation:

*“I also determine that the living situation you describe is a “family” under the ordinance existing at the time you began operating so long as no care is provided. As such, your family is “grandfathered” under the City’s amended Ordinance under the following conditions:*

- 1. No increase in the number of disabled residents, and*
- 2. No care is being provided at the residence.*

*...The home can continue to be used as it has been, with no increase in the number of residents or level of activity.”(Emphasis added).*

The 2018 Interpretation is applicable to the case at hand — particularly the finding that the sober living home use would be considered a “family.” The sober living home use described in Case No. 1-BA-2018 by the owner of 12012 N. 68<sup>th</sup> Place is identical to the sober living home use proposed at the Trullies Property — no care is being provided in the dwelling

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<sup>1</sup> The sober living home use at 12012 N. 68<sup>th</sup> Place was grandfathered as a “family” due to the number of residents historically living in the home and the change in the definition of “family” in the Zoning Ordinance. Historically, there were 10 to 14 residents living in the home at a time when the definition of “family” allowed “one or more persons” to live “as a single housekeeping unit” (thus any number of unrelated adults to constitute a “family”). After the 2017 Text Amendment took effect on January 5, 2018, the City amended the definition of “family” to limit the definition to “one (1) to six (6) adults and, if any, their related dependent children...”

units. In fact, both of these applications were filed by the same owner and operator — Michelle Siwek. Ultimately, the 2018 Interpretation establishes the City’s policy of treating sober living homes as a “family” when: (1) no care is provided in the dwelling (thus having no requirement to be licensed as a health care institution), and (2) the number of residents living in the dwelling unit meet the definition of a family (6 or fewer adults). *See* 2018 Interpretation and Application, attached hereto as **Exhibit 10**.

4. On August 3, 2018, new sober living home legislation became effective in Arizona requiring sober living homes to be licensed by the state, but NOT as a health care institution. The new legislation was added as Article 4 titled “Sober Living Homes” in Chapter 18 “Alcohol and Drug Abuse” of Title 36 “Public Health and Safety.” Sober living homes were not added as a new subcategory in Chapter 4 “Health Care Institutions” of Title 36. Due to the fact that no care, treatment, or behavioral health services are provided in a sober living home, the state legislature and Arizona Department of Health Services justifiably distinguished the sober living home license as being separate and apart from a health care institution license. A sober living home is merely a residence with no care or supervision provided by a doctor, nurse, or other medical personnel. Thus, depending on the number of individuals living in a dwelling unit, sober living homes continue to be defined as a “family” or “group home” under the Zoning Ordinance and would not be deemed a “care home” licensed as a health care institution. *See* Table of Contents for Arizona Revised Statutes Title 36 attached hereto as **Exhibit 11**; *see also* email from Megan Whitby, Bureau Chief of Arizona Department of Health Services Special Licensing Division dated August 18, 2021, attached hereto as **Exhibit 18**.

Based upon this legislative and zoning interpretation history, the Zoning Administrator’s Interpretation is erroneous, arbitrary, capricious or an abuse of discretion. As the evidence shows, the proposed Scottsdale Recovery sober living home will not provide care to its residents, will not be licensed as a health care institution, and will allow up to four adults in each dwelling unit. Therefore, the proposed sober living home constitutes a “family” under Scottsdale’s Zoning Ordinance and would be permitted in the R-3 zoning district.

**C. The Zoning Administrator overgeneralizes and misconstrues the “care home” definition to apply to sober living homes.**

The Zoning Administrator’s Interpretation concludes that, because “sober living homes are state licensed and include supervised activities toward recovery ... both the license and supervision qualify under the City’s ‘Care Home’ definition.” The Zoning Administrator’s Interpretation also cites the State’s definition of a “sober living home” and its “supervised setting” as support for this conclusion. Unfortunately, this conclusion is grossly oversimplifies the “care home” definition and the defined terms adopted by the City of Scottsdale in an attempt to pigeonhole sober living homes into the “care home” category.



The City of Scottsdale adopted a “care home” definition with several defined terms of art, which are underlined below:

“Care home shall mean a dwelling shared as a primary residence by no more than ten (10) adults with a disability that is licensed as a health care institution under Arizona law, and in which on-site supervisory or other care services are provided to the disabled residents. For purposes of this definition, a person must live in the dwelling a minimum of thirty (30) consecutive days for this dwelling to be considered a primary residence. A care home is a principal, not an accessory, use.

First, in order to qualify as a care home, the home shall be licensed as a “health care institution under Arizona law.” As confirmed by the City’s Attachment No. 5 to its City Council Report dated December 5, 2017 (**Exhibit 9**), the current Table of Contents for A.R.S Title 36 (**Exhibit 11**), the Arizona Department of Health Services Regulations listing the types of health care institution licenses (**Exhibit 3**), and the email from Megan Whitby, Bureau Chief of the Arizona Department of Health Services Special Licensing Division (**Exhibit 18**), sober living homes are NOT licensed as health care institutions under Arizona law.

Second, the definition of care home requires that “on-site supervisory or other care services” be provided to the residents, thus triggering the requirement for a health care institution license from the State. The Zoning Administrator’s Interpretation uses the general description of a supervised setting in a sober living home as a basis for finding that “on-site supervisory care services” are being provided, thus constituting a care home. The term “supervisory care services” is defined by state statute and the Zoning Ordinance as “general supervision, including daily awareness of resident functioning and continuing needs, the ability to intervene in a crisis and assistance in the self-administration of prescribed medications.” Emphasis added. *See* Ariz. Rev. Stat. § 36-401.A(47); *see also* Section 3.100 of the Zoning Ordinance. No supervisory care services are being provided at the Scottsdale Recovery sober living home. There will be no assistance in the self-administration of prescribed medications. There will be no staff members living in each dwelling unit with residents to ensure a daily awareness of resident functioning and continuing needs or to provide crisis intervention. Residents will live at the Scottsdale Recovery sober living home and function as a family. During the day, they will take classes, receive treatment and care, and partake in activities off-site at various facilities, similar to families leaving for work or school during the day. At the end of the day, the residents will return to their dwellings, cook, eat and interact as a family, and fall asleep to prepare for the next day. Thus, the Scottsdale Recovery sober living home does not meet the definition of a care home merely by being licensed as a sober living home through the State and arranging for its residents to partake in supervised activities and care off-site.

- D. The Zoning Administrator's Interpretation provides the definition of "Health Care Institution" as support for the decision that a sober living home is a "care home," but fails to recognize that none of the care services listed in the "Health Care Institution" definition will be provided at the Property.

The Zoning Administrator's Interpretation erroneously provides emphasis on the care services listed in the "health care institution" definition as support for the decision that the Scottsdale Recovery sober living home is a "care home." Yet, the Zoning Administrator's Interpretation fails to recognize a key element of Scottsdale Recovery's sober living home model — no care services or supervisory care services will be provided to residents in the dwelling units. The Zoning Administrator provides the following quote in its decision:

"Further, the State defines a "Health care institution" as every place, institution, building or agency, whether organized for profit or not, that provides facilities with medical services, nursing services, behavioral health services, health screening services, other health-related services, *supervisory care services*, personal *care services* or directed *care services* ..." (Emphasis provided).

By providing emphasis on the terms "supervisory care services, personal care services and directed care services," the Zoning Administrator appears to be drawing some connection between the Scottsdale Recovery sober living home and the care services provided by a health care institution. As set forth in greater detail in Section III.B.1 of Scottsdale Recovery's narrative dated May 13, 2021, state statute (A.R.S. § 36-401.A(16), A(38) and A(47)) defines all three of those terms. Those care services will not be provided in Scottsdale Recovery's sober living home. Because Scottsdale Recovery is merely offering a sober living home environment to its residents with no care services being provided, a health care institution license is not required by the state.

In fact, the proposed sober living home would not qualify for licensure as a health care institution, as noted by the Arizona Department of Health Services substantive policy statement and interpretation of a "Health Care Institution" effective November 1, 2014 which states: "[I]n order to be a health care institution, a place, institution, building or agency must be providing medical services, nursing services, behavioral health services, health screening services, other health-related services, supervisory care services, personal care services or directed care services.... [If those services are not being provided], the Department shall revoke the health care institution license on the grounds that the place, institution, building or agency is not a health care institution and thus is ineligible for licensure." See ADHS Interpretation of Health Care Institution attached hereto as **Exhibit 12**.

In addition, the Bureau Chief of the Special Licensing Division of the Arizona Department of Health Services, Megan Whitby, recently confirmed that "a sober living home license is not a healthcare institution license." In an email dated August 18, 2021, the

Bureau Chief also confirmed that a “sober living home cannot administer medication or provide any medical or clinical services onsite” and cited the definition of a sober living home (A.R.S. § 36-2061(3)) in support of her statements. See **Exhibit 18**. Therefore, any conclusion that the sober living home is a care home based upon the care services listed in the health care institution definition is clearly erroneous according to the plain language of the state statutes.

### III. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW.

Based on the evidence presented in writing and at the upcoming public hearing, Scottsdale Recovery respectfully requests that the Board of Adjustment exercise its authority pursuant to Section 1.805 of the Zoning Ordinance and enter the following findings of fact and conclusions of law as a basis for reversing the Zoning Administrator’s Interpretation.

- A. Based upon the evidence submitted by Scottsdale Recovery, the proposed sober living home would not constitute a “care home” as defined in the Zoning Ordinance.
- B. The Scottsdale Recovery sober living home requests approval to allow disabled individuals to live as a “family” and reside in separate condominium units in the R-3 zoning district.
- C. The definition of “family” in the Scottsdale Zoning Ordinance allows as many as six adults, related or unrelated, to live together as a single housekeeping unit.
- D. With two to four disabled adults living in each dwelling unit as a single housekeeping unit, the Scottsdale Recovery sober living proposal does constitute a “family” living in each dwelling unit and, therefore, is a permitted use in the Medium Density Residential (R-3) zoning district.
- E. The Scottsdale Recovery sober living home is not licensed as a health care institution under Arizona law.
- F. The Scottsdale Recovery sober living home will not provide supervisory care or other care services to the disabled residents. Supervisory care services means general supervision, including daily awareness of resident functioning and continuing needs, and the ability to intervene in a crisis and to assist in the self-administration of prescribed medication. Scottsdale Recovery has confirmed there will be no supervisory care or assistance with the self-administration of prescribed medication.

- G. The Zoning Administrator's Interpretation is erroneous and is hereby reversed as arbitrary, capricious or an abuse of discretion. The correct interpretation of the City's Zoning Ordinance requires the City to treat each of the Scottsdale Recovery condominium units as a dwelling unit occupied by a family.

#### IV. CONCLUSION

We respectfully request that the Board of Adjustment reverse the Zoning Administrator's Interpretation dated June 23, 2021 after reviewing and considering this supplemental information, together with Scottsdale Recovery's initial narrative dated May 13, 2021. Specifically, we request the Board enter the findings of fact and conclusions of law set forth in this narrative and enter a decision allowing up to six disabled individuals to live as a family in a condominium unit within the Medium Density Residential (R-3) zoning district. Thank you.

Very truly yours,

**Heather N. Dukes**



**TABLE OF EXHIBITS**

<b>Exhibit No.</b>	<b>Exhibit Date</b>	<b>Exhibit Description</b>
<b>1</b>	-	Aerial Photographs
<b>2</b>	05/13/2021	Declaration of Michelle Siwek
<b>3</b>	Current as of 08/17/2021	Excerpt from Arizona Administrative Code Title 9, Chapter 10 – Health Care Institutions
<b>4</b>	Current as of 08/17/2021	Excerpt from Arizona Administrative Code Title 9, Chapter 12 – Sober Living Homes; Arizona Revised Statutes Section 36-2061
<b>5</b>	05/13/2021	Declaration of Daniel Lauber
<b>6</b>	11/10/2016	Joint Statement of the Department of Housing and Urban Development (HUD) and the Department of Justice titled “State and Local Land Use Laws and Practices and the Application of the Fair Housing Act”
<b>7</b>	12/05/2017	City of Scottsdale Ordinance 4326
<b>8</b>	12/05/2017	City of Scottsdale Resolution 10963
<b>9</b>	12/05/2017	City Council Report and Attachment 5 listing ADHS Health Care Institution Uses (for Care Homes)
<b>10</b>	01/11/2018	Zoning Administrator Interpretation that Sober Living Home located at 12012 N. 68 <sup>th</sup> Place is a “Family”
<b>11</b>	Current as of 08/17/2021	Table of Contents for Arizona Revised Statutes Title 36
<b>12</b>	11/01/2014	Arizona Department of Health Services (ADHS) Substantive Policy Statement titled “Interpretation of Health Care Institution”
<b>13</b>	08/17/2021	Scottsdale Recovery PowerPoint Slides
<b>14</b>	-	Letters of Support from Scottsdale Recovery alumni
<b>15</b>	-	Google Reviews of Scottsdale Recovery
<b>16</b>	2021	Women to Watch 2021 Article on Michelle Siwek and Scottsdale Recovery
<b>17</b>	07/19/2021	Neighborhood Notification Information and Mailing Receipt
<b>18</b>	08/18/2021	Email from Megan Whitby, Bureau Chief of Arizona Department of Health Services Special Licensing Division

Context Aerial Photograph of 12-Unit Condominium Development  
7910 and 7920 E. Wilshire Drive







Hayden Rd.

Wilshire Dr.

**DECLARATION OF MICHELLE SIWEK**

I, MICHELLE SIWEK, declare as follows:

1. I am over the age of 18 years and have personal knowledge of the facts contained in this Declaration. If called upon to testify, I could and would testify competently as the truth of the facts stated herein.

2. I am the Manager of Scottsdale Recovery II, LLC, a Delaware limited liability company ("SRII").

3. I have substantial experience owning and operating sober living homes and state-licensed behavioral health residential facilities serving the disabled population of individuals recovering from alcoholism and substance use since 2011.

4. I am the current owner and operator of SRII and own the following 5 locations in Scottsdale:

A. a residential behavioral health facility licensed with the Arizona Department of Health Services ("ADHS") located at 11024 N. Miller Road (License No. BH5753),

B. an outpatient clinic licensed by ADHS located at 10446 N. 74<sup>th</sup> Street (License No. OTC9512),

C. a sober living home licensed and certified with ADHS located at 13402 N. 60<sup>th</sup> Street (License No. SLH10142),

D. a sober living home licensed and certified with ADHS located at 7838 E. Shea Boulevard (License No. SLH10209), and

E. corporate offices with a potential detoxification treatment center use located at 10227 N. Scottsdale Road.

5. SRII has Joint Commission accreditation and certification and complies with the



highest national standards for safety and quality in behavioral health.

6. The proposed sober living use within the 12 residential condominium units located at 7910 and 7920 E. Wilshire Drive (the “Property”) will emulate a conventional family setting.

7. The disabled residents who will live at the Property will either attend outpatient services, work or attend school and must abide by a curfew, and are responsible for daily tasks such as cleaning, personal hygiene, budgeting and cooking.

8. The household functions as the equivalent of a family and allows the recovering persons to provide one another with continual mutual support as well as mutual monitoring to prevent relapse.

9. The potential recovery of people who are handicapped or disabled by reason of alcoholism or drug abuse is greatly enhanced by the mutual support and mutual monitoring provided by living with other recovering persons.

10. It is often critical that a person in the stages of recovery share a bedroom with another recovering addict for mutual support and monitoring.

11. The quality and nature of the relationship among the residents are akin to that of a family. The emotional and mutual support and bonding experienced by each resident enhances and promotes recovery from drug addiction and alcoholism and is the equivalent of the type of love and support received in a traditional family.

12. It has been found that individuals who decide to live in sober housing programs, such as that offered by SRH, are allowed to engage in the process of recovery at their own pace, and that the effects of the disease are greatly ameliorated as a result. By living with other persons who are in recovery, the residents should never have to face an alcoholic’s or addict’s deadliest enemy: loneliness and isolation.

13. In addition, the residents live at SRII by choice. The choice is usually motivated by the individual's desire not to relapse into drug and/or alcohol use after that individual has bottomed out, i.e. lost jobs, their home or their family. It is also motivated by the desire that one must change their lifestyle, the manner in which they conduct their affairs, and the need to become a responsible, productive member of society.

14. SRII will not provide care or treatment at the Property which would require licensure by the Arizona Department of Health Services as a health care institution.

15. SRII will obtain a sober living license and certification by ADHS.

16. Due in part to the opioid crisis in the State of Arizona and nationwide, the need for sober living homes and licensed behavioral health residential facilities has increased in recent years.


17. Since 2011, both the entities I have owned and/or managed and our disabled residents have not contributed to crime in the areas in which the sober living homes are located.

18. SRII has not received a complaint or a notice of violation from the City of Scottsdale relating to its use of its properties or any alleged nuisances, with the exception of a dead tree in the front yard of 11024 N. Miller Road (which has since been removed).

19. The care, treatment, and services provided by a health care institution (such as a licensed behavioral health residential facility) are drastically different and require professional oversight when compared to the supportive living environment offered in a sober living home, which provides no care, treatment or supervisory services to its residents.

I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge.

Dated this 13<sup>th</sup> day of May, 2021.



---

Michelle Siwek

**TITLE 9. HEALTH SERVICES**

**CHAPTER 10. DEPARTMENT OF HEALTH SERVICES - HEALTH CARE INSTITUTIONS: LICENSING**

This Chapter contains rule Sections that were filed to be codified in the *Arizona Administrative Code* between the dates of October 1, 2020 through December 31, 2020.

**Supp. 20-4**

**Questions about these rules? Contact:**

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## CHAPTER 10. DEPARTMENT OF HEALTH SERVICES - HEALTH CARE INSTITUTIONS: LICENSING

## TITLE 9. HEALTH SERVICES

## CHAPTER 10. DEPARTMENT OF HEALTH SERVICES - HEALTH CARE INSTITUTIONS: LICENSING

*Editor's Note: The heading for 9 A.A.C. 10 changed from "Licensure" to "Licensing" per a request from the Department of Health Services (Supp. 03-4).*

*Editor's Note: The Office of the Secretary of State publishes all Chapters on white paper (Supp. 01-2).*

*Editor's Note: This Chapter contains rules which were adopted, amended, and repealed under exemptions from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1993, Ch. 163, § 3(B); Laws 1996, Ch. 329, § 5; Laws 1998, Ch. 178 § 17, and Laws 1999, Ch. 311. Exemption from A.R.S. Title 41, Chapter 6 means that the Department of Health Services did not submit these rules to the Governor's Regulatory Review Council for review; the Department may not have submitted notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department was not required to hold public hearings on these rules; and the Attorney General did not certify these rules. Because this Chapter contains rules which are exempt from the regular rulemaking process, the Chapter is printed on blue paper.*

## ARTICLE 1. GENERAL

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## ARTICLE 2. HOSPITALS

*Article 2, consisting of Sections R9-10-201 through R9-10-233, adopted effective February 23, 1979.*

*Former Article 2, consisting of Sections R9-10-201 through R9-10-250, renumbered as Sections R9-10-301 through R9-10-335 as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days.*

Section	
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## CHAPTER 10. DEPARTMENT OF HEALTH SERVICES - HEALTH CARE INSTITUTIONS: LICENSING

**R9-10-102. Health Care Institution Classes and Subclasses; Requirements****A. A person may apply for a license as one of the following classes or subclasses of health care institution:**

1. General hospital,
  2. Rural general hospital,
  3. Special hospital,
  4. Behavioral health inpatient facility,
  5. Nursing care institution,
  6. Intermediate care facility for individuals with intellectual disabilities,
  7. Recovery care center,
  8. Hospice inpatient facility,
  9. Hospice service agency,
  10. Behavioral health residential facility,
  11. Adult residential care institution,
  12. Assisted living center,
  13. Assisted living home,
  14. Adult foster care home,
  15. Outpatient surgical center,
  16. Outpatient treatment center,
  17. Abortion clinic,
  18. Adult day health care facility,
  19. Home health agency,
  20. Substance abuse transitional facility,
  21. Behavioral health specialized transitional facility,
  22. Counseling facility,
  23. Adult behavioral health therapeutic home,
  24. Behavioral health respite home,
  25. Unclassified health care institution, or
  26. Pain management clinic.
- B.** A person shall apply for a license for the class or subclass that authorizes the provision of the highest level of physical health services or behavioral health services the proposed health care institution plans to provide.
- C.** The Department shall review a proposed health care institution's scope of services to determine whether the requested health care institution class or subclass is appropriate.
- D.** A health care institution shall comply with the requirements in Article 17 of this Chapter if:
1. There are no specific rules in another Article of this Chapter for the health care institution's class or subclass, or
  2. The Department determines that the health care institution is an unclassified health care institution.

**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 24 A.A.R. 3020, effective January 1, 2019 (Supp. 18-4). Amended by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

**R9-10-103. Licensing Exceptions**

- A.** A health care institution license is required for each health care institution facility except:
1. A facility exempt from licensing under A.R.S. § 36-402, or
  2. A health care institution's administrative office.
- B.** The Department does not require a separate health care institution license for:
1. A satellite facility of a hospital under A.R.S. § 36-422(F);
  2. An accredited facility of an accredited hospital under A.R.S. § 36-422(G);
  3. A facility operated by a licensed health care institution that is:
    - a. Adjacent to and contiguous with the licensed health care institution premises; or
    - b. Not adjacent to or contiguous with the licensed health care institution but connected to the licensed health care institution facility by an all-weather enclosure and:
      - i. Owned by the health care institution, or
      - ii. Leased by the health care institution with exclusive rights of possession;
  4. A mobile clinic operated by a licensed health care institution; or
  5. A facility located on grounds that are not adjacent to or contiguous with the health care institution premises where only ancillary services are provided to a patient of the health care institution.

**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws

# VIEW DOCUMENT

The Arizona Revised Statutes have been updated to include the revised sections from the 54th Legislature, 2nd Regular Session. Please note that the next update of this compilation will not take place until after the conclusion of the 55th Legislature, 1st Regular Session, which convenes in January 2021.

## DISCLAIMER

This online version of the Arizona Revised Statutes is primarily maintained for legislative drafting purposes and reflects the version of law that is effective on January 1st of the year following the most recent legislative session. The official version of the Arizona Revised Statutes is published by Thomson Reuters.

### 36-2061. Definitions

In this article, unless the context otherwise requires:

1. "Certifying organization" means an organization that certifies homes as sober living homes and is affiliated with a national organization recognized by the department whose primary function is to improve access to and the quality of sober living residences through standards, education, research and advocacy.
2. "Medication-assisted treatment" means the use of pharmacological medications that are approved by the United States food and drug administration, in combination with counseling and behavioral therapies, to provide a whole patient approach to the treatment of substance use disorders.
3. "Sober living home" means any premises, place or building that provides alcohol-free or drug-free housing and that:
  - (a) Promotes independent living and life skills development.
  - (b) May provide activities that are directed primarily toward recovery from substance use disorders.
  - (c) Provides a supervised setting to a group of unrelated individuals who are recovering from substance use disorders.
  - (d) Does not provide any medical or clinical services or medication administration on-site, except for verification of abstinence.

**TITLE 9. DEPARTMENT OF HEALTH SERVICES**  
**CHAPTER 12. SOBER LIVING HOMES**

Supp. 19-2

This is a new Chapter.

This Chapter contains rule Sections that were filed to be codified in the Arizona Administrative Code between the dates of April 1, 2019 through June 30, 2019

**Questions about these rules? Contact:**

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**TITLE 9. DEPARTMENT OF HEALTH SERVICES**

**CHAPTER 12. SOBER LIVING HOMES**

Authority: A.R.S. §§ 36-132(A)(1) and A.R.S. 36-136(G)

**ARTICLE 1. LICENSURE REQUIREMENTS**

*New Article, consisting of Sections R9-12-101 through R9-12-107, and Table 1.1, made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).*

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R9-12-102.	Individuals to Act for Applicant or Licensee ..... 2
R9-12-103.	Application for a License ..... 3
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**ARTICLE 2. SOBER LIVING HOME REQUIREMENTS**

*New Article, consisting of Sections R9-12-201 through R9-12-207, made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).*

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## CHAPTER 12. SOBER LIVING HOMES

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## CHAPTER 12. SOBER LIVING HOMES

## ARTICLE 1. LICENSURE REQUIREMENTS

**R9-12-101. Definitions**

In addition to the definitions in A.R.S. § 36-2061, the following definitions apply in this Chapter unless otherwise specified:

1. "Abuse" means:
  - a. The same as in A.R.S. § 46-451;
  - b. A pattern of ridiculing or demeaning a resident;
  - c. Making derogatory remarks or verbally harassing a resident; or
  - d. Threatening to inflict physical harm on a resident.
2. "Accept" or "acceptance" means an individual becomes a resident of a sober living home.
3. "Administrative completeness review time-frame" means the same as in A.R.S. § 41-1072.
4. "Applicant" means an individual or business organization requesting a license under R9-12-104 to open a sober living home.
5. "Application packet" means the forms, documents, and additional information the Department requires to be submitted by an applicant.
6. "Business organization" means the same as "entity" in A.R.S. § 10-140.
7. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
8. "Controlling person" means a person who, with respect to a business organization:
  - a. Has the power to vote at least 10% of the outstanding voting securities of the business organization;
  - b. If the business organization is a partnership, is a general partner or is a limited partner who holds at least 10% of the voting rights of the partnership;
  - c. If the business organization is a corporation, association, or limited liability company, is the president, the chief executive officer, the incorporator, an agent, or any person who owns or controls at least 10% of the voting securities; or
  - d. Holds a beneficial interest in 10% or more of the liabilities of the business organization.
9. "Department" means the Arizona Department of Health Services.
10. "Documentation" means information in written, photographic, electronic, or other permanent form.
11. "Drug" has the same meaning as in A.R.S. § 32-1901.
12. "Exploitation" has the same meaning as in A.R.S. § 46-451.
13. "Facility" means the building or buildings used for operating a sober living home.
14. "Health care provider" means a:
  - a. Physician, as defined in A.R.S. § 36-401;
  - b. Registered nurse practitioner, as defined in A.R.S. § 32-1601; or
  - c. Physician assistant, as defined in A.R.S. § 32-2501.
15. "Illicit drug" means:
  - a. A substance listed in A.R.S. § 36-2512 as a schedule I controlled substance;
  - b. A dangerous drug, as defined in A.R.S. § 13-3401, that is not an individual's prescription medication; or
  - c. A prescription medication that is not an individual's prescription medication.
16. "Licensee" means the individual or business organization to which the Department has issued a license to operate a sober living home.
17. "Manager" means an individual designated by a licensee to:
  - a. Act on behalf of the licensee in the onsite management of a sober living home; and
  - b. Support and assist residents of the sober living home.
18. "Modification" means the substantial improvement, enlargement, reduction, alteration, or other substantial change in the facility or another structure on the premises at a sober living home.
19. "Over-the-counter drug" means the same as in A.R.S. § 32-1901.
20. "Overall time-frame" means the same as in A.R.S. § 41-1072.
21. "Premises" means:
  - a. A facility; and
  - b. The grounds surrounding the facility that are owned, leased, or controlled by the licensee, including other structures.
22. "Prescription medication" means the same as in A.R.S. § 32-1901.
23. "Residency agreement" means a document signed by a resident or the resident's representative and a manager, detailing the terms of residency.
24. "Resident" means an individual who is accepted by a licensee under the terms of a residency agreement with the individual to live at the licensee's sober living home.
25. "Resident's representative" means:
  - a. An individual acting on behalf of a resident with the written consent of the resident, or
  - b. The resident's legal guardian.
26. "Sober" or "sobriety" means that an individual is free of alcohol or drugs, except for a drug that is:
  - a. Used as part of medication-assisted treatment,
  - b. The individual's prescription medication, or

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- c. An over-the-counter drug.
- 27. "Staff" means the employees or volunteers who provide monitoring or assistance to residents at a sober living home.
- 28. "Substantive review time-frame" means the same as in A.R.S. § 41-1072.
- 29. "Swimming pool" means the same as "private residential swimming pool" as defined in A.A.C. R18-5-201.
- 30. "Termination of residency" or "terminate residency" means an individual is no longer a resident of a sober living home.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**R9-12-102. Individuals to Act for Applicant or Licensee**

When an applicant or licensee is required by this Chapter to provide information on or sign an application form or other document, the following shall satisfy the requirement on behalf of the applicant or licensee:

- 1. If the applicant or licensee is an individual, the individual; and
- 2. If the applicant or licensee is a business organization, the individual who the business organization has designated to act on the business organization's behalf for purposes of this Chapter and who:
  - a. Is a controlling person of the business organization,
  - b. Is a U.S. citizen or legal resident, and
  - c. Has an Arizona address.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**R9-12-103. Application for a License**

A. An applicant shall submit to the Department a completed application packet to operate a sober living home that contains:

- 1. An application, in a Department-provided format, that includes:
  - a. The applicant's name;
  - b. The proposed name, if any, of the sober living home;
  - c. The address and telephone number of the proposed sober living home;
  - d. The applicant's address and telephone number, if different from the address or telephone number of the proposed sober living home;
  - e. The applicant's e-mail address;
  - f. The name and contact information of an individual acting on behalf of the applicant according to R9-12-102, if applicable;
  - g. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-12-106(C)(3);
  - h. The maximum number of residents of the proposed sober living home;
  - i. The name, telephone number, and e-mail address of the manager for the proposed sober living home;
  - j. An attestation that the applicant is in compliance with local zoning ordinances, building codes, and fire codes; and
  - k. The applicant's signature and the date signed;
- 2. Documentation for the applicant that complies with A.R.S. § 41-1080;
- 3. If applicable, a copy of the applicant's current certificate as a sober living home from a certifying organization approved by the Director;
- 4. A floor plan for the proposed sober living home, including:
  - a. The location and size of each resident bedroom, and
  - b. The location of each openable window or door from a resident bedroom;
- 5. If the premises for the proposed sober living home are leased, documentation from the owner of the premises, in a Department-provided format, that the applicant has permission from the owner to operate a sober living home on the premises; and
- 6. A licensing fee of \$500 plus \$100 times the maximum number of residents of the proposed sober living home in subsection (A)(1)(h).

B. Upon receipt of the application packet in subsection (A), the Department shall issue or deny a license to an applicant as provided in R9-12-106.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**R9-12-104. License Renewal**

A. At least 60 calendar days before the expiration date indicated on a license to operate a sober living home, a licensee shall submit to the Department an application packet for renewal of the license that contains:

- 1. An application, in a Department-provided format, that includes:
  - a. The applicant's name;
  - b. The address and telephone number of the sober living home;
  - c. The applicant's address and telephone number, if different from the address or telephone number of the sober living home;
  - d. The applicant's e-mail address;
  - e. The license number of the sober living home; and

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- f. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-12-106(C)(3);
  - 2. If applicable, a copy of the licensee's current certificate as a sober living home from a certifying organization approved by the Director; and
  - 3. Except as provided in subsection (B), a licensing fee of \$500 plus \$100 times the maximum number of residents approved for the sober living home during the current licensing period.
- B.** A licensee may submit to the Department the licensing fee in subsection (A)(3) with an additional late payment fee of \$250 within 30 calendar days after the expiration date of the license as a sober living home.
- C.** The Department shall renew or deny renewal of a license to operate a sober living home as provided in R9-12-106.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**R9-12-105. Changes Affecting a License**

- A.** A licensee shall notify the Department in writing at least 30 calendar days before the effective date of:
- 1. Termination of operation of the sober living home, including the proposed termination date;
  - 2. A change in the individual or business organization controlling the sober living home, including the name, address, telephone number, and e-mail address of the individual or business organization proposing to assume control of the sober living home;
  - 3. A change in the address of the sober living home, including the new address for the sober living home;
  - 4. A change in the name of the sober living home, including the new name of the sober living home;
  - 5. If the licensee is an individual, a legal change of the licensee's name, including the new name of the licensee; or
  - 6. A proposed change in the maximum number of residents in the sober living home or construction or modification of the facility, including:
    - a. A floor plan for the sober living home showing:
      - i. If applicable, the areas in which construction or modification of the facility will occur;
      - ii. The location and size of each resident bedroom; and
      - iii. The location of each openable window or door from a resident bedroom;
    - b. For a proposed change in the maximum number of residents in the sober living home:
      - i. The proposed new maximum number of residents in the sober living home; and
      - ii. If the proposed new maximum number of residents in the sober living home is larger than the current maximum number of residents, a fee of \$100 times the difference between the current maximum number of residents and the new maximum number of residents; and
    - c. For construction or modification of the facility, an attestation that the construction or modification will be in compliance with local zoning ordinances, building codes, and fire codes.
- B.** A licensee shall notify the Department in writing no more than 30 calendar days after the effective date of:
- 1. A change in the name or contact information of an individual acting on behalf of the licensee according to R9-12-102, including the name and contact information of the new individual acting on behalf of the licensee;
  - 2. A change in the licensee's e-mail address, including the new e-mail address; or
  - 3. A change in the manager of the sober living home, including the name, telephone number, and e-mail address of the new manager.
- C.** If the Department receives the notification of termination of operation in subsection (A)(1), the Department shall void the licensee's license to operate a sober living home as of the termination date specified by the licensee.
- D.** If the Department receives the notification in subsection (A)(2) of a change in the individual or business organization controlling the sober living home, the Department shall void the licensee's license to operate a sober living home upon issuance of a new license to operate a sober living home.
- E.** If the Department receives the notification in subsection (A)(3) of a change in the address of the sober living home, the Department shall review, according to R9-12-106, the licensee's application for a new license, submitted consistent with R9-12-103.
- F.** If the Department receives the notification of a change in the name of the sober living home in subsection (A)(4) or of the licensee in subsection (A)(5), the Department shall issue to the licensee an amended license that incorporates the change but retains the expiration date of the existing license.
- G.** If the Department receives the notification in subsection (A)(6) of a proposed change in the maximum number of residents in the sober living home or of construction or modification of the facility, the Department:
- 1. May conduct an inspection of the premises as allowed by A.R.S. § 36-2063; and
  - 2. Shall issue to the licensee an amended license that incorporates the change but retains the expiration date of the existing license if the sober living home is in compliance with A.R.S. Title 36, Chapter 18, Article 4 and this Chapter.
- H.** An individual or business organization planning to assume operation of an existing sober living home shall obtain a new license, as required in A.R.S. § 36-2062(E), before beginning operation of the sober living home.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**R9-12-106. Time-frames**



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- A. The overall time-frame for a license granted by the Department under this Chapter is set forth in Table 1.1. The applicant or licensee and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame. An extension of the substantive review time-frame and the overall time-frame may not exceed 25% of the overall time-frame.
- B. The administrative completeness review time-frame for a license granted by the Department under this Chapter is set forth in Table 1.1 and begins on the date that the Department receives an application packet.
1. The Department shall send a notice of administrative completeness or deficiencies to the applicant or licensee within the administrative completeness review time-frame.
    - a. A notice of deficiencies shall list each deficiency and the information or items needed to complete the application.
    - b. The administrative completeness review time-frame and the overall time-frame are suspended from the date that the notice of deficiencies is sent until the date that the Department receives all of the missing information or items from the applicant or licensee.
    - c. If an applicant or licensee fails to submit to the Department all of the information or items listed in the notice of deficiencies within 120 calendar days after the date that the Department sent the notice of deficiencies or within a time period the applicant or licensee and the Department agree upon in writing, the Department shall consider the application withdrawn.
  2. If the Department issues a license during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.
- C. The substantive review time-frame is set forth in Table 1.1 and begins on the date of the notice of administrative completeness.
1. As part of the substantive review of an application for a license, the Department may conduct an inspection according to A.R.S. § 36-2063 that may require more than one visit to complete.
  2. The Department shall send a license or a written notice of denial of a license within the substantive review time-frame.
  3. During the substantive review time-frame, the Department may make one comprehensive written request for additional information, unless the applicant or licensee has agreed in writing to allow the Department to submit supplemental requests for information.
    - a. The Department shall send a comprehensive written request for additional information that includes a written statement of deficiencies, stating each statute and rule upon which noncompliance is based, if the Department determines that an applicant or licensee, a sober living home, or the premises are not in substantial compliance with A.R.S. Title 36, Chapter 18, Article 4 or this Chapter.
    - b. An applicant or licensee shall submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental request for information, including, if applicable, documentation of the corrections required in a statement of deficiencies, within 30 calendar days after the date of the comprehensive written request for additional information or the supplemental request for information or within a time period the applicant or licensee and the Department agree upon in writing.
    - c. The substantive review time-frame and the overall time-frame are suspended from the date that the Department sends a comprehensive written request for additional information or a supplemental request for information until the date that the Department receives all of the information requested, including, if applicable, documentation of corrections required in a statement of deficiencies.
    - d. If an applicant or licensee fails to submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental request for information, including, if applicable, documentation of corrections required in a statement of deficiencies, within the time prescribed in subsection (C)(3)(b), the Department shall deny the application.
  4. The Department shall issue a license if the Department determines that the applicant or licensee and the sober living home, including the premises, are in substantial compliance with A.R.S. Title 36, Chapter 18, Article 4, and this Chapter.
  5. If the Department denies a license, the Department shall send to the applicant or licensee a written notice of denial setting forth the reasons for denial and all other information required by A.R.S. § 41-1076.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**R9-12-107. Denial, Revocation, or Suspension of a License**

- A. The Department may deny an application or suspend or revoke a license to operate a sober living home if:
1. An applicant or licensee does not meet the application requirements contained in R9-12-103(A) or R9-12-104(A), as applicable;
  2. A licensee does not comply with requirements in A.R.S. Title 36, Chapter 18, Article 4, or this Chapter;
  3. A licensee does not correct the deficiencies according to the plan of correction specified in R9-12-201(J)(1) by the time stated in the plan of correction;
  4. An applicant or licensee provides false or misleading information as part of an application; or
  5. The nature or number of violations revealed by any type of inspection or investigation of a sober living home poses a direct risk to the life, health, or safety of a resident or another individual on the premises.
- B. In determining which action in subsection (A) is appropriate, the Department shall consider the direct risk to the life, health, or safety of a resident in the sober living home based on:
1. Repeated violations of statutes or rules,
  2. Pattern of violations,
  3. Types of violation,

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4. Severity of violation, and
  5. Number of violations.
- C. An applicant or licensee may appeal the Department's determination in subsection (A) according to A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**Table 1.1. Time-frames (in calendar days)**

Type of approval	Statutory authority	Overall time-frame	Administrative completeness review time-frame	Substantive re-view time-frame
Application for a license under R9-12-103	A.R.S. § 36-2062	90	30	60
Renewal of a license under R9-12-104	A.R.S. § 36-2062	30	10	20
Changes affecting a license, including modifications	A.R.S. § 36-2062	60	30	30

**Historical Note**

Table 1.1 made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**ARTICLE 2. SOBER LIVING HOME REQUIREMENTS****R9-12-201. Administration**

- A. A licensee of a sober living home:
1. Has the authority and responsibility for the management of the sober living home, including when the licensee designates another individual or contracts with a person to accomplish an action or perform a service;
  2. Shall establish, in writing, the scope of services to be provided by the sober living home;
  3. Shall designate, in writing, an individual, who may be the licensee, as the manager of the sober living home; and
  4. Shall ensure that the knowledge, skills, and experience of the manager and any other staff of the sober living home are sufficient to carry out the scope of services established according to subsection (A)(2).
- B. A licensee shall ensure that:
1. A manager:
    - a. Is at least 21 years of age;
    - b. Is sober and has maintained sobriety for at least one year;
    - c. Resides on the premises of only the one sober living home;
    - d. Has documentation of current training in cardiopulmonary resuscitation; and
    - e. Is directly accountable to the licensee for:
      - i. The daily operation of the sober living home;
      - ii. Enforcing all policies and procedures, house rules, and other requirements of the sober living home; and
      - iii. All services provided by or at the sober living home;
  2. Policies and procedures are established, documented, and implemented to:
    - a. Prevent or address any concerns or complaints from individuals living in the surrounding neighborhood by:
      - i. Identifying an individual for individuals living in the surrounding neighborhood to contact to discuss a concern;
      - ii. Requiring the identified individual to respond to a concern or complaint, even if the issue cannot be resolved; and
      - iii. Ensuring that requirements for residents and visitors related to parking, noise emanating from the sober living home, smoking, cleanliness of the public space near the sober living home, and loitering in front of the sober living home or near-by homes are established, known to residents, and enforced; and
    - b. Promote the safety of the surrounding neighborhood, to comply with A.R.S. § 36-2062(A)(3); and
  3. Policies and procedures are established, documented, and implemented to protect the health and safety of a resident that cover:
    - a. Recordkeeping;
    - b. Resident acceptance;
    - c. Resident rights;
    - d. Orientation of a resident to:
      - i. The premises of the sober living home,
      - ii. The resident's rights and responsibilities,

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- iii. The prohibition of the possession of alcohol or illicit drugs at the sober living home;
    - iv. Services offered by or coordinated through the sober living home;
    - v. Drug and alcohol testing practices; and
    - vi. Expectations about food preparation and chores;
  - e. Drug and alcohol testing conducted by an independent testing facility certified under 42 C.F.R. 493 for the sober living home and other assessments of sobriety, including:
    - i. The frequency of testing or assessment, based on the residents accepted; and
    - ii. The compounds included in the testing panel or, if applicable, an assessment methodology, based on the sober living home's scope of services and residents accepted;
  - f. Allowing the acceptance and retention as a resident of an individual:
    - i. Who is receiving and will continue to receive medication-assisted treatment;
    - ii. Who has a co-occurring behavioral health issue, as defined in A.A.C. R9-10-101; or
    - iii. If included in the scope of services established according to subsection (A)(2), has a co-occurring medical condition;
  - g. House meetings, including:
    - i. Frequency;
    - ii. Typical duration; and
    - iii. Participation requirements, if applicable;
  - h. The provision of services, including:
    - i. Facilitating peer support activities;
    - ii. If applicable, providing other services on the premises to support sobriety or improve independent living;
    - iii. If applicable, coordinating the provision of services to support sobriety provided by other persons; and
    - iv. Referring a resident to other persons for the provision of services to support sobriety;
  - i. Residents' records, including electronic records if applicable;
  - j. The establishment, updating, and enforcement of house rules, including:
    - i. If applicable, curfews;
    - ii. Requirements related to chores, smoking, and visitors; and
    - iii. Requirements for the storage, security, and use of a resident's prescription medications or over-the-counter drugs;
  - k. Management of all monies received or spent by the sober living home, including:
    - i. Accounting for monies received by residents;
    - ii. Prohibiting a requirement for an individual or resident to sign a document relinquishing the resident's public assistance benefits, such as medical assistance, case assistance, or supplemental nutrition assistance program benefits, as a condition of residency; and
    - iii. Providing copy of the record of the resident's account to the resident or the resident's representative upon request;
  - l. Specific steps for:
    - i. A resident to file a complaint;
    - ii. The sober living home to respond to a resident's complaint; and
    - iii. The prevention of retaliation against a resident who files a complaint;
  - m. How the licensee or the manager will respond to:
    - i. A resident's loss of sobriety; or
    - ii. A resident's sudden, intense, or out-of-control behavior to prevent harm to the resident or another individual;
  - n. The provision of naloxone, including requirements for:
    - i. Informing the residents, the manager, and any other staff of the availability and location of the naloxone on the premises of the sober living home;
    - ii. Providing training to the manager and any other staff on the correct use of naloxone; and
    - iii. Ensuring the naloxone provided is available and not beyond the listed expiration date; and
  - o. Termination of residency, including:
    - i. Planning for termination of residency when the services provided by the sober living home are no longer needed by a resident, including assisting the resident to find other housing;
    - ii. Coordinating the relocation of a resident to a health care institution or another sober living home if the resident needs services outside the scope of services provided by the sober living home;
    - iii. Coordinating the relocation of a resident to another sober living home or other housing option if the resident terminates residency; and
    - iv. Addressing factors that may negatively impact the surrounding neighborhood.
- C. A licensee shall:
- 1. Not act as a patient's representative; and
  - 2. Ensure that a manager, an employee, or a family member of a manager or employee does not act as a resident's representative.
- D. If a manager has a reasonable basis, according to A.R.S. § 46-454, to believe abuse or exploitation of a resident has occurred on the premises, the manager shall:
- 1. If applicable, take immediate action to stop the suspected abuse or exploitation;
  - 2. Immediately report the suspected abuse or exploitation of the resident according to A.R.S. § 46-454;
  - 3. Document:
    - a. The suspected abuse or exploitation,

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- b. Any action taken according to subsection (D)(1), and
  - c. The report in subsection (D)(2); and
- 4. Maintain the documentation in subsection (D)(3) for at least 12 months after the date of the report in subsection (D)(2).
- E. A manager shall notify:
  - 1. A resident's representative, family member, or other emergency contact designated by the resident according to R9-12-202(C)(2):
    - a. Within one calendar day after:
      - i. The resident's death, or
      - ii. The resident has an illness or injury that requires immediate intervention by an emergency medical services provider or treatment by a health care provider; and
    - b. Within seven calendar days after the manager determines that a resident is:
      - i. Incapable of handling financial affairs, or
      - ii. Not complying with the residency agreement; and
  - 2. The Department, in a Department-provided format, of a resident's death, within one working day after the resident's death, if the resident's death is required to be reported according to A.R.S. § 11-593.
- F. If a sober living home provides or arranges transportation for residents, a manager shall ensure that the vehicle used for transportation:
  - 1. Is in good working order, and
  - 2. Has a seat belt for each occupant of the vehicle.
- G. A manager shall ensure that the following are conspicuously posted in a sober living home:
  - 1. The license of the sober living home;
  - 2. The name and contact information for the individual or business organization controlling the sober living home; and
  - 3. A statement of resident's rights, including:
    - a. The right to file a complaint about the manager or the sober living home,
    - b. How to file a complaint about the manager or the sober living home, and
    - c. The phone number for the unit in the Department responsible for licensing and monitoring the sober living home.
- H. A licensee shall ensure that a personnel record is established for a manager and any other staff of a sober living home that includes the individual's:
  - 1. Name;
  - 2. Date of birth;
  - 3. Contact telephone number; and
  - 4. Documentation of:
    - a. Verification of skills and knowledge sufficient to carry out the sober living home's scope of services;
    - b. Training in the use of naloxone; and
    - c. If applicable:
      - i. Certification in cardiopulmonary resuscitation, and
      - ii. Compliance with subsection (B)(1)(b).
- I. A licensee shall ensure that:
  - 1. The manager or other staff of the sober living home is on the premises within 30 minutes after notification by the Department of the Department's presence at the sober living home; and
  - 2. The Department is allowed immediate access to all:
    - a. Areas of the premises;
    - b. Information in records pertaining to the sober living home or residents, except as prohibited by 42 CFR, Part 2; and
    - c. Staff or residents of the sober living home who are on the premises.
- J. If the Department notifies the licensee of noncompliance with requirements in A.R.S. Title 36, Chapter 18, Article 4, or this Chapter, the licensee shall:
  - 1. Within 14 calendar days after the date of the Department's notice of noncompliance, establish a plan of correction, if applicable, for correction of a deficiency; and
  - 2. Ensure that a deficiency listed on the plan of correction is corrected within 30 calendar days after the date of the plan of correction or within a time period the Department and the licensee agree upon in writing.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**R9-12-202. Residency Agreements**

- A. Within three calendar days before or at the time of acceptance into a sober living home, an individual requesting to be a resident of the sober living home shall provide proof of sobriety to the manager of the sober living home.
- B. A manager shall not accept or retain an individual as a resident of a sober living home if the individual:
  - 1. Is not at least 18 years of age,
  - 2. Cannot provide proof of sobriety, or
  - 3. Needs more support to maintain sobriety than is within the scope of services for the sober living home.
- C. Before or at the time of an individual's acceptance by a sober living home, a manager shall ensure that there is a documented residency agreement between the individual and the sober living home that includes:



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1. The individual's name;
  2. The name and phone number of an emergency point of contact, which may be a family member or another individual designated by the individual;
  3. Information about the individual's:
    - a. Length of sobriety;
    - b. History of previous recovery activities; and
    - c. Source of referral to the sober living home, if applicable;
  4. Terms of occupancy, including:
    - a. Date of occupancy or expected date of occupancy,
    - b. Resident responsibilities, and
    - c. Responsibilities of the sober living home;
  5. The consequences of a loss of sobriety;
  6. A description of the room for the individual to occupy;
  7. A list of the services to be provided by the sober living home to a resident;
  8. The fees to be charged to the individual for residency in the sober living home;
  9. A list of the services available from the sober living home at an additional fee or charge and the associated fees or charges;
  10. The policy for refunding fees, charges, or deposits;
  11. The policy and procedure for a resident to terminate residency, including terminating residency because services were not provided to the resident according to the residency agreement;
  12. The policy and procedure for a sober living home to terminate residency;
  13. A statement that a resident has a right to file a complaint about the sober living home, manager, or licensee and a description of the complaint process;
  14. A statement that a resident is expected to:
    - a. Comply with the terms of the residency agreement and requirements established for residents according to R9-12-201(B)(2)(a)(iii) or R9-12-201(B)(3)(j);
    - b. Maintain sobriety; and
    - c. Participate in activities to improve life skills, support independent living, and promote recovery:
      - i. Such as a treatment program, a self-help group, or another program to support sobriety and recovery; and
      - ii. That may include job training, school, or looking for a job;
  15. A statement that a sober living home may not require an individual to relinquish the individual's public assistance benefits, such as medical assistance, case assistance, or supplemental nutrition assistance program benefits, as a condition of residency;
  16. A statement that a sober living home must notify a family member or other emergency contact of the individual, according to R9-12-201(E)(1), if the individual:
    - a. Dies while a resident of the sober living home,
    - b. Has an illness or injury that requires immediate intervention by an emergency medical services provider or treatment by a health care provider,
    - c. Appears to be incapable of handling financial affairs, or
    - d. Is not complying with the residency agreement;
  17. The name and contact information for the individual or business organization controlling the sober living home;
  18. The signature of the individual and the date signed; and
  19. The manager's signature and date signed.
- D.** A manager shall:
1. Before or at the time of an individual's acceptance by a sober living home, provide to the resident or resident's representative a copy of:
    - a. The residency agreement in subsection (C), and
    - b. Resident's rights; and
  2. Maintain the original of the residency agreement in subsection (C) in the resident's record.
- E.** A manager may terminate residency of a resident as follows:
1. Without notice, if the resident exhibits behavior that is an immediate threat to the health and safety of the resident or other individuals in a sober living home;
  2. With a seven-calendar-day written notice of termination of residency:
    - a. For nonpayment of fees, charges, or deposit; or
    - b. Under the conditions in subsection (B)(3); or
  3. With a 14-calendar-day written notice of termination of residency, for any other reason.
- F.** A manager shall ensure that a written notice of termination of residency includes:
1. The date of notice;
  2. The reason for termination of residency;
  3. If termination of residency is because the resident needs more support to maintain sobriety than is within the scope of services for the sober living home, a description of why the sober living home cannot meet the resident's needs;
  4. The policy for refunding fees, charges, or deposits; and
  5. The deposition of a resident's fees, charges, and deposits.

## CHAPTER 12. SOBER LIVING HOMES

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**R9-12-203. Resident Rights**

- A.** A manager shall ensure that:
1. A resident is not subjected to:
    - a. Abuse,
    - b. Exploitation,
    - c. Coercion,
    - d. Manipulation,
    - e. Sexual abuse,
    - f. Sexual assault, or
    - g. Retaliation for submitting a complaint to the Department or another entity; and
  2. A resident or the resident's representative is informed of and given the opportunity to ask questions about:
    - a. The residency agreement,
    - b. The costs associated with residency,
    - c. The resident's rights and responsibilities,
    - d. The prohibition of the possession of alcohol or illicit drugs at the sober living home,
    - e. Drug and alcohol testing and other assessments of sobriety,
    - f. The consequences of loss of sobriety, and
    - g. The complaint process.
- B.** A resident has the following rights:
1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
  2. To receive services that support the resident's sobriety, including, if applicable, continuing to receive medication-assisted treatment while a resident;
  3. To have a secure place to store personal belongings, medications, or other personal items to deter misappropriation by another individual;
  4. To be able to gain access to the sober living home at any time while a resident;
  5. To have access to all areas of the sober living home's premises, except for:
    - a. The bedrooms and secure storage locations of other residents,
    - b. The bedroom and secure storage locations of the manager or other staff, and
    - c. Areas of the sober living home used as the manager's office or for storage of records or supplies for assessment of sobriety;
  6. To have access to meals prepared in the sober living home;
  7. To review, upon written request, the resident's own record; and
  8. To receive assistance in locating another place to live if the resident's record indicates that the resident:
    - a. No longer needs the services of a sober living home, or
    - b. Needs more services and support to maintain sobriety than the sober living home is authorized to provide.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**R9-12-204. Resident Records**

- A.** A manager shall ensure that a resident record is established and maintained for each resident that includes:
1. The original of the residency agreement in R9-12-202(C);
  2. The date the resident received orientation to the sober living home, as required by R9-12-205(A);
  3. A copy of each drug and alcohol test performed on the resident by an independent testing facility, including the date of the test and the test result;
  4. Any other assessments of sobriety performed on the resident, including:
    - a. The date of the assessment,
    - b. A description of the assessment,
    - c. The result of the assessment, and
    - d. The name of the individual conducting the assessment;
  5. Documentation of the resident's attendance at and participation in treatment, self-help groups, and other supports that promote recovery, including:
    - a. The name or a description of the support towards recovery, and
    - b. The date of the resident's attendance;
  6. A current list of medications taken by the resident and the resident's medical conditions;
  7. An account of monies received from the resident and any expenditures made specific to the resident;
  8. Documentation of any complaints made by or about the resident and the outcome of each complaint;
  9. Documentation of any notification made according to R9-12-201(E) about the resident; and
  10. If applicable, documentation related to termination of residency, including:

## CHAPTER 12. SOBER LIVING HOMES

- a. Whether termination of residency was initiated by the resident or the sober living home,
  - b. The reason for termination of residency,
  - c. Any assistance the resident received in locating another place to live, and
  - d. The date the residency ended.
- B. A licensee shall ensure that a resident's record is:
1. Protected from loss, damage, or unauthorized use;
  2. Available for review by the resident or the resident's representative, within 24 hours after a request; and
  3. Maintained for at least 12 months after the termination of residency.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**R9-12-205. Sober Living Home Services**

- A. Within 24 hours after an individual becomes a resident of a sober living home, a licensee shall ensure that the resident receives orientation to the sober living home and premises, according to policies and procedures, that includes:
1. The location of all exits from the sober living home and the route to evacuate the sober living home in case of an emergency;
  2. The location of the first-aid kit required in R9-12-206(1);
  3. The use of the kitchen of the sober living home, including:
    - a. Operation of the appliances,
    - b. Use of food storage areas, and
    - c. Removal of garbage and refuse;
  4. The use of the washing machine and dryer;
  5. The dates, time, and location of house meetings;
  6. The prohibition of the possession of alcohol or illicit drugs at the sober living home;
  7. Review and discussion of specific resident requirements, as applicable, such as curfews, smoking, visitors, signing in or out of the sober living home, meal preparation schedule, chore schedule, or other house rules;
  8. Review and discussion of requirements related to R9-12-201(B)(2)(a)(iii); and
  9. The information required according to R9-12-201(B)(3)(n).
- B. A manager shall:
1. Conduct drug and alcohol testing according to policies and procedures;
  2. Assist a resident to identify and participate in programs to support sobriety and recovery;
  3. Provide to a resident information about community resources, such as nearby bus routes, grocery stores, department stores, other places to obtain food or other personal items, schools, libraries or other locations providing access to computers, or other locations providing items or services a resident may need.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**R9-12-206. Emergency and Safety Standards**

A manager shall ensure that:

1. A first aid kit is available at a sober living home sufficient to meet the needs of residents;
2. Naloxone is available and accessible to the manager, staff, and residents of the sober living home;
3. A smoke detector and, if there is a gas line in the sober living home, a carbon monoxide detector are installed in:
  - a. A bedroom used by a resident,
  - b. A hallway in a sober living home, and
  - c. A sober living home's kitchen;
4. The smoke detector and, if applicable, carbon monoxide detector in subsection (3) are:
  - a. Either battery operated or, if hard-wired into the electrical system of the sober living home, have a back-up battery; and
  - b. In working order;
5. A fire extinguisher that is labeled as rated at least 1A-10-BC by the Underwriters Laboratories:
  - a. Is maintained in the sober living home's kitchen;
  - b. If a disposable fire extinguisher, is replaced when its indicator reaches the red zone; and
  - c. If a rechargeable fire extinguisher:
    - i. Is serviced at least once every 12 months, and
    - ii. Has a tag attached to the fire extinguisher that specifies the date of the last servicing and the identification of the person who serviced the fire extinguisher;
6. An evacuation path is conspicuously posted on each hallway of each floor of the sober living home;
7. A written evacuation plan is maintained and available for use by the manager, any other staff of the sober living home, and any resident in a sober living home;
8. An evacuation drill is conducted at least once every six months; and
9. A record of an evacuation drill required in subsection (8) is maintained for at least 12 months after the date of the evacuation drill.

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**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

**R9-12-207. Environmental and Physical Plant Requirements**

- A.** A licensee shall ensure that a sober living home:
1. Is free of any plumbing, electrical, ventilation, mechanical, chemical, or structural hazard that may result in physical injury or illness to an individual or jeopardize the health or safety of a resident;
  2. Has a kitchen for use by the manager and residents of the sober living home;
  3. Has a living room accessible at all times to a resident;
  4. Has a dining area furnished for group meals that is accessible to the manager, residents, and any other individuals present in the sober living home;
  5. For each five residents of the sober living home, has at least one bathroom equipped with:
    - a. A working toilet that flushes and has a seat;
    - b. A sink with running water accessible for use by a resident; and
    - c. A working bathtub or shower with a slip-resistant surface;
  6. Has heating and cooling systems that maintain the sober living home at a temperature between 70° F and 84° F at all times, unless individually controlled by a resident;
  7. Has a supply of hot and cold water that is sufficient to meet the personal hygiene needs of residents and the cleaning requirements in this Article;
  8. Has a working washing machine and dryer that is accessible to a resident; and
  9. Has a working telephone that is accessible to a resident.
- B.** If the sober living home has a swimming pool, a licensee shall ensure that:
1. The swimming pool is equipped with the following:
    - a. An operational water circulation system that clarifies and disinfects the swimming pool water continuously and that includes at least:
      - i. A removable strainer,
      - ii. Two swimming pool inlets located on opposite sides of the swimming pool, and
      - iii. A drain located at the swimming pool's lowest point and covered by a grating that cannot be removed without using tools; and
    - b. An operational cleaning system;
  2. The swimming pool is enclosed by a wall or fence that:
    - a. Is at least five feet in height as measured on the exterior of the wall or fence;
    - b. Has no vertical openings greater than four inches across;
    - c. Has no horizontal openings, except as described in subsection (B)(2)(c);
    - d. Is not chain-link;
    - e. Does not have a space between the ground and the bottom fence rail that exceeds four inches in height; and
    - f. Has a self-closing, self-latching gate that:
      - i. Opens away from the swimming pool,
      - ii. Has a latch located at least 54 inches from the ground, and
      - iii. Is locked when the swimming pool is not in use; and
  3. A life preserver or shepherd's crook is available and accessible in the swimming pool area.
- C.** A licensee shall ensure that:
1. A bedroom for use by a resident:
    - a. Is separated from a hall, corridors, or other habitable room by floor-to-ceiling walls containing no interior openings except doors and is not used as a passageway to another bedroom or habitable room;
    - b. Provides sufficient space for an individual in the bedroom to have unobstructed access to the bedroom door;
    - c. Has at least one openable window or door to the outside for use as an emergency exit;
    - d. Contains for each resident using the bedroom:
      - i. A separate, adult-sized, single bed or larger bed with a clean mattress in good repair; and
      - ii. Clean bedding appropriate for the season; and
    - e. If used for:
      - i. Single occupancy, contains at least 60 square feet of floor space; or
      - ii. Two or more residents, has an area of at least 50 square feet per resident;
  2. A mirror is available to a resident for grooming; and
  3. Each resident has individual storage space available for personal possessions and clothing.
- D.** A manager shall ensure that:
1. A sober living home:
    - a. Is maintained free of a condition or situation that may cause a resident or another individual to suffer physical injury;
    - b. Has equipment and supplies to maintain a resident's personal hygiene that are accessible to the resident;
    - c. Is clean and free from accumulations of dirt, garbage, and rubbish; and
    - d. Implements a pest control program to minimize the presence of insects and vermin at the sober living home;
  2. An appliance, light, or other device with a frayed or spliced electrical cord is not used at the sober living home;



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3. An electrical cord, including an extension cord, is not run under a rug or carpeting, over a nail, or from one room to another at the sober living home;
4. A resident does not share a bedroom with an individual who is not a resident;
5. A resident's bedroom is not used to store anything other than the furniture and articles used by the resident and the resident's belongings;
6. A resident has a lockable or other secure storage location for medications, valuables, or other personal belongings to deter misappropriation by other individuals that is accessible only by the resident and the manager;
7. If pets or animals are allowed in the sober living home, pets or animals are:
  - a. Controlled to prevent endangering the residents and to maintain sanitation;
  - b. Licensed consistent with local ordinances; and
  - c. For a dog or cat, vaccinated against rabies;
8. If a water source that is not regulated under 18 A.A.C. 4 by the Arizona Department of Environmental Quality is used:
  - a. The water source is tested at least once every 12 months for total coliform bacteria and fecal coliform or E. coli bacteria;
  - b. If necessary, corrective action is taken to ensure the water is safe to drink; and
  - c. Documentation of testing is retained for at least 12 months after the date of the test; and
9. If a non-municipal sewage system is used, the sewage system is in working order and is maintained according to applicable state laws and rules.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 1419, effective July 1, 2019 (Supp. 19-2).

DECLARATION OF DANIEL LAUBER

I, DANIEL LAUBER, declare as follows:

1. I am over the age of 18 years and have personal knowledge of the facts contained in this Declaration. If called upon to testify, I could and would testify competently as to the truth of the facts stated herein.

2. I am an attorney licensed to practice in the State of Illinois and before the Supreme Court of the United States with over 40 years of experience as a professional city planner and fair housing expert.

3. I make this Declaration in support of the zoning interpretation request submitted by Scottsdale Recovery II, LLC, which seeks confirmation that the proposed use of the condominium property located at 7910 and 7920 E. Wilshire Drive (the "Property") is permitted as of right in the Medium Density Residential (R-3) zoning district as a family.

4. As set forth in detail on my resume attached hereto as **Exhibit "A,"** my educational background includes a Bachelor of Arts Degree in Sociology earned from the University of Chicago in 1970, a Masters Degree in Urban Planning from the University of Illinois (Urbana) in 1972, and a Juris Doctorate from Northwestern University School of Law in 1985.

5. Since 1985, I have served as a consulting attorney to numerous municipalities, counties, states, and community residence providers regarding land use regulations pertaining to community residences for people with disabilities, compliance with the Fair Housing Act, and reasonable accommodation processes and requirements which are at issue in this matter.

6. I conducted a project under the "Community Residence Location Planning Act" to bring the State of Illinois' 115 home rule municipalities into at least partial compliance with the Fair Housing Amendments Act of 1988's zoning requirements for community residences for

people with disabilities.

7. I have served as a consulting attorney and expert witness in lawsuits throughout the country including for the U.S. Department of Justice, as well as administrative and quasi-judicial proceedings regarding these subject matters.

8. I have conducted workshops on zoning for community residences for people with disabilities for the U.S. Department of Housing and Urban Development and at professional conferences of the American Bar Association and the American Planning Association.

9. I wrote the American Planning Association's *Policy Guide on Community Residences* and the American Bar Association's model zoning for group homes.

10. My 1974 Planning Advisory Service Report No. 300, *Zoning/or Family and Group Care Facilities*, written for the American Society of Planning Officials (now the American Planning Association) pioneered the use of spacing distances between community residences for people with disabilities *allowed as of right* in residential zoning districts. Since enactment of the Fair Housing Amendments Act of 1988, the case law has made it abundantly clear that it is facially discriminatory to apply such spacing distances and zoning requirements to community residences that fit within the cap on the number of unrelated individuals living as a single housekeeping unit as set forth in the local zoning code's definition of "family."

11. I conducted one of 50+ studies on the impacts of community residences for people with disabilities on the surrounding neighborhood. Like the other studies, my 1988 study, *Impacts on the Surrounding Neighborhood of Group Homes for Persons With Developmental Disabilities*, found no negative impacts on property values, property turnover rates, or neighborhood safety. Other studies have included recovery residences (then called "halfway houses").

12. I have served as a consultant on zoning for community residences for the City of

Phoenix and the Town of Cave Creek, and as a consultant to the City of Prescott to draft zoning amendments for community residences and a licensing ordinance for structured sober living homes, both in accord with the Fair Housing Act. I have conducted in-depth studies for Phoenix, Cave Creek, Prescott, and other cities around the country, that provide the factual foundation for the zoning approaches they have adopted to regulate community residences for people with disabilities, including sober living homes.

13. In the late 1960s, group homes and community residences began to be formed as part of a broader movement to deinstitutionalize and change the care of people with disabilities. The goal was to provide people with disabilities with as normal a living environment as possible by emulating a biological family to achieve normalization and community integration. The overarching aim was to reintegrate disabled residents into society rather than to isolate them in large-scale institutions where all they learn is how to live in an institution and to spare them the stigma and negative social effects resulting institutionalization.

14. At about the time that group homes were first being established, the Fair Housing Act of 1968 (“FHA”) was enacted to provide for fair housing throughout the United States but was originally limited to prohibiting discrimination on the basis of race, color, religion or national origin.

15. The Fair Housing Amendments Act of 1988 (“FHAA”) extended FHA protections to persons with disabilities, making it unlawful “[t]o discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap,” which includes, by federal law, people with an addiction to illegal drugs or alcohol who are not currently using illegal drugs or alcohol, namely people in recovery from a substance abuse disorder.



16. The amendments adopted as part of the FHAA had the effect of guaranteeing the ability of disabled individuals to live in the residence of their choice within the community.

17. At the very beginning of its FAQs on the City's Care Home Ordinance, Attachment 6 to its December 5, 2017 City Council Report, the City of Scottsdale cited a two-page piece that I wrote entitled, "Rational and Legal Local Zoning Under the Fair Housing Act for Community Residences for People With Disabilities," which summarizes the maximum zoning restrictions a jurisdiction can impose on community residences for people with disabilities.

18. Having apparently relied on "Rational and Legal Local Zoning Under the Fair Housing Act for Community Residences for People With Disabilities," the City of Scottsdale had to be aware of the basic legal principle that a proposed family of up to six unrelated disabled adults must be allowed in the Medium Density Residential (R-3) zoning district as of right when families consisting of six adults without a disability are allowed as of right in that same zoning district.

19. Currently cities and counties tend to use the phrase "community residence" for people with disabilities that includes group homes, sober living homes, and small halfway houses capable of emulating a family. For reasons unknown, Scottsdale has chosen to instead create the fairly unique category "care home" and use the term "group home." Both uses, however, are more commonly subsumed within the term "community residence" and treated the same under a zoning code.

20. Based upon the City of Scottsdale's definitions for "dwelling unit", "family," and "single housekeeping unit" in the Zoning Ordinance, the proposed use would constitute a family living in each condominium unit and would be permitted within the Medium Density Residential (R-3) zoning district as a matter of right. Like any other dwelling, when sober adults in recovery from substance abuse disorders live together and fit within the city's cap of six adults in the

Ordinance's definition of "family," it must be allowed as of right in all residential districts, the same as any other family or housekeeping unit of six or fewer unrelated individuals. The City may not impose any additional zoning requirements or prohibit such families with disabilities from locating within the R-3 zoning district.

21. If the City were to impose additional zoning requirements or prevent this use of the Property in the R-3 zoning district, it would be doing so solely on the basis that the occupants are people with disabilities. Legally, four individuals living together as a single housekeeping unit in each of the proposed condominium units constitute a family like all other families of no more than six unrelated individuals functioning as a single housekeeping unit. Preventing those individuals from living in a condominium unit in the R-3 zoning district under Scottsdale's current zoning provisions would, under the majority view of the case law, almost certainly constitute housing discrimination on its face.

I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge.

Dated this 13<sup>th</sup> day of May, 2021.

A handwritten signature in blue ink that reads "Daniel Lauber". The signature is written in a cursive, flowing style.

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Daniel Lauber, AICP

## EXHIBIT "A"



Daniel Lauber, AICP

Over 40 years experience in planning, law, and fair housing

**Attorney/Planning Consultant.** Planning/Communications {1979+} and the Law Office of Daniel Lauber {Nov. 1985+}

- We help cities and counties bring their zoning provisions for community residences for people with disabilities (group homes, sober homes, small halfway houses) and recovery communities into compliance with the nation's Fair Housing Act and applicable state statutes that comply with the Fair Housing Act. Before drafting zoning amendments, we conduct a thorough report that provides the planning rationale that enables the client jurisdiction to legally require a spacing distance and licensing and/or certification for community residences and recovery communities. We also write licensing ordinances for community residences for which the state does not have a licensing requirement such as sober living homes, recovery residences, and recovery communities.
- We provide consulting services to municipalities, counties, and states on planning, zoning, housing, and fair housing matters.
- We provide other planning and legal services as needed including developing land-use regulations and comprehensive plans for municipalities; site selection; developing affordable housing policy and programs; and public relations and communications. Activities include legal representation, expert testimony, report and plan preparation.
- We conduct Analyses of Impediments to Fair Housing Choice and Assessments of Fair Housing, and prepare Fair Housing Action Plans for cities, counties, consortiums, and states that receive CDBG funds as required by the U.S. Department of Housing and Urban Development. These analyses include an evaluation of the jurisdiction's zoning provisions for community residences for people with disabilities.
- We conduct studies of housing needs and provide expertise on techniques to preserve existing affordable housing and generate new affordable housing.
- We design and conduct random sample surveys of citizens and other populations using sound, scientific methods that produce accurate, representative results.
- We turn local government studies, plans, and zoning codes into clear, understandable, and visually pleasing documents that a lay person can understand.

## Prior Professional Experience

### **Lecturer.** Department of Sociology and Anthropology, Loyola University of Chicago {Autumn 1989}

Taught undergraduate course, Sociology 125 — Chicago: Growth of a Metropolis primarily to juniors and seniors. Course combined sociology, urban planning, and urban history to expand upon the usual course curriculum offered.

### **Researcher.** Lawyers Committee for Better Housing, Chicago, Illinois {Summer, 1983}

Prepared detailed study recommending reforms in the housing receivership process for Illinois municipalities. Prepared for Chicago Mayor Harold Washington's Transition Team.

### **Adjunct Professor of Environmental Science.** Division of Science, College of Arts and Sciences, Governors State University, University Park, Illinois {1979–1980}

Guest lecturer for planning courses; conducted research on effects and regulation of condominium conversions and the use of social impact analysis in municipal planning.

### **Columnist.** *Chicago Sun–Times* {1979}

Created and wrote “CondoWatch” column, first regular newspaper feature on condominium conversion in the United States.

### **Senior Planner.** Planning Division, Village of Oak Park, Illinois {1977 – 1979}

Researched and wrote award-winning Comprehensive Plan 1979 in compliance with 701 Comprehensive Planning Assistance requirements; prepared grant applications and budgets; prepared zoning ordinance revisions and reports; reviewed zoning applications and proposed ordinances; worked with code enforcement personnel; supervised assistant planners; provided staff assistance to Plan Commission and Village Board of Trustees.

### **Senior Planner/701 Program Coordinator.** Office of Research and Planning, Illinois Department of Local Government Affairs (predecessor to Department of Commerce and Community Affairs) {1975 – 1977}

Administered 701 Comprehensive Assistance Program for northeastern Illinois; prepared 701 applications and budgets; provided technical assistance by written report and oral presentation to local governments on planning, administration, risk management, home rule, downtown and economic development, annexation, incorporation, code enforcement; conducted workshops on housing; trained and supervised agency staff; prepared articles and grant applications; prepared chapters of the state land–use plan.

### **Research Associate.** Planning Advisory Service, American Society of Planning Officials (predecessor organization to the American Planning Association) {1972 – 1975}

Researched and wrote Planning Advisory Service reports, magazine articles, and ASPO's comments on federal legislation; answered over 1,500 inquiries from planning agencies and consultants on all aspects of planning and administration.

### **Principal Contributing Consultant.** American Bar Association Advisory Commission on Housing and Urban Growth {Spring 1975}

Researched and wrote zoning hearing examiner portion of “Improving the Administration of Land Use Controls,” in *Housing for All Under Law: New Directions in Housing, Land Use, and Planning Law*, (Ballinger Publishing Company), 1977.



**Consultant.** The Planning Group, Urban Investment and Development Company, Chicago, Illinois (since acquired by JMB Realty) { 1971 – 1972}

Prepared study of open space programs; prepared reports on new town planning concerning: mass transit, governmental districts, annexation and PUD provisions, economic indicators, quality of life, youth needs, buyer profiles; prepare analysis of proposed purchase of industrial park.

## Professional Memberships and Honors

### Board of Directors:

**American Planning Association (APA): President:** 1985–86; Director: 1978–79, 1981–87; 1992–94; 2003–2005

**American Institute of Certified Planners: President:** 1992–94, 2003–2005; Commissioner: 1992–1995; 2002–2005

**American Society of Planning Officials:** Director: 1976–78

**Oak Park Regional Housing Center:** 1995–2003

**Metro–Help (National Runaway Switchboard):** 1977–79

**University of Illinois Alumni Association:** 1983–85

**American Association on Mental Retardation,** Region VI Executive Committee, 1988–1991:

Legal Advocacy Vice Chairman: 1988–91

### Additional memberships:

**American Bar Association:** 1983+

Committee on Regulation of Land Use: 1987–1992

Chairman, Group Home and Congregate Living Subcommittee: 1989–1992

Group Home Model Zoning Ordinance Subcommittee: 1987–1989

Committee on Condominiums, Cooperatives and Homeowner Associations,

Section of Real Property, Probate, and Trust Law: 1983–85

**Chicago Bar Association:** 1986+

Constitutional Law and Civil Rights Committee: 2007+

Real Property Law Committee, Subcommittee on Zoning and Land Use, Vice Chair:

1989–1990; member: 1986–2001

Local Government Committee: 1986–2001

**Illinois State Bar Association,** 1986–2000

Local Government Committee, 1993–1994

**American Planning Association,** 1979+:

Ad Hoc Committee on National Housing Policy: 1987–1988

National/State Policy Coordinating Committee: 1989–1990

Planners Support Committee: 1994–1995

## Awards:

- ◆ 2009 Best Practices Award from the **Illinois Chapter of the American Planning Association** for the *Analysis of Impediments to Fair Housing Choice in the City of Naperville, Illinois 2007*
- ◆ 1998 **Paul Davidoff Award** from the American Planning Association for demonstrating a sustained social commitment to advocacy planning in support of the needs of society's less fortunate members
- ◆ 1991 **Illinois American Planning Association Chapter** Award of Merit for Program or Project of Unusually High Merit Performed Under Serious Budgetary, Staff, or Political Constraints
- ◆ 1983 **Illinois American Planning Association Chapter** Award of Merit for *Oak Park Comprehensive Plan 1979*
- ◆ 1997 Mid–America Publishers Association Award for “Best Makeover” in book design for *Professional's Job Finder* book
- ◆ 1995 Benjamin Franklin Award: “Most Improved Redesign” for *Government Job Finder* book
- ◆ 1994 National Gold Ink Competition Pewter Award for design and production of the *Non–Profits' Job Finder*, 3rd edition

## Education and Bar Admission

Admitted to the Bar of the Supreme Court of the United States (March 1, 1995)  
Admitted to Illinois Bar (Nov. 1985) and U.S. District Court for Northern District of Illinois (Dec. 1985)  
“Fair Housing Skills Training Program” conducted by The John Marshall Law School, February 1996  
**Juris Doctor, Northwestern University School of Law: June 1985**  
Dean’s List: Autumn 1984, Spring 1983, Autumn 1983  
Student Funded Public Interest Fellowship: Summer 1983  
Chairman, Course Evaluation Committee, Student Bar Association, 1984–1985  
**Masters of Urban Planning, University of Illinois (Urbana): June 1972**  
Research and Teaching Assistant: 1970–1972  
**B.A. (sociology), University of Chicago: June 1970**  
Dean’s List: 1968–69, 1969–70

## Group Homes and Other Community Residences Including Sober Homes and Recovery Communities

(Partial Listing)

### Planning:

*Governor’s Planning Council on Developmental Disabilities* — Conducted and published scientific study of impacts of group homes on property values, neighborhood stability, and safety in the surrounding neighborhoods; Sept. 1986

*Illinois Department of Mental Health and Developmental Disabilities, Division of Developmental Disabilities, Region Two (9-county Chicago region)* (1980–1981) — Managed year-long project on zoning for family and group care homes for the developmentally disabled, consisting of technical assistance, expert testimony, ordinance analysis and preparation, workshops, public education and public relations, site selection, analysis of state legislation

*Philadelphia Department of Mental Health and Mental Retardation* — Advised planning, law, building inspection, and zoning officials on zoning for group homes.

*North Shore Association for the Retarded* (name has since been changed to *Shore Community Services, Inc.*) — Devised and coordinated successful efforts to win zoning approval for group homes for developmentally disabled adults in Evanston, IL; expert witness on effects of group homes (1982)

*Lake County, IL Dept. of Planning, Zoning, and Environmental Quality* — Consultant to the defense in unsuccessful court challenge to location of halfway house for prison pre-parolees.

**Legal** (jurisdictions for which zoning amendments were written are in bold face; also see next section entitled “Consulting: Planning and Law”):

### Government

**Amicus Brief, *City of Edmonds v. Washington State Building Code Council*, 514 U.S. 725 (1995):** Principle author of the American Planning Association’s Amicus Curiae Brief on behalf of respondents. Decided May 15, 1995 for the respondents. Several observers of the case believe that this brief is one of several that had a significant influence on the outcome.

**West Palm Beach, Florida (2018–2021)** — Consulting attorney to the city on zoning for community residences for people with disabilities and recovery communities. Conducted the 70-page study *Zoning Principles for Community Residences for People With Disabilities and for Recovery Communities in West Palm Beach* (October 2018) to guide the city’s revisions to its zoning treatment of community residences for people with disabilities and recovery communities. Collaborated with city staff to draft amendments to the city’s *Land Development Code* for community residences and recovery communities.

**Oakland Park, Florida (2020)** — Consulting attorney to the city on zoning for community residences for people with disabilities and recovery communities. Conducted the 69-page study *Zoning Principles for Community Residences for People With Disabilities and for Recovery Communities in Oakland Park* (March 2019) to guide the city’s revisions to its zoning treatment of community residences for people with disabilities and recovery communities. Collaborated with city staff to draft amendments to the city’s *Land Development Code* for community residences and recovery communities. Wrote guidelines for implementation and evaluating conditional use applications and FAQs explaining the proposed zoning in plain English.

**Cave Creek, Arizona (2020)** — Consulting attorney to the town on zoning for community residences for people with disabilities. Conducted the 51–page study *Zoning Principles for Community Residences for People With Disabilities in Cave Creek, Arizona* (Sept. 2019) to guide the town’s revisions to its zoning treatment of community residences for people with disabilities. Produced FAQs to explain the proposed zoning in plain English. Collaborated with staff to draft amendments to the town’s *Zoning Ordinance* for community residences and wrote guidelines for implementation and evaluating applications for a “Disability Accommodation Permit.” Testified as expert witness at public hearings.

**Expert Witness on Mandatory Certification of Sober Homes Before the Florida State Senate** (Feb. 11, 2019) — Provided expert testimony on Senate Bill 102 to the Children, Family, and Elderly Affairs Committee explaining the legal basis for requiring certification of sober homes and recovery communities in Florida. At the time, certification was voluntary. Addressed how mandatory licensing does not run afoul of the nation’s Fair Housing Act.

**Pompano Beach, Florida (2018)** — Consulting attorney to the city on zoning for community residences for people with disabilities. Conducted the 64–page study *Pompano Beach, Florida: Principles to Guide Zoning for Community Residences for People With Disabilities* (June 2018) to guide the city’s revisions to its zoning treatment of community residences for people with disabilities and recovery communities. Drafted amendments to the city’s *Land Usage Code* for community residences and recovery communities (possibly the first ordinance to address recovery communities) as well as guidelines for implementation and evaluating special exception applications. Produced draft zoning application form for community residences and recovery communities. Testified as expert witness at public hearings.

**Phoenix, Arizona (2017–2018)** — Consulting attorney to the city on revising its zoning provisions for community residences for people with disabilities. Conducted the 40–page study *Phoenix, Arizona: Principles to Guide Zoning for Community Residences for People With Disabilities* (Feb. 2018) to guide the city’s revisions to its zoning treatment of community residences for people with disabilities.

**Fort Lauderdale, Florida (2018)** — Consulting attorney to the city’s law firm Lewis Stroud & Deutsch on zoning for community residences for people with disabilities. Conducted the 61–page study *Fort Lauderdale, Florida: Principles to Guide Zoning for Community Residences for People With Disabilities* (Feb. 2018) to guide the city’s revisions to its zoning treatment of community residences for people with disabilities. Provided consulting services on zoning amendments drafted by the city’s attorney which were derived in part from the 2017 Delray Beach zoning amendments.

**Delray Beach, Florida (2017)** — Consulting attorney to the city attorney’s office on zoning for community residences for people with disabilities. Conducted the 55–page study *Delray Beach, Florida: Principles to Guide Zoning for Community Residences for People With Disabilities* (2017) to guide the city’s revisions to its zoning treatment of community residences for people with disabilities. Drafted amendments to the city’s zoning code adopted in July 2017. Produced zoning application form and guidelines for submitting conditional use permit applications as well as guidelines for evaluating conditional use permit applications. Testified as expert witness at public hearings.

**Prescott, Arizona (2016)** — Consulting attorney to the city attorney’s office on ordinance to establish licensing for structured sober living homes as permitted by state legislation adopted earlier in the year. Prepared licensing ordinance designed protect the residents of structured sober living homes from abusive practices, require training and oversight of staff, and require each home to establish a policy that provides a safe discharge of residents.

**Prescott, Arizona (2013–2015)** — Consulting attorney to the city attorney’s office on zoning for community residences for people with disabilities. Prepared the 2015 study *Prescott, Arizona: Principles to Guide Zoning for Community Residences for People With Disabilities* to guide the city’s revisions to its zoning treatment of community residences for people with disabilities and drafted language for amendments to the city’s zoning code that the City Council adopted. Following adoption of the zoning ordinance amendments, the U.S. Department of Housing and Urban Development terminated its investigation of Prescott’s zoning treatment of community residences for people with disabilities. The zoning and licensing ordinances, coupled with the insurance industry’s crackdown on scam artists, filtered out the scam artists and reduced the number of recovery residences or sober homes by more than 70 percent.

**Herrin, Illinois (2013)** — Drafted zoning amendments covering community residences for people with disabilities to bring Herrin zoning into compliance with the Fair Housing Act; researched and wrote the study *Principles to Guide Zoning for Community Residences for People With Disabilities in Herrin, Illinois*, June 2013; presented expert testimony to the city’s Zoning Board of Appeals.

**Dublin, Ohio (2014)** — As consulting attorney to the city’s law firm Frost Brown Todd LLC, we prepared a 33–page study, *Dublin, Ohio: Principles to Guide Zoning for Community Residences for People With Disabilities*, that established the basis for zoning code amendments we drafted with the city’s law firm to bring the city’s zoning provisions for community residences for people with disabilities into compliance with the nation’s Fair Housing Act.

**Willow Springs, Illinois (2013)** — Provided legal assistance on zoning for community residences for people with disabilities in compliance with the Fair Housing Act.

**Dallas, Texas (2012)** — Provided legal assistance to the City Attorney’s office with a focus on compliance with the nation’s Fair Housing Act on the drafting of a new ordinance to license community residences not subject to licensing by the State of Texas

**Boulder City, NV (2012)** — Conducted zoning analysis for proposed use to determine whether it was a residential use or institutional use under the city's zoning code

**Clark County, NV (2006–2008)** — Legal and planning consultant to Clark County in defense and settlement of group home fair housing and zoning federal lawsuit, *Nevada Fair Housing Center, Inc. v. Clark County*

**Boulder City, Nevada (2010)** — Prepared report and amendments to zoning code for community residences for people with disabilities. Conducted joint City Council and Planning Commission workshop.

**Mesquite, Nevada (2010)** — Prepared report and amendments to zoning code for community residences for people with disabilities. Conducted City Council workshop.

**Clark County, Nevada (2005–2006)** — Prepared study and amendments to the county's zoning code for community residences for people with disabilities. Provided expert testimony at public hearing.

**Open Door Rehabilitation Center (2004–2005)** — Wrote zoning text amendments to provide as of right for community residences for people with disabilities in **Sandwich, Illinois**. Served as expert witness for these text amendments as well as area variances and special use permit for group homes for people with developmental disabilities. Prepared request to Illinois Department of Mental Health and Developmental Disabilities for waiver of license-imposed spacing distance. Provided expert testimony at public hearing.

**City of Trotwood, Ohio (1997)**: Expert consultant in federal court case; wrote zoning ordinance amendments for community residences as part of proposed case settlement

**City of Springfield, IL (1997)**: Expert witness and consultant in federal court case

**City of Altoona, Pennsylvania (1994–1995)** — Legal consultant to draft comprehensive zoning ordinance amendments to regulate group homes, halfway houses, shelters, and other community residences in accord with the 1988 amendments to the federal Fair Housing Act.

**City of East Peoria, Illinois (1993)** — Legal consultant; wrote comprehensive zoning ordinance amendments to regulate group homes, halfway houses, shelters, and other community residences in accord with the 1988 amendments to the federal Fair Housing Act

**Illinois Planning Council on Developmental Disabilities (1990–1991)**: Project to implement Illinois' Community Residence Location Planning Act which required all 110 home rule municipalities to prepare plans showing how they intend to amend their zoning ordinances for group homes to bring them into compliance with 1988 amendments to the federal Fair Housing Act. Conducted seven workshops for municipal officials; provided technical assistance to city attorneys and planners; wrote zoning amendments for 11 cities; appeared as expert witness before local plan commissions; wrote guidebook and legal analysis; wrote model zoning ordinance provisions; wrote report for Illinois General Assembly including recommendations for state legislative action; prepared press releases; evaluated 99 ordinances for compliance with the Fair Housing Act's 1988 amendments. **This project received the 1991 award from the Illinois Chapter of the American Planning Association for a "Planning Program of Unusually High Merit Performed Under Serious Budgetary, Manpower, or Political Constraints."**

**Park District of Alsip (1990–91)**: Co-counsel in successful court defense against claim of violation of Fair Housing Act by group home operator. *Alsip Park District v. D&M Partnership*, Case No. 89 L 51342, Circuit Court of Cook County, IL. August 2, 1991.

**Oxford, Ohio (1989)** — Co-conducted with attorney/planner Brian Blaesser a critical assessment of the city's zoning ordinance regarding zoning for community residences for people with disabilities; drafted amendments to the city's zoning ordinance

**Illinois Department of Mental Health and Developmental Disabilities, Division of Developmental Disabilities (1983)** — Provided technical assistance to service providers and municipal and county officials on zoning for group homes, wrote model zoning provisions for local governments, conducted workshops on group home zoning for local officials

## Community Residence Providers

**Story Cottage (2018+)** — Provided assistance to obtain zoning approval from Indianapolis and Carmel, Indiana for group homes for the frail elderly with memory issues. Worked with municipal staffs to recognize that statewide zoning for group homes and their own local zoning provisions for group homes for specified disabilities also apply to group homes for the frail elderly.

**Camelback Ranch (2019+)** — Worked with this operator of sober living homes to obtain zoning approval from Arizona municipalities. Included instances where the proposed sober home was within the designated minimum spacing distance from another community residence, but unbeknownst to local officials, the other community residence did not actually exist. Obtained "reasonable accommodations" to waive requirements for fire sprinkler systems for these sober homes.

**Stepping Stone Recovery (2019+)** — Helped this sober home operator obtain zoning approval from Arizona municipality and be granted a "reasonable accommodation" to waive requirements for fire sprinkler systems for these sober homes. Included an instance where the proposed sober home was within the designated minimum spacing distance from another community residence, but unbeknownst to local officials, the other community residence no longer existed.



*Centered Living Holdings' Recovery Home (2018)* — Served as expert witness and advisor to local attorneys in successful application before Scottsdale, Arizona for a “disability accommodation” to replace an existing recovery residence with a “care home” holding a “behavioral health residential facility” license from the Arizona Department of Health Services. The site was located within the 1,200 foot spacing distance of an existing group home for the frail elderly and the city required that a “disability accommodation” be obtained to locate within that spacing distance.

*St. John Assisted Living Group Home (2017)* — As consulting attorney, obtained the first reasonable accommodation issued by Fort Collins, Colorado under its new zoning provision to enable this group home for the frail elderly to receive zoning approval. The city agreed to waive its zoning provision that required a larger lot size for group homes with more than three residents (and shelters for victims of domestic violence) than would be required for other single-family homes, thus averting a costly lawsuit.

*Forconi Group Home (2017)* — As consulting attorney, provided legal guidance to successfully receive a special use permit from Park County, Wyoming to establish a group home for four adults with developmental disabilities or traumatic brain injuries despite opposition from some neighbors in this largely rural area.

*Independent Advocacy Group (2016)* — Expert witness for a conditional use permit for a group home housing three people with developmental disabilities in Springfield, Illinois.

*Cardinal McCloskey Community Services (2014)* — As consulting attorney and planner, provided assistance to this group home operator to successfully prevent Bedford, NY from objecting under the state’s unique Padavan Law to the location of a proposed group home for four young adults with developmental disabilities. Prepared cover letter, FAQs, and annotated bibliography of property value studies for distribution to prospective neighbors inviting them to a coffee to learn about the proposed group home. Provided guidance to the operator for conducting the coffee and appearing at public hearings. Educated local town staff on the Fair Housing Act and appropriate zoning treatment of group homes.

*Astara House (2014)* — As consulting attorney, provided guidance to the Ziegler Metzger LLP attorney for this recovery community for people in recovery from drug and/or alcohol addiction to successfully receive a special use permit from Bedford, OH.

*The H Group (2012–2014)* — Represented The H Group in successful effort to secure zoning ordinance revisions to allow a community residence for people with developmental disabilities that a southern Illinois city rejected in June 2012. Parties’ agreement settling five housing discrimination complaints filed with HUD reached in March 2014. Provided consulting services on zoning for community residences in additional Illinois communities.

*Our Family Home (2013)* — Provided legal and planning assistance to operator of community residence for elderly with dementia or Alzheimer’s when Montgomery, Ohio sought to impose zoning restrictions illegal under Ohio state law and federal law. Met with neighbors of the proposed group home. Analyzed shortcomings in the zoning treatment of group homes by Montgomery, Ohio. Provided guidance to litigators who achieved successful settlement with the city to allow the community residence as a permitted use and to amend its zoning code to comply with Ohio and federal law.

*LifeCare Homes of America (2011–2013)* — Represented operator of proposed group home for the frail elderly before homeowners’ association regarding restrictive covenants. Persuaded the homeowners’ association to drop its opposition to the group home, stop obstructing architectural approvals, and amend its restrictive covenants to comply with the Fair Housing Act. Obtained opinion from the county verifying that the group home is a permitted use allowed as of right.

*Tranquility House (2011–2012)* — Represented operator of recovery home in application for a special use permit in Blue Island, Illinois.

*Plum Creek Senior Group Home (2011)* — Represented operator of proposed group homes for the frail elderly in negotiations with the City of Park Ridge, Illinois.

*Kings Treatment Center (2008–2009)* — Provided legal representation on zoning matters for group home proposals in Winfield, Kansas

*Habilitative Systems (2009)* — Provided legal representation on zoning matters for group home in Chicago

*Hope House (2008–2009)* — Provided legal representation on zoning and building code matters in Hillside, Illinois

*Sequoia Recovery Services (2007–2009)* — Provided planning and zoning law advice for recovery communities in Pontiac, MI

*Time to Change, Inc. (2006–2007)* — Provided legal and planning assistance to operator to win special use permit to establish a 120-bed community correctional facility in an industrial park in Commerce City, Colorado

*Recovery Resource Center (2003–2005)*: Represented the center in zoning matters in west suburban Cook County, Illinois and completely rewrote the center’s corporate by-laws

*King’s Alcohol/Drug Treatment Center (2005)*: Secured correct interpretation by county officials of zoning and housing code provisions for two recovery communities for young adults in Sedgwick County, KS

*Independent Lifestyles (1996+)*: Represented this operator of group homes for the frail elderly and other people with severe physical disabilities on zoning and hazards reports issues before the City of Wauwatosa, WI (1996) and other Milwaukee-area cities including Franklin, WI (2006)

*Unity House (2003–2005)* — Represented recovery home for men addicted to alcohol or illegal drugs in zoning matters.

*Elgin Villa* (2003–2007) — Represented recovery homes for men addicted to alcohol or illegal drugs in zoning and housing code matters

*Poplar Place* (2004) — Secured corrected interpretation of zoning requirements to allow a group home for the frail elderly in a Milwaukee suburb

*Kevin Spilsbury* (2004) — Represented neighbors responding to zoning proposal for mini-institution with 56 recovering addicts and alcoholics in two adjacent houses in a fenced compound in Clark County, NV

*Chabad of California* (1999–2001): Provided legal guidance in a variety of zoning and building code matters in Los Angeles, CA, regarding residential rabbinical schools and colleges, drug treatment centers, and recovery communities.

*Yellow Brick Road Recovery Community* (2001+): Represented operator in response to \$1,000 ticket from Village of Maywood, IL, for violation of the zoning code. Violation was nonsuited.

*Dungarvin of Wisconsin* (2001–2002): Ended efforts by LaCrosse, WI, to prohibit Dungarvin group home for adults with developmental disabilities from locating in a residential district — without having to file a lawsuit

*Dungarvin of Illinois* (1998–1999): Represented group home for adults with developmental disabilities in its efforts to locate in residential district in Cordova, IL (population: 600). Drafted revisions to the village's zoning code which the village board adopted with some changes that made the client's group home a permitted use.

*Senior Residential Care of America* (1997–1999): Represented this community-based residential facility for 20 frail elderly before the Village of River Hills, WI, in application for special use permit

*Villa Family Live-In Centers, LLC* (1996): Represented this operator of group homes for the frail elderly before the City of Oak Creek, Wisconsin for a special use permit

*Lighthouse Academy and Residential Center* (1995): Represented operator of proposed boarding school for abused, neglected, and abandoned teenagers placed by the Illinois Department of Children and Family Services seeking to locate in the City of Joliet, Illinois

*Lifecare Homes* (1996–97): Represented this operator of group homes for the frail elderly before the City of West Allis, Wisconsin, for an exception to the state's 2,500-foot spacing distance

*Jack Clark's Family Recovering Communities* (1995–1996): Represented this halfway house for individuals recovering from drug and alcohol addictions for a special use permit from the Village of Maywood, Illinois

*Villa Family Live-In Centers LLC* (1996) — Represented operator of group homes for senior citizens with disabilities before local plan commissions and zoning boards in Wisconsin

*Shelter, Inc.* (1992–1993)— Consultant on site acquisition for shelters for abused children

*Berde et al v. Albero* — Consultant to attorneys for intervenors, Protection and Advocacy, Inc., Oakland, California — seeking to prevent use of restrictive covenant to exclude group home

*Dungarvin, Inc.* (1993) — Represented Dungarvin before Lakewood, Colorado, zoning board to obtain special use permit for group home for residents with developmental disabilities.

*Proviso Family Services*: Served as attorney and expert witness in public hearing for special use permit for group home for six women with mental illness. After winning approval of Maywood, Illinois, Plan Commission, the Village Board amended the zoning ordinance to make such group homes a permitted use.

*West Meadowview Civic Association v. Kankakee County Training Center for the Disabled*, Case No. 91–CH–80, 221st Judicial Circuit, Kankakee County, IL (1991). Served as co-counsel for defendant group home operator in challenge to group home based on restrictive covenant. Convinced plaintiff's attorney to drop the lawsuit.

*Foundation for Chemical Dependency Programs* (1990): Represented operator seeking zoning map amendment and special use permit to open halfway house for teen-agers in recovery from drug and alcohol addiction in unincorporated Will County, Illinois. Also handled press relations. Zoning issued by 25–1 vote of County Board despite neighbor filing petition requiring a 3/4 vote for approval. Also handled licensing issues.

*Dungarvin, Inc.* (1991) — Served as attorney to successfully persuade Town of Schererville, Indiana, to withdraw zoning and code objections to proposed group home.

*Martin Luther Homes* — Served as attorney for special use permit hearing for group home for persons with mental illness.

## Expert Witness:

*United States v. City of Chicago Heights*, 161 F. Supp. 2d 819 (N.D. Ill. 2001 — Expert witness for the U.S. Department of Justice on zoning and planning law issues. Deposed in 2000. Identified legal issues that led to district court's summary judgment decision in favor of the United States.

*Tracey P., et al v. Sarasota County*, C.A. No. 8:05–CV–927–JDW–EAJ, U.S. District Court, Middle District of Florida — Expert witness for defendant Sarasota County in federal lawsuit; deposed Dec. 20, 2006; case settled Dec. 2007.

*Rimrock Foundation v. City of Billings, et al*, Cause Number CV 06–162–BLG–CSO— Expert witness for Billings, Montana in federal lawsuit. Produced expert witness report that helped lead to settlement of the case (2008).

*T.W. and Southern Living Centers v. City of Belleville, IL* (1997) — Testified as expert witness on zoning and group home impacts in federal court case in Belleville, IL. Case No. 97–790–WDS (U.S. District Court, Southern District)

*City of Mattoon v. Heritage Enterprises of Charleston, Inc., The Graywood Foundation, Inc., and Mile Stones Midwest, Inc.* (1997–1998): Deposed as expert witness on group home exclusion case in state court in Mattoon, IL (Coles County Circuit Court Cause No. 97–MR–36)

*Ancheta v. Westborough Homeowners Improvement Association* (1997): Expert witness in California state court case involving application of restrictive covenants to group home.

*Staley, Staley and Huggins v. LB Properties* (1992) — Testified as expert witness in successful defense of neighbor effort to overturn ruling by East Peoria Zoning Administrator that group home (RFMS) was a permitted use. Illinois Circuit Court, Case No. 91–CH–64 (May 19, 1992).

*USA v. City of Chicago Heights and RFMS, Inc. v. City of Chicago Heights*, Civil Action No. 89 C 4981, U.S. District Court, N.D. of Illinois. Settled in favor of RFMS, 1990. Served as expert witness to Rosenthal and Schanfield law firm handling Fair Housing Act lawsuit against Chicago Heights for denying special use permit for group home. Resulted in settlement issuing special use permit for group home and \$45,000+ in fines and costs.

*Center for New Horizons* — Served as expert witness before Chicago Plan Commission seeking special use permit to establish a group home for displaced abused boys from the neighborhood; prepared argument portion of brief appealing denial of special use permit. Scheduled to appear as expert witness in court case which was eventually dropped.

*Cook County Legal Assistance (Chicago)* — Expert witness in successful zoning lawsuit to overturn denial of special use permit for day care center.

### **Expert witness on proper zoning treatment and impacts of group homes or halfway houses on property values:**

- *Helping Hand Center* (2010) — Expert witness before Cook County (Illinois) Zoning Board of Appeals for special use permit
- *Safehaven Group Home* (1995) — Expert witness before Cheltenham, PA, Township Zoning Board
- *Northwest Suburban Aid for the Retarded* (1994) — Expert witness in request for special use permit for group home located within 1,320-foot spacing distance
- *Oxford House–C. et al. vs. City of St. Louis* federal district court (1993) — Testified as an expert witness on behalf of Oxford House, a recovery community for people with alcohol and drug addictions.
- “K” Care, Inc. (1992) — Testified at court-ordered special use permit hearing in Lac du Flambeau, Wisconsin
- *Marshall v. L.B. Properties*, No. 91–CH–64, 10th Judicial Circuit, Tazewell County, Illinois (1992) — Testified in court as expert witness for group home operator in lawsuit that overturned the city’s effort to bar two group homes for adults with developmental disabilities.
- *Martin v. Constance* (1990) — Testified as expert witness in St. Louis federal court suit under Fair Housing Act
- *ARC Community Support Systems* (1990) — Effingham, Illinois, Fair Housing Act lawsuit, settled before trial
- *Grace House* — Deposed as expert witness on behalf of halfway house for alcoholic women in Louisville, Kentucky
- Martin Luther Homes, group home for persons with mental illness, Pontiac, IL
- Group homes for persons with developmental disabilities:
- Grace–Harding Homes, Lawton, OK; Expert witness at trial on restrictive covenant to exclude group home; case decided
- *Knisley v. Morgan County Housing*, No. 85–CH–12, 7th judicial circuit, Morgan County, Sept. 6, 1985. Expert witness for plaintiff Morrissey Construction in Jacksonville, Illinois, lawsuit. Case settled just before trial.
- Residential Management Services, DuPont, IN (around 1990) — Testified as expert witness in state court on behalf of group home operator charged with violating zoning ordinance.
- Corporation for Independent Living, Hartford, CT (around 1990) — Testified as expert witness in state court in successful challenge to attempt by condominium to treat group homes as businesses prohibited by condominium by-laws.
- Clearbrook Center, Rolling Meadows, IL.
- North Shore Association for the Retarded, Evanston, IL.
- Macon County Community Mental Health Board, Decatur, IL (1979).

## Consulting: Planning and Law

(Partial listing; most community residence and fair housing experience is listed in the previous section entitled “Group Homes and Other Community Residences”)

### Planning:

#### Analyses of Impediments to Fair Housing Choice (AI)

Each analysis of impediments analyzed and reported on the client jurisdiction’s housing; land use regulations including zoning for community residences for people with disabilities; demographics; income; actual extent of integration; real estate practices; mortgage lending; housing affordability; relationship between public transportation, employment, and housing; and other factors that affect fair housing choice. The extent of integration is estimated fairly through a “Free Market Analysis” that takes into account actual household income and the actual cost of housing to approximate the proportions of each race and Hispanics of any race that would be expected to live in the jurisdiction and each census tract in a free housing market *not* distorted by housing discrimination.

District of Columbia — Researched and wrote ***Analysis Of Impediments To Fair Housing Choice Washington, D.C.*** with Lawyers’ Committee for Civil Rights Under Law and the Poverty and Race Research Action Council (PRRAC) (2019)

Fairfax County, Virginia — Researched and produced the ***Fairfax County, Virginia Analysis of Impediments to Fair Housing Choice 2016–2020***, 299 pages, 2017.

Houston, Texas — Researched and produced most of the ***2015 Analysis of Impediments to Fair Housing Choice, City of Houston***, Appendix 2: *Analysis of Houston’s Development Controls for Exclusionary Impacts* (pp. 177–199), Appendix 3: *Impacts of Development Regulations and Practices on Housing for People with Disabilities* (pp. 200–223), Appendix 4: *Free Market Analysis* (pp. 224–509), August 2015.

Billings, Montana — Researched and produced the ***Billings, Montana Analysis of Impediments to Fair Housing Choice 2012***, 141 pages, 2012.

District of Columbia — Researched and wrote the ***District of Columbia Analysis of Impediments to Fair Housing Choice 2006–2011***, 195 pages, 2012.

Lakewood, Ohio — Researched and produced the ***Lakewood, Ohio Analysis of Impediments to Fair Housing Choice 2011***, 94 pages, 2011.

Clark County, Nevada — Conducted and published the ***Clark County, Nevada Analysis of Impediments to Fair Housing Choice 2011***, included unincorporated Clark County, Boulder City, North Las Vegas, and Mesquite. 140 pages, 2011.

Murfreesboro, TN — Researched and produced the ***Murfreesboro, Tennessee Analysis of Impediments to Fair Housing Choice 2010***, 92 pages, 2010.

Naperville, Illinois — Conducted and published the ***Analysis of Impediments to Fair Housing Choice in the City of Naperville, Illinois, 2007***, 78 pages, 2007. Received a **2009 Best Practices Award** from the Illinois Chapter of the American Planning Association.

Naperville, Illinois — Researched and produced the 78–page ***Naperville Housing Needs and Market Analysis 2009***. In addition to unearthing demographic and housing market data, research included a random sample survey of residents (65.7% response rate) and one of employees (45% response rate) to identify housing preferences, location of work and home, income, current housing, future housing intentions, commuting issues, and more.

Hillsborough County, Florida — Researched and produced paper on the use of accessory apartments as a tool to produce affordable housing; conducted research on the use of housing density bonuses and inclusionary zoning (2008)

Park Forest, IL — Housing programs and policy

Highland Park, IL — Prepared new subdivision ordinance

Montgomery County (MD) Condominium Conversion Task Force — Conducted presentation on preserving affordable rental housing and provided consulting advice

Philadelphia, PA — Planning Department — Consulted on preserving affordable housing; conducted educational sessions for city officials on zoning for group homes

Plenary and Session Speaker, Community Living Arrangements Conference

Oak Park, IL — Designed and published award-winning *Comprehensive Plan 1979*; designed and prepared 1991 revision



American City Corporation — Conducted workshop on group housing for four city officials from Baltimore, Philadelphia, Cincinnati, and Columbus — Robert Woods Johnson program

Impacts of Landfills — Conducted research for an application for landfill in Texas

American Invsco (Chicago) — Prepared national analysis and summary of local and state laws regulating conversion of rental housing to condominium for property acquisitions division

American Association of Retired Persons/National Retired Teachers Association — Conducted workshops on fighting inflation in housing at NRTA–AARP National Issue Forums, Milwaukee, Wisconsin and Portland, Oregon, 1981

Metropolitan Planning Council (Chicago) — Conducted research and presentation on use of low–equity cooperatives in District of Columbia and Montgomery County (Maryland)

Lincolnshire, IL — Drafted community opinion survey on planning and growth issues

## Legal:

Cardinal Vision Homes (2020+) — Providing legal guidance in Illinois and Florida to obtain zoning approval of small community residence type assisted living homes for elderly people with physical disabilities. Awarded special use permit for 14–person assisted living home in Crest Hill, IL (Feb 2021).

River Forest, IL (2020) — Represented homeowner seeking variations to reduce rear yard setback and lot coverage to enable construction of addition with hydrotherapy pool for family members with disabilities. Village Board unanimously granted the variations as a reasonable accommodation under the Fair Housing Act.

River Forest, IL (2019) — Represented homeowner for a zoning variation before the River Forest Zoning Board of Appeals. The ZBA unanimously recommended granting the variation (April 11, 2019)

Midwest Bank Corporation of Delaware — Represented bank before Hinsdale Plan Commission. Won zoning approval for a drive–in bank facility adjacent to residential neighborhood

Golden Age Retirement Home — Served as attorney and consultant for zoning text and map amendments, special use permit

Maywood, Illinois, Plan Commission — Retained by village to interpret zoning ordinance provisions related to appeal of zoning administrators' decision

Deer Valley Homeowners Association — Represented neighborhood association in zoning case in Will County, Illinois

Brenner Development Group — Represented residential and commercial developer to receive zoning permits from Hinsdale, Illinois, to build townhouse development

## Expert Witness:

◆ *Hanna v. City of Chicago*, Case No. 03 CH 5933, Circuit Court of Cook County, Illinois, Chancery Division; Deposed expert witness for the plaintiff in August 2005. Lawsuit rendered moot when the city rezoned the subject property to its previous designation.

◆ *Shirley Berry, et. al. v. Town of Tarboro, et. al.* (Eastern District of North Carolina, U.S. District Court 4:01–CV–140–H(3) (2002–2003)— Expert witness for the plaintiffs on acceptable zoning and planning practices in exclusionary zoning case. Retained by Land Loss Prevention Project. Settled favorably for the plaintiffs in 2003.

◆ Perkins Clay Partnership — Testified as an expert witness on appropriate zoning for townhouse development before Hinsdale, Illinois, Plan Commission; advised attorney

◆ Lutheran Home Services of Arlington Heights (Illinois) — Testified as expert witness on cost–revenue analysis before Arlington Heights Plan Commission

## Research

*Forbes* magazine, Chicago bureau — Conducted research on real estate and banking practices

Levy and Erens, law firm — Prepared report on laws that restricted use of property

Daniel Edelman, Inc. (Chicago), public relations — Prepared municipal political analyses

Citizens Schools Committee — Prepared successful application for foundation funding

## Professional Publications

(Partial listing in reverse chronological order)

### Law and Zoning (Includes Fair Housing):

"A Real LULU: Zoning for Group Homes and Halfway Houses Under the Fair Housing Amendments Act of 1988," in *The John Marshall Law Review*, Winter 1996, pp. 369–407.

"Three Decades On, Group Home Zoning Still at Issue," "Legal Lessons" column in *Planning* magazine, November 2015, p. 11.

*Community Residence Location Planning Act Compliance Guidebook*, May 1990, 47 pp. Explains how group homes operate, whom they house, the 1988 amendments to national Fair Housing Act, and court decisions under the 1988 amendments. Suggests four zoning approaches that comply, to varying degrees of certainty, with the Fair Housing Act. Identifies zoning approaches that certainly violate the act. Appendix includes executive summary and bibliography from Lauber's 1986 study on the impacts of group homes on the surrounding neighborhood.

*Community Residence Location Planning Act News*, June 1990, 4 pp. and Aug. 1990, 14 pp. The June issue answers questions about the Illinois Community Residence Location Planning Act. The August issue contains model zoning provisions for each of the legal zoning approaches suggested in the compliance guidebook described above. The August issues also includes zoning recommendations for halfway house and hospices and a sample application form for administrative occupancy permits. Detailed commentary explains the why and wherefores of each zoning provision.

*Recommendations to the Illinois General Assembly on Zoning for Community Residences*, Jan., 1991, 44 pp. Prepared for the Illinois Planning Council on Developmental Disabilities, this report identifies proper zoning techniques and reviews the results of a state project to bring the zoning ordinances of 110 home rule municipalities into compliance with the 1988 amendments to the Fair Housing Act.

"Avoid Zoning Pitfalls for Community Residences," in *The Suburban Housing Newsletter*, Summer 1993, pages 1–3.

"Group Think," in *Planning* magazine, October 1995, pp. 11–13.

"Nation's Hottest Zoning Issue: Fair Housing Act Allows Zoning for Group Homes," in *Housing & Human Services Quarterly*, American Planning Association, Fall/Winter 1990–91, pp. 1–3.

"Fair Housing Act Allows Zoning for Group Homes," in *Planning & Zoning News*, March 1990, Vol. 8, No. 5, pp. 18–19. This article offers a preliminary evaluation of how the 1988 amendments to the Fair Housing Act affect zoning for group homes.

*Impacts of Group Homes on the Surrounding Neighborhood: An Evaluation of Research*, IDMH/DD, August 1981, 22 pp.

"Mainstreaming Group Homes" in *Planning*, Dec. 1985, pp. 14–18.

*Toward a Sound Zoning Treatment of Group Homes for the Developmentally Disabled*, May 1985, 103 pp.

*Guide to Chicago Zoning*, Illinois Department of Mental Health and Developmental Disabilities (Illinois Department of Mental Health/Developmental Disabilities), April 1981, variable pagination.

"Zoning Hearing Examiners Rescue Cities, Counties from Administrative Tangles, Rising Court Appeals," in *Innovations*, Illinois Department of Local Government Affairs, Jan. 1977, pp. 10–11.

"Socially-Informed Planning and Decision Making: Some Preliminary Ideas," in *Intergovernmental Planning, Approaches to the "No Growth" vs. "Growth is Good" Dilemma*. Proceedings of the Annual Summer Institute on Zoning and Planning, 1976, Bureau of Urban and Regional Planning Research, University of Illinois, 1976, pp. 29–51.

"The Housing Act & Discrimination," in *Planning*, Feb. 1975, pp. 24–25.

*The Hearing Examiner in Zoning Administration*, PAS Report No. 312, ASPO, 1975, 26 pp.

"Some Tips on the New Housing Act," in *Planning*, Nov. 1974, pp. 21–23.

*Zoning for Family & Group Care Facilities*, PAS Report No. 300, ASPO, March 1974, 30 pp. Frequently reprinted and entered as evidence in court cases. Established first model zoning guidelines for community living arrangements.

*Recent Cases in Exclusionary Zoning*, PAS Report No. 292, ASPO, June 1973, 33 pp. Reprinted as chapters on exclusionary zoning in *Management & Control of Growth: Issues–Techniques–Problems–Trends* (Urban Land Institute, 1975, Vol. I), and in *Land Use Controls: Present Problems and Future Reforms* (Center for Urban Policy Research, Rutgers University, 1974).

### Planning:

*Government Job Finder*, 1997–2000, 3rd edition, Planning/Communications, 325 pages, 1997.

"Racially Diverse Communities: A National Necessity," a chapter in *African Americans in Urban America: Contemporary Experiences*, Wendy Kellogg, ed., Kendall/Hunt Publishing Company, 1996, pages 180–200.

Book review of “Breaking New Ground: Developing Innovative AIDS Care Residences,” in *Journal of the American Planning Association*, Winter 1994, pp. 124–125.

“Racially Diverse Communities: A National Necessity,” a chapter in *Challenging Uneven Development: An Urban Agenda for the 1990s*, Phillip Nyden and Wim Wiewel, eds., Rutgers University Press, 1991, pp. 49–84.

“The More Things Change,” commentary in *Journal of the American Planning Association*, Autumn 1993, page 486.

*The Compleat Guide to Finding Jobs in Government*, Planning/Communications, 1989, 183 pages, ISBN: 0-9622019-0-1. Second printing, 1989.

*Impacts on the Surrounding Neighborhood of Group Homes for Persons With Developmental Disabilities*, Governors’ Planning Council on Developmental Disabilities, Sept. 1986, 36 pp. Two printings.

“Condominium Conversions: A Reform in Need of Reform,” Chapter 16 of *Land Reform, American Style*, Frank J. Popper and Charles Geisler, eds., Rowman and Allanheld, 1984, pp. 273–301.

“Viewpoint,” (revive low-equity cooperative housing programs) in *Planning*, April 1984, p. 18.

*Achieving the Promise of Housing Receiverships*, Lawyers Committee for Better Housing, August 1983, 27 pp.

*The Compleat Guide to Jobs in Planning and Public Administration*, Planning/Communications, May 1982; second edition, 1984, 44 pp.

“Towards a Rational Housing Policy: The Role of Condominium Conversions,” in *Condominium and Cooperative Conversion: The Federal Response*, U.S. Government Printing Office, 1981, pp. 284–316.

“Condo conversion laws: the next generation,” in *Planning*, Feb. 1981, pp. 19–23.

“Condominium conversions — the number prompts controls to protect the poor and elderly,” in *Journal of Housing*, April 1980, pp. 201–209.

*Condominium Conversion Regulations: Protecting Tenants*, PAS Report No. 343, APA, September 1979, 22 pp. (co-author)

“Social Planning, Vancouver,” in *Planning*, March/April 1975, pp. 19–21.

*Job Descriptions for Planning Agencies*, PAS Report No. 302, ASPO, May 1974, 22 pp.

“Oak Park: Integration Takes More Than a Racial Quota,” in *Planning*, April/May 1974, pp. 14–17.

## Other Professional Activities: Webinars, Workshops, Speeches, etc.

(Partial listing)

### Housing and Fair Housing:

“Fair Housing Law Under the Biden Administration,” webinar presenter along with Zachary Best, and Anika Singh Lemar, Planning & Law Division, American Planning Association (Feb. 25, 2021)

“The Color Tax: Origins of the Modern Day Wealth Gap,” webinar presenter along with Bruce Orenstein and Angela Brooks, Housing & Community Development Division, American Planning Association (Feb. 12, 2021)

“The Elusive, Penultimate Social Equity: Stable, Racially Integrated Communities” webinar with Richard Rothstein and Athena Williams, Illinois Chapter of the American Planning Association Virtual State Conference (Sept 18, 2020)

“What an AI Can Do to Integrate Fair Housing into Planning Practices” presentation part of the session “The Role of States and Local Government – The Consolidated Plan and the Analysis of Impediments and Compliance With the Fair Housing Act,” 20-minute presentation at *Implementing the Duty to Affirmatively Further Fair Housing*, sponsored by the Fair Housing Legal Support Center and Clinic, The John Marshall Law School (Chicago, IL Sept. 20–21, 2013)

Speaker with Richard Rothstein, author of *The Color of Law: A Forgotten History of How Our Government Segregated America*. Explained what communities have done and can do to achieve stable, racial integration. (Oak Park, Dec. 7, 2017)

“Achieving and Maintaining Racial Diversity,” a 90-minute presentation at the Tenth Annual Fair Housing Conference of the Fair Housing Center of Southwest Michigan, theme: “Affirmatively Furthering Fair Housing – Moving Forward” (Kalamazoo, MI April 12, 2013)

“The Essential AI: What Belongs in a Competent Analysis of Impediments to Fair Housing Choice,” fair housing training conducted with Michael Allen and Caroline Peattie at *Analysis of Impediments to Fair Housing and Affirmative Marketing*, a day-long training seminar for recipients of Community Development Block Grants sponsored by the U.S. Department of Housing and Urban Development (San Francisco, CA August 18, 2011)

“The Effective Analysis of Impediments,” panel presentation at the *City of Raleigh Fair Housing Board 9th Annual Fair Housing Conference* (Raleigh, NC April 29, 2011)

“Key Elements and Best Practices: Creating a Competent Analysis of Impediments to Fair Housing Choice,” three-hour presentation with Caroline Peattie at *Analysis of Impediments to Fair Housing and Affirmative Marketing*,

a day-long training seminar for recipients of Community Development Block Grants sponsored by the U.S. Department of Housing and Urban Development, Western Center on Law and Poverty, and Legal Aid Foundation of Los Angeles (Los Angeles, CA March 16, 2011)

"Creating an Effective Analysis of Impediments to Fair Housing," a one-hour presentation at *Race Place and Fair Housing in Texas*, A Statewide Conference at the University of Texas School of Law (Austin, TX October 15, 2010)

"Fair Housing & Economic Opportunity: Updating the AI, Ensuring Compliance & Making Progress Toward Change," a three-hour panel presentation at *Annual Community and Economic Development Conference and Training* conducted by the National Association for County Community & Economic Development (Ann Arbor, MI Oct. 2, 2010)

"Integrating Fair Housing into Municipal Law: Group Homes, AIs, and the Fair Housing Act," Teleconference speaker, International Municipal Lawyers Association (IMLA), July 13, 2010.

Speaker and panelist in session "Strategies for Change," at "A Dream Deferred: Residential Segregation in Oregon," sponsored by HUD, Fannie Mae Foundation, Fair Housing Council of Oregon, et al. (Portland, OR May 3, 2005)

Plenary Speaker, "Causes of Segregation and How to Overcome," Forum of the South Orange-Maplewood Community Coalition on Race (New Jersey), Oct. 30, 2001)

Speaker and panelist at the conference "The Struggle for Fair Housing: Weighing Our Progress," conducted by the Fair Housing Center of West Michigan (Grand Rapids, MI April 29, 2004)

Speaker on preserving racial diversity at the two-day Fair Housing 1968–1998: Promises Kept, Promises Broken," University of Miami School of Law (Feb. 6–7, 1998)

Plenary session speaker, Annual Town and Community Planning Conference, Iowa State University: evaluated Housing & Community Development Act (Nov. 1977)

"Funding for Limited-Equity Cooperatives: An Approach for Chicago," American Planning Association Illinois/Wisconsin Conference (1979)

*(Also see "Preservation of Affordable Housing — Policy and Programs" below)*

### **Fair Housing: Community Residences (group homes, small halfway houses, recovery communities):**

*After 30 Years, It's Time to Comply With the Fair Housing Act, 2019*, American Planning Association–Illinois Chapter Annual Conference (with Greg Jones) (September 27, 2019)

*Innovations in Municipal Regulation of Group Homes, Sober Homes, and Recovery Communities*, webinar presented by Lorman Education (February 21, 2019)

"Planning and the Opioid Epidemic: Session Three," American Planning Association webinar (March 20, 2018)

"Municipal Regulation of Group Homes and Sober Living Arrangements," Strafford Publishing webinar (April 18, 2017)

"Healthy and Legal – Zoning for Group Homes in Tennessee," keynote address at "Farmhouse to Penthouse" the 2013 Fall Conference of the Tennessee Chapter of the American Planning Association (Kingsport, TN Sept. 26, 2013)

"Coming Soon to Your Community: Housing for People With Disabilities," a 90-minute session at the American Planning Association–Chicago Metro Section Fall Conference (Chicago, October 4, 2013)

"Group Home Zoning: How to Comply With the Fair Housing Act," a 90-minute presentation at the 2013 Fall Conference of the Illinois State Section of the American Planning Association (Columbia, IL, Sept. 27, 2013)

"Focus on Community Residences/Group Homes," part of the session "LULUs: Locally Unwanted Land Uses," American Bar Association Annual Conference, (Chicago, July 31, 2009)

"The Fair Housing Act: Group Homes and Zoning: Fair or Foul?" American Bar Association Annual Conference (Atlanta, August 13, 1991).

"Federal Statutory and Regulatory Changes in Fair Housing Amendment," Association of State Mental Health Attorney Annual Conference (Kansas City, MO, Oct. 1, 1990)

"Must Zoning Accommodate Group Homes?," Fair Housing Enforcement: A Focus on Special Issues Affecting the Disabled, Families with Children, and the First Amendment, Fair Housing Legal Support Center, John Marshall Law School (Chicago, April 28, 1995)

"Impact of Zoning on Free Housing Choices," Third Annual Fair Housing Summit of the Indiana Fair Housing Task Force, April 10, 2000, Muncie, IN

Plenary Session Speaker, "Myths of Fair Housing," at "Fair Housing Conference," sponsored by U.S. Department of Housing & Urban Development, Municipality of Anchorage, and Alaska Chapter of the American Planning Association, Anchorage, AK. Conducted plenary session as a two-hour workshop. (April 1998)

Plenary Speech, National Conference on Technology and Politics of Planning (Illinois Planning Council on Developmental Disabilities, Chicago, April 1986)

Featured speaker, "Communities That Care: Housing for Special Populations" Conference, Wright State University Center for Urban and Public Affairs, Miami Valley Regional Planning Commission (Oct. 23, 1987)



"Handicap and Zoning Ordinances," Annual Meeting of the Indiana Consortium of State and Local Human Rights Agencies (Hammond, IN, June 13, 1996)

Speaker on zoning for group homes under the Fair Housing Act at the "Fair Housing 1968–1998: Promises Kept, Promises Broken," University of Miami School of Law (Feb., 6–7, 1998)

Faculty, Illinois Institute for Continuing Legal Education, "Municipal Law: 1987 Update," (May 20 and 28, 1987)  
"Overcrowding and the Definition of Family," Illinois Chapter American Planning Association Annual Conference, June 11, 1998

"Enforcement Panel," *Opening Doors*, 14th Annual Fair Housing Seminar, co-sponsored by Cook County Commission on Human Rights, HUD, Chicago Association of Realtors, and 15 other organizations (June 3, 1994)

"Zoning Issues," 28th Annual Meeting, Wisconsin Association of Residential Facilities (June 2, 1997)

Zoning Institute (American Institute of Certified Planners): Conducted three-hour workshop on zoning for group homes (Oct. 1985)

Annual Zoning and Planning Conference, Governors State University, course on:

Zoning for Group Homes and Halfway Houses (1985)

Speaker, workshops on "Dealing with Community Fears" and "Zoning Issues," Housing Symposium on Creating Housing for People with Special Needs (Evanston Regionalized Housing Plan Committee, May 1986)

Plenary and Session Speaker, Community Living Arrangements Conference (City of Philadelphia, Sept. 1986)

"Zoning for Group Homes and Halfway Houses Workshop," Annual Zoning Institute, San Francisco (American Institute of Certified Planners, Oct. 1985)

Conducted half-day workshops for municipal planners in six-county Chicago area, Illinois Department of Mental Health and Developmental Disabilities (Feb., March, May, 1981)

"Group Homes and Halfway Houses Workshop," Zoning and Planning Workshop at Governors State University (University Park, IL, Oct. 1981)

Speeches or workshops on zoning for group homes and/or impacts of group homes:

- "Group Homes: Impacts and Zoning," Young Adults Institute National Conference (New York, April 29, 1987)
- "Winning Zoning Approval for Group Homes," American Association on Mental Retardation, Great Lakes Region Annual Conference (Sept. 1988)
- "Strategies to Win Community Support and Zoning Approval for Group Homes," workshop at 1988 Community Program Innovations National Conference (Boston, June 1988)
- "Symposium on Housing for the Mentally Ill," Alliance for the Mentally Ill of DuPage County, Illinois (1987)
- "Mentally Ill in Our Communities: Where Do We Go From Here?" Illinois League of Women Voters (1987)
- "More Than a Place to Stay: Housing the Mentally Ill in Our Communities," Panel Speaker, Roosevelt University Public Administration Program, League of Women Voters of Cook County (Nov. 19, 1988)
- "Group Homes: Impacts, Winning Neighborhood Support, and Zoning," 1987 TASH Annual Conference
- Panel Speaker, North Shore Interfaith Housing Council Annual Meeting (Nov. 20, 1988)
- Alliance for Mentally Ill of the South Suburbs (August 17, 1987)
- American Planning Association Upper Midwest Conference (Sept. 18, 1987)
- American Planning Association Mid-Atlantic Regional Conference (Virginia Beach, Virginia, Sept. 1986)
- "Legal Zoning for Group Homes," Chicago Bar Association, Zoning and Land Use Subcommittee (Oct. 20, 1988)

**American Planning Association Annual National Conference — Session speaker and/or moderator:**

- Low- and moderate-income housing (1974)
- Social impact analysis (1977)
- Impact and regulation of condominium conversion (1978, 1979, 1980)
- Preserving affordable housing (1981)
- How to write well (1982)
- Low-equity cooperatives (1985)
- Zoning for group homes and halfway houses (1986)
- "Opening the City to Persons with Disabilities: Transportation Accessibility and Group Homes" (1988)
- Workshop on zoning for group homes under the Fair Housing Act (1990)
- "Achieving and Preserving Racial Diversity," workshop (1992)
- "Planning for Residential Integration" (1995)
- "Zoning for Community Residences" (1996)
- "NIMBYs and Commissioners" (1996)
- "Preserving Racially Diverse Communities" with Professor Gary Orfield (1998)
- "Real Solutions for Affordable Housing" (2004, 2005)

## Other Planning and Zoning:

Faculty, *Doing Your Job: A One-Day Workshop on Local Planning and Zoning*, full-day workshops for planning commissioners, elected officials, and planners, sponsored by the Institute for Public Policy and Administration, Governors State University (University Park, Illinois):

Part I: Rockford, Matteson, Moline, Champaign (1988)

Part II: Rockford, Matteson, Oak Brook Terrace (1989)

Annual Zoning and Planning Conference, Governors State University, course on:

Recent Developments in Zoning Law, and the Zoning Hearing Examiner (1986)

"Socially Informed Planning" — Institute on Zoning and Planning, University of Illinois (Urbana), 1975, 1976

## Guest Lecturer:

Guest Lecturer, "Fair Housing and Group Homes," Fair Housing Legal Clinic, John Marshall Law School, April 1, 2013

Faculty, "Ethics in Urban Planning," a mini-course in "Community Planning & Development," sponsored by the Municipal Art Society Planning Center and Hunter College, New York, NY, October 14, 2003

University of Illinois (Urbana)— social planning (1975); planning in the real world (1981)

Governors State University— socially-informed planning (1976–77, 1979)

## Preservation of Affordable Housing: Policy and Programs

(Partial listing)

"Bringing Sense to American Housing Policy," Keynote Address, 2005 annual conference of the National Association of Housing Cooperatives, Kansas City, KS, Sept. 15, 2005; published in *Cooperative Housing Bulletin*, Nov./Dec. 2005, Vol. XXI, No. 6, pp. 1, 4, 15

"Sensible and Effective Approaches to Affordable Housing," three-hour workshop presented at *Planning at the Crossroads Regional Planning Conference*, a nine-state conference of the American Planning Association (Oct. 13, 2004)

Faculty, "Making Real Efforts Toward Affordable Housing in Your Community," a 90-minute course for the University of Wisconsin's 32nd Annual *Planning and Zoning for Community Land-Use Management* conducted in Charlotte, NC; Madison, WI; and Albuquerque, NM (Spring, 2002)

American Association of Retired Persons/National Retired Teachers Association — workshops on fighting inflation in housing at NRTA-AARP National Issue Forums, Milwaukee, Wisconsin and Portland, Oregon, 1981

Metropolitan Planning Council (Chicago) — Research and presentation on use of low-equity cooperatives in District of Columbia and Montgomery County (Maryland)

## Expert Witness

- U.S. Senate Subcommittee on Housing and Urban Affairs, Committee on Banking, Housing, and Urban Affairs, June 28, 1979
- U.S. House of Representatives Subcommittee on Commerce, Consumer, and Monetary Affairs, Committee on Government Operations, March 31, 1981
- New Jersey Governor Brendan Byrne, Jan. 31, 1981
- Milwaukee City Council, Dec. 1980
- Montgomery County (Maryland), Condominium Conversion Task Force, Oct. 1979
- Chicago City Council, March and Oct. 1979
- Illinois Joint Legislative Study Committee, April 21, 1980, Feb. 8, 1982
- Illinois House of Representatives, Subcommittee on Real Estate, Feb. 8, 1978
- Skokie (Illinois) Village Board and Plan Commission, 1978
- Oak Park (Illinois) Village Board and Plan Commission, 1978
- Evanston (Illinois) Housing Commission, Plan Commission, City Council, 1978–1981



**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY**



**U.S. DEPARTMENT OF JUSTICE  
CIVIL RIGHTS DIVISION**

*Washington, D.C.  
November 10, 2016*

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**JOINT STATEMENT OF THE DEPARTMENT OF HOUSING AND URBAN  
DEVELOPMENT AND THE DEPARTMENT OF JUSTICE**

**STATE AND LOCAL LAND USE LAWS AND PRACTICES AND THE APPLICATION  
OF THE FAIR HOUSING ACT**

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**INTRODUCTION**

The Department of Justice (“DOJ”) and the Department of Housing and Urban Development (“HUD”) are jointly responsible for enforcing the Federal Fair Housing Act (“the Act”),<sup>1</sup> which prohibits discrimination in housing on the basis of race, color, religion, sex, disability, familial status (children under 18 living with a parent or guardian), or national origin.<sup>2</sup> The Act prohibits housing-related policies and practices that exclude or otherwise discriminate against individuals because of protected characteristics.

The regulation of land use and zoning is traditionally reserved to state and local governments, except to the extent that it conflicts with requirements imposed by the Fair Housing Act or other federal laws. This Joint Statement provides an overview of the Fair Housing Act’s requirements relating to state and local land use practices and zoning laws, including conduct related to group homes. It updates and expands upon DOJ’s and HUD’s Joint

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<sup>1</sup> The Fair Housing Act is codified at 42 U.S.C. §§ 3601–19.

<sup>2</sup> The Act uses the term “handicap” instead of “disability.” Both terms have the same legal meaning. *See Bragdon v. Abbott*, 524 U.S. 624, 631 (1998) (noting that the definition of “disability” in the Americans with Disabilities Act

Statement on Group Homes, Local Land Use, and the Fair Housing Act, issued on August 18, 1999. The first section of the Joint Statement, Questions 1–6, describes generally the Act’s requirements as they pertain to land use and zoning. The second and third sections, Questions 7–25, discuss more specifically how the Act applies to land use and zoning laws affecting housing for persons with disabilities, including guidance on regulating group homes and the requirement to provide reasonable accommodations. The fourth section, Questions 26–27, addresses HUD’s and DOJ’s enforcement of the Act in the land use and zoning context.

This Joint Statement focuses on the Fair Housing Act, not on other federal civil rights laws that prohibit state and local governments from adopting or implementing land use and zoning practices that discriminate based on a protected characteristic, such as Title II of the Americans with Disabilities Act (“ADA”),<sup>3</sup> Section 504 of the Rehabilitation Act of 1973 (“Section 504”),<sup>4</sup> and Title VI of the Civil Rights Act of 1964.<sup>5</sup> In addition, the Joint Statement does not address a state or local government’s duty to affirmatively further fair housing, even though state and local governments that receive HUD assistance are subject to this duty. For additional information provided by DOJ and HUD regarding these issues, see the list of resources provided in the answer to Question 27.

## **Questions and Answers on the Fair Housing Act and State and Local Land Use Laws and Zoning**

### **1. How does the Fair Housing Act apply to state and local land use and zoning?**

The Fair Housing Act prohibits a broad range of housing practices that discriminate against individuals on the basis of race, color, religion, sex, disability, familial status, or national origin (commonly referred to as protected characteristics). As established by the Supremacy Clause of the U.S. Constitution, federal laws such as the Fair Housing Act take precedence over conflicting state and local laws. The Fair Housing Act thus prohibits state and local land use and zoning laws, policies, and practices that discriminate based on a characteristic protected under the Act. Prohibited practices as defined in the Act include making unavailable or denying housing because of a protected characteristic. Housing includes not only buildings intended for occupancy as residences, but also vacant land that may be developed into residences.

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is drawn almost verbatim “from the definition of ‘handicap’ contained in the Fair Housing Amendments Act of 1988”). This document uses the term “disability,” which is more generally accepted.

<sup>3</sup> 42 U.S.C. §12132.

<sup>4</sup> 29 U.S.C. § 794.

<sup>5</sup> 42 U.S.C. § 2000d.



## **2. What types of land use and zoning laws or practices violate the Fair Housing Act?**

Examples of state and local land use and zoning laws or practices that may violate the Act include:

- Prohibiting or restricting the development of housing based on the belief that the residents will be members of a particular protected class, such as race, disability, or familial status, by, for example, placing a moratorium on the development of multifamily housing because of concerns that the residents will include members of a particular protected class.
- Imposing restrictions or additional conditions on group housing for persons with disabilities that are not imposed on families or other groups of unrelated individuals, by, for example, requiring an occupancy permit for persons with disabilities to live in a single-family home while not requiring a permit for other residents of single-family homes.
- Imposing restrictions on housing because of alleged public safety concerns that are based on stereotypes about the residents' or anticipated residents' membership in a protected class, by, for example, requiring a proposed development to provide additional security measures based on a belief that persons of a particular protected class are more likely to engage in criminal activity.
- Enforcing otherwise neutral laws or policies differently because of the residents' protected characteristics, by, for example, citing individuals who are members of a particular protected class for violating code requirements for property upkeep while not citing other residents for similar violations.
- Refusing to provide reasonable accommodations to land use or zoning policies when such accommodations may be necessary to allow persons with disabilities to have an equal opportunity to use and enjoy the housing, by, for example, denying a request to modify a setback requirement so an accessible sidewalk or ramp can be provided for one or more persons with mobility disabilities.

## **3. When does a land use or zoning practice constitute intentional discrimination in violation of the Fair Housing Act?**

Intentional discrimination is also referred to as disparate treatment, meaning that the action treats a person or group of persons differently because of race, color, religion, sex, disability, familial status, or national origin. A land use or zoning practice may be intentionally discriminatory even if there is no personal bias or animus on the part of individual government officials. For example, municipal zoning practices or decisions that reflect acquiescence to community bias may be intentionally discriminatory, even if the officials themselves do not personally share such bias. (See Q&A 5.) Intentional discrimination does not require that the

decision-makers were hostile toward members of a particular protected class. Decisions motivated by a purported desire to benefit a particular group can also violate the Act if they result in differential treatment because of a protected characteristic.

A land use or zoning practice may be discriminatory on its face. For example, a law that requires persons with disabilities to request permits to live in single-family zones while not requiring persons without disabilities to request such permits violates the Act because it treats persons with disabilities differently based on their disability. Even a law that is seemingly neutral will still violate the Act if enacted with discriminatory intent. In that instance, the analysis of whether there is intentional discrimination will be based on a variety of factors, all of which need not be satisfied. These factors include, but are not limited to: (1) the “impact” of the municipal practice, such as whether an ordinance disproportionately impacts minority residents compared to white residents or whether the practice perpetuates segregation in a neighborhood or particular geographic area; (2) the “historical background” of the action, such as whether there is a history of segregation or discriminatory conduct by the municipality; (3) the “specific sequence of events,” such as whether the city adopted an ordinance or took action only after significant, racially-motivated community opposition to a housing development or changed course after learning that a development would include non-white residents; (4) departures from the “normal procedural sequence,” such as whether a municipality deviated from normal application or zoning requirements; (5) “substantive departures,” such as whether the factors usually considered important suggest that a state or local government should have reached a different result; and (6) the “legislative or administrative history,” such as any statements by members of the state or local decision-making body.<sup>6</sup>

#### **4. Can state and local land use and zoning laws or practices violate the Fair Housing Act if the state or locality did not intend to discriminate against persons on a prohibited basis?**

Yes. Even absent a discriminatory intent, state or local governments may be liable under the Act for any land use or zoning law or practice that has an unjustified discriminatory effect because of a protected characteristic. In 2015, the United States Supreme Court affirmed this interpretation of the Act in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*<sup>7</sup> The Court stated that “[t]hese unlawful practices include zoning laws and other housing restrictions that function unfairly to exclude minorities from certain neighborhoods without any sufficient justification.”<sup>8</sup>

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<sup>6</sup> *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 265–68 (1977).

<sup>7</sup> \_\_\_ U.S. \_\_\_, 135 S. Ct. 2507 (2015).

<sup>8</sup> *Id.* at 2521–22.

A land use or zoning practice results in a discriminatory effect if it caused or predictably will cause a disparate impact on a group of persons or if it creates, increases, reinforces, or perpetuates segregated housing patterns because of a protected characteristic. A state or local government still has the opportunity to show that the practice is necessary to achieve one or more of its substantial, legitimate, nondiscriminatory interests. These interests must be supported by evidence and may not be hypothetical or speculative. If these interests could not be served by another practice that has a less discriminatory effect, then the practice does not violate the Act. The standard for evaluating housing-related practices with a discriminatory effect are set forth in HUD's Discriminatory Effects Rule, 24 C.F.R. § 100.500.

Examples of land use practices that violate the Fair Housing Act under a discriminatory effects standard include minimum floor space or lot size requirements that increase the size and cost of housing if such an increase has the effect of excluding persons from a locality or neighborhood because of their membership in a protected class, without a legally sufficient justification. Similarly, prohibiting low-income or multifamily housing may have a discriminatory effect on persons because of their membership in a protected class and, if so, would violate the Act absent a legally sufficient justification.

**5. Does a state or local government violate the Fair Housing Act if it considers the fears or prejudices of community members when enacting or applying its zoning or land use laws respecting housing?**

When enacting or applying zoning or land use laws, state and local governments may not act because of the fears, prejudices, stereotypes, or unsubstantiated assumptions that community members may have about current or prospective residents because of the residents' protected characteristics. Doing so violates the Act, even if the officials themselves do not personally share such bias. For example, a city may not deny zoning approval for a low-income housing development that meets all zoning and land use requirements because the development may house residents of a particular protected class or classes whose presence, the community fears, will increase crime and lower property values in the surrounding neighborhood. Similarly, a local government may not block a group home or deny a requested reasonable accommodation in response to neighbors' stereotypical fears or prejudices about persons with disabilities or a particular type of disability. Of course, a city council or zoning board is not bound by everything that is said by every person who speaks at a public hearing. It is the record as a whole that will be determinative.

**6. Can state and local governments violate the Fair Housing Act if they adopt or implement restrictions against children?**

Yes. State and local governments may not impose restrictions on where families with children may reside unless the restrictions are consistent with the “housing for older persons” exemption of the Act. The most common types of housing for older persons that may qualify for this exemption are: (1) housing intended for, and solely occupied by, persons 62 years of age or older; and (2) housing in which 80% of the occupied units have at least one person who is 55 years of age or older that publishes and adheres to policies and procedures demonstrating the intent to house older persons. These types of housing must meet all requirements of the exemption, including complying with HUD regulations applicable to such housing, such as verification procedures regarding the age of the occupants. A state or local government that zones an area to exclude families with children under 18 years of age must continually ensure that housing in that zone meets all requirements of the exemption. If all of the housing in that zone does not continue to meet all such requirements, that state or local government violates the Act.

**Questions and Answers on the Fair Housing Act and  
Local Land Use and Zoning Regulation of Group Homes**

**7. Who qualifies as a person with a disability under the Fair Housing Act?**

The Fair Housing Act defines a person with a disability to include (1) individuals with a physical or mental impairment that substantially limits one or more major life activities; (2) individuals who are regarded as having such an impairment; and (3) individuals with a record of such an impairment.

The term “physical or mental impairment” includes, but is not limited to, diseases and conditions such as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, HIV infection, developmental disabilities, mental illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance), and alcoholism.

The term “major life activity” includes activities such as seeing, hearing, walking, breathing, performing manual tasks, caring for one’s self, learning, speaking, and working. This list of major life activities is not exhaustive.

Being regarded as having a disability means that the individual is treated as if he or she has a disability even though the individual may not have an impairment or may not have an impairment that substantially limits one or more major life activities. For example, if a landlord



refuses to rent to a person because the landlord believes the prospective tenant has a disability, then the landlord violates the Act's prohibition on discrimination on the basis of disability, even if the prospective tenant does not actually have a physical or mental impairment that substantially limits one or more major life activities.

Having a record of a disability means the individual has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

## **8. What is a group home within the meaning of the Fair Housing Act?**

The term "group home" does not have a specific legal meaning; land use and zoning officials and the courts, however, have referred to some residences for persons with disabilities as group homes. The Fair Housing Act prohibits discrimination on the basis of disability, and persons with disabilities have the same Fair Housing Act protections whether or not their housing is considered a group home. A household where two or more persons with disabilities choose to live together, as a matter of association, may not be subjected to requirements or conditions that are not imposed on households consisting of persons without disabilities.

In this Statement, the term "group home" refers to a dwelling that is or will be occupied by unrelated persons with disabilities. Sometimes group homes serve individuals with a particular type of disability, and sometimes they serve individuals with a variety of disabilities. Some group homes provide residents with in-home support services of varying types, while others do not. The provision of support services is not required for a group home to be protected under the Fair Housing Act. Group homes, as discussed in this Statement, may be opened by individuals or by organizations, both for-profit and not-for-profit. Sometimes it is the group home operator or developer, rather than the individuals who live or are expected to live in the home, who interacts with a state or local government agency about developing or operating the group home, and sometimes there is no interaction among residents or operators and state or local governments.

In this Statement, the term "group home" includes homes occupied by persons in recovery from alcohol or substance abuse, who are persons with disabilities under the Act. Although a group home for persons in recovery may commonly be called a "sober home," the term does not have a specific legal meaning, and the Act treats persons with disabilities who reside in such homes no differently than persons with disabilities who reside in other types of group homes. Like other group homes, homes for persons in recovery are sometimes operated by individuals or organizations, both for-profit and not-for-profit, and support services or supervision are sometimes, but not always, provided. The Act does not require a person who resides in a home for persons in recovery to have participated in or be currently participating in a

substance abuse treatment program to be considered a person with a disability. The fact that a resident of a group home may currently be illegally using a controlled substance does not deprive the other residents of the protection of the Fair Housing Act.

## **9. In what ways does the Fair Housing Act apply to group homes?**

The Fair Housing Act prohibits discrimination on the basis of disability, and persons with disabilities have the same Fair Housing Act protections whether or not their housing is considered a group home. State and local governments may not discriminate against persons with disabilities who live in group homes. Persons with disabilities who live in or seek to live in group homes are sometimes subjected to unlawful discrimination in a number of ways, including those discussed in the preceding Section of this Joint Statement. Discrimination may be intentional; for example, a locality might pass an ordinance prohibiting group homes in single-family neighborhoods or prohibiting group homes for persons with certain disabilities. These ordinances are facially discriminatory, in violation of the Act. In addition, as discussed more fully in Q&A 10 below, a state or local government may violate the Act by refusing to grant a reasonable accommodation to its zoning or land use ordinance when the requested accommodation may be necessary for persons with disabilities to have an equal opportunity to use and enjoy a dwelling. For example, if a locality refuses to waive an ordinance that limits the number of unrelated persons who may live in a single-family home where such a waiver may be necessary for persons with disabilities to have an equal opportunity to use and enjoy a dwelling, the locality violates the Act unless the locality can prove that the waiver would impose an undue financial and administrative burden on the local government or fundamentally alter the essential nature of the locality's zoning scheme. Furthermore, a state or local government may violate the Act by enacting an ordinance that has an unjustified discriminatory effect on persons with disabilities who seek to live in a group home in the community. Unlawful actions concerning group homes are discussed in more detail throughout this Statement.

## **10. What is a reasonable accommodation under the Fair Housing Act?**

The Fair Housing Act makes it unlawful to refuse to make “reasonable accommodations” to rules, policies, practices, or services, when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling. A “reasonable accommodation” is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since rules, policies, practices, and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others may sometimes deny them an equal opportunity to use and enjoy a dwelling.

Even if a zoning ordinance imposes on group homes the same restrictions that it imposes on housing for other groups of unrelated persons, a local government may be required, in individual cases and when requested to do so, to grant a reasonable accommodation to a group home for persons with disabilities. What constitutes a reasonable accommodation is a case-by-case determination based on an individualized assessment. This topic is discussed in detail in Q&As 20–25 and in the HUD/DOJ Joint Statement on Reasonable Accommodations under the Fair Housing Act.

#### **11. Does the Fair Housing Act protect persons with disabilities who pose a “direct threat” to others?**

The Act does not allow for the exclusion of individuals based upon fear, speculation, or stereotype about a particular disability or persons with disabilities in general. Nevertheless, the Act does not protect an individual whose tenancy would constitute a “direct threat” to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others unless the threat or risk to property can be eliminated or significantly reduced by reasonable accommodation. A determination that an individual poses a direct threat must rely on an individualized assessment that is based on reliable objective evidence (for example, current conduct or a recent history of overt acts). The assessment must consider: (1) the nature, duration, and severity of the risk of injury; (2) the probability that injury will actually occur; and (3) whether there are any reasonable accommodations that will eliminate or significantly reduce the direct threat. See Q&A 10 for a general discussion of reasonable accommodations. Consequently, in evaluating an individual’s recent history of overt acts, a state or local government must take into account whether the individual has received intervening treatment or medication that has eliminated or significantly reduced the direct threat (in other words, significant risk of substantial harm). In such a situation, the state or local government may request that the individual show how the circumstances have changed so that he or she no longer poses a direct threat. Any such request must be reasonable and limited to information necessary to assess whether circumstances have changed. Additionally, in such a situation, a state or local government may obtain satisfactory and reasonable assurances that the individual will not pose a direct threat during the tenancy. The state or local government must have reliable, objective evidence that the tenancy of a person with a disability poses a direct threat before excluding him or her from housing on that basis, and, in making that assessment, the state or local government may not ignore evidence showing that the individual’s tenancy would no longer pose a direct threat. Moreover, the fact that one individual may pose a direct threat does not mean that another individual with the same disability or other individuals in a group home may be denied housing.

**12. Can a state or local government enact laws that specifically limit group homes for individuals with specific types of disabilities?**

No. Just as it would be illegal to enact a law for the purpose of excluding or limiting group homes for individuals with disabilities, it is illegal under the Act for local land use and zoning laws to exclude or limit group homes for individuals with specific types of disabilities. For example, a government may not limit group homes for persons with mental illness to certain neighborhoods. The fact that the state or local government complies with the Act with regard to group homes for persons with some types of disabilities will not justify discrimination against individuals with another type of disability, such as mental illness.

**13. Can a state or local government limit the number of individuals who reside in a group home in a residential neighborhood?**

Neutral laws that govern groups of unrelated persons who live together do not violate the Act so long as (1) those laws do not intentionally discriminate against persons on the basis of disability (or other protected class), (2) those laws do not have an unjustified discriminatory effect on the basis of disability (or other protected class), and (3) state and local governments make reasonable accommodations when such accommodations may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling.

Local zoning and land use laws that treat groups of unrelated persons with disabilities less favorably than similar groups of unrelated persons without disabilities violate the Fair Housing Act. For example, suppose a city's zoning ordinance defines a "family" to include up to a certain number of unrelated persons living together as a household unit, and gives such a group of unrelated persons the right to live in any zoning district without special permission from the city. If that ordinance also prohibits a group home having the same number of persons with disabilities in a certain district or requires it to seek a use permit, the ordinance would violate the Fair Housing Act. The ordinance violates the Act because it treats persons with disabilities less favorably than families and unrelated persons without disabilities.

A local government may generally restrict the ability of groups of unrelated persons to live together without violating the Act as long as the restrictions are imposed on all such groups, including a group defined as a family. Thus, if the definition of a family includes up to a certain number of unrelated individuals, an ordinance would not, on its face, violate the Act if a group home for persons with disabilities with more than the permitted number for a family were not allowed to locate in a single-family-zoned neighborhood because any group of unrelated people without disabilities of that number would also be disallowed. A facially neutral ordinance, however, still may violate the Act if it is intentionally discriminatory (that is, enacted with discriminatory intent or applied in a discriminatory manner), or if it has an unjustified



discriminatory effect on persons with disabilities. For example, an ordinance that limits the number of unrelated persons who may constitute a family may violate the Act if it is enacted for the purpose of limiting the number of persons with disabilities who may live in a group home, or if it has the unjustified discriminatory effect of excluding or limiting group homes in the jurisdiction. Governments may also violate the Act if they enforce such restrictions more strictly against group homes than against groups of the same number of unrelated persons without disabilities who live together in housing. In addition, as discussed in detail below, because the Act prohibits the denial of reasonable accommodations to rules and policies for persons with disabilities, a group home that provides housing for a number of persons with disabilities that exceeds the number allowed under the family definition has the right to seek an exception or waiver. If the criteria for a reasonable accommodation are met, the permit must be given in that instance, but the ordinance would not be invalid.<sup>9</sup>

#### **14. How does the Supreme Court's ruling in *Olmstead* apply to the Fair Housing Act?**

In *Olmstead v. L.C.*,<sup>10</sup> the Supreme Court ruled that the Americans with Disabilities Act (ADA) prohibits the unjustified segregation of persons with disabilities in institutional settings where necessary services could reasonably be provided in integrated, community-based settings. An integrated setting is one that enables individuals with disabilities to live and interact with individuals without disabilities to the fullest extent possible. By contrast, a segregated setting includes congregate settings populated exclusively or primarily by individuals with disabilities. Although *Olmstead* did not interpret the Fair Housing Act, the objectives of the Fair Housing Act and the ADA, as interpreted in *Olmstead*, are consistent. The Fair Housing Act ensures that persons with disabilities have an equal opportunity to choose the housing where they wish to live. The ADA and *Olmstead* ensure that persons with disabilities also have the option to live and receive services in the most integrated setting appropriate to their needs. The integration mandate of the ADA and *Olmstead* can be implemented without impairing the rights protected by the Fair Housing Act. For example, state and local governments that provide or fund housing, health care, or support services must comply with the integration mandate by providing these programs, services, and activities in the most integrated setting appropriate to the needs of individuals with disabilities. State and local governments may comply with this requirement by adopting standards for the housing, health care, or support services they provide or fund that are reasonable, individualized, and specifically tailored to enable individuals with disabilities to live and interact with individuals without disabilities to the fullest extent possible. Local governments should be aware that ordinances and policies that impose additional restrictions on housing or residential services for persons with disabilities that are not imposed on housing or

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<sup>9</sup> Laws that limit the number of occupants per unit do not violate the Act as long as they are reasonable, are applied to all occupants, and do not operate to discriminate on the basis of disability, familial status, or other characteristics protected by the Act.

<sup>10</sup> 527 U.S. 581 (1999).

residential services for persons without disabilities are likely to violate the Act. In addition, a locality would violate the Act and the integration mandate of the ADA and *Olmstead* if it required group homes to be concentrated in certain areas of the jurisdiction by, for example, restricting them from being located in other areas.

**15. Can a state or local government impose spacing requirements on the location of group homes for persons with disabilities?**

A “spacing” or “dispersal” requirement generally refers to a requirement that a group home for persons with disabilities must not be located within a specific distance of another group home. Sometimes a spacing requirement is designed so it applies only to group homes and sometimes a spacing requirement is framed more generally and applies to group homes and other types of uses such as boarding houses, student housing, or even certain types of businesses. In a community where a certain number of unrelated persons are permitted by local ordinance to reside together in a home, it would violate the Act for the local ordinance to impose a spacing requirement on group homes that do not exceed that permitted number of residents because the spacing requirement would be a condition imposed on persons with disabilities that is not imposed on persons without disabilities. In situations where a group home seeks a reasonable accommodation to exceed the number of unrelated persons who are permitted by local ordinance to reside together, the Fair Housing Act does not prevent state or local governments from taking into account concerns about the over-concentration of group homes that are located in close proximity to each other. Sometimes compliance with the integration mandate of the ADA and *Olmstead* requires government agencies responsible for licensing or providing housing for persons with disabilities to consider the location of other group homes when determining what housing will best meet the needs of the persons being served. Some courts, however, have found that spacing requirements violate the Fair Housing Act because they deny persons with disabilities an equal opportunity to choose where they will live. Because an across-the-board spacing requirement may discriminate against persons with disabilities in some residential areas, any standards that state or local governments adopt should evaluate the location of group homes for persons with disabilities on a case-by-case basis.

Where a jurisdiction has imposed a spacing requirement on the location of group homes for persons with disabilities, courts may analyze whether the requirement violates the Act under an intent, effects, or reasonable accommodation theory. In cases alleging intentional discrimination, courts look to a number of factors, including the effect of the requirement on housing for persons with disabilities; the jurisdiction’s intent behind the spacing requirement; the existence, size, and location of group homes in a given area; and whether there are methods other than a spacing requirement for accomplishing the jurisdiction’s stated purpose. A spacing requirement enacted with discriminatory intent, such as for the purpose of appeasing neighbors’ stereotypical fears about living near persons with disabilities, violates the Act. Further, a neutral

spacing requirement that applies to all housing for groups of unrelated persons may have an unjustified discriminatory effect on persons with disabilities, thus violating the Act. Jurisdictions must also consider, in compliance with the Act, requests for reasonable accommodations to any spacing requirements.

**16. Can a state or local government impose health and safety regulations on group home operators?**

Operators of group homes for persons with disabilities are subject to applicable state and local regulations addressing health and safety concerns unless those regulations are inconsistent with the Fair Housing Act or other federal law. Licensing and other regulatory requirements that may apply to some group homes must also be consistent with the Fair Housing Act. Such regulations must not be based on stereotypes about persons with disabilities or specific types of disabilities. State or local zoning and land use ordinances may not, consistent with the Fair Housing Act, require individuals with disabilities to receive medical, support, or other services or supervision that they do not need or want as a condition for allowing a group home to operate. State and local governments' enforcement of neutral requirements regarding safety, licensing, and other regulatory requirements governing group homes do not violate the Fair Housing Act so long as the ordinances are enforced in a neutral manner, they do not specifically target group homes, and they do not have an unjustified discriminatory effect on persons with disabilities who wish to reside in group homes.

Governments must also consider requests for reasonable accommodations to licensing and regulatory requirements and procedures, and grant them where they may be necessary to afford individuals with disabilities an equal opportunity to use and enjoy a dwelling, as required by the Act.

**17. Can a state or local government address suspected criminal activity or fraud and abuse at group homes for persons with disabilities?**

The Fair Housing Act does not prevent state and local governments from taking nondiscriminatory action in response to criminal activity, insurance fraud, Medicaid fraud, neglect or abuse of residents, or other illegal conduct occurring at group homes, including reporting complaints to the appropriate state or federal regulatory agency. States and localities must ensure that actions to enforce criminal or other laws are not taken to target group homes and are applied equally, regardless of whether the residents of housing are persons with disabilities. For example, persons with disabilities residing in group homes are entitled to the same constitutional protections against unreasonable search and seizure as those without disabilities.

**18. Does the Fair Housing Act permit a state or local government to implement strategies to integrate group homes for persons with disabilities in particular neighborhoods where they are not currently located?**

Yes. Some strategies a state or local government could use to further the integration of group housing for persons with disabilities, consistent with the Act, include affirmative marketing or offering incentives. For example, jurisdictions may engage in affirmative marketing or offer variances to providers of housing for persons with disabilities to locate future homes in neighborhoods where group homes for persons with disabilities are not currently located. But jurisdictions may not offer incentives for a discriminatory purpose or that have an unjustified discriminatory effect because of a protected characteristic.

**19. Can a local government consider the fears or prejudices of neighbors in deciding whether a group home can be located in a particular neighborhood?**

In the same way a local government would violate the law if it rejected low-income housing in a community because of neighbors' fears that such housing would be occupied by racial minorities (see Q&A 5), a local government violates the law if it blocks a group home or denies a reasonable accommodation request because of neighbors' stereotypical fears or prejudices about persons with disabilities. This is so even if the individual government decision-makers themselves do not have biases against persons with disabilities.

Not all community opposition to requests by group homes is necessarily discriminatory. For example, when a group home seeks a reasonable accommodation to operate in an area and the area has limited on-street parking to serve existing residents, it is not a violation of the Fair Housing Act for neighbors and local government officials to raise concerns that the group home may create more demand for on-street parking than would a typical family and to ask the provider to respond. A valid unaddressed concern about inadequate parking facilities could justify denying the requested accommodation, if a similar dwelling that is not a group home or similarly situated use would ordinarily be denied a permit because of such parking concerns. If, however, the group home shows that the home will not create a need for more parking spaces than other dwellings or similarly-situated uses located nearby, or submits a plan to provide any needed off-street parking, then parking concerns would not support a decision to deny the home a permit.



## **Questions and Answers on the Fair Housing Act and Reasonable Accommodation Requests to Local Zoning and Land Use Laws**

### **20. When does a state or local government violate the Fair Housing Act by failing to grant a request for a reasonable accommodation?**

A state or local government violates the Fair Housing Act by failing to grant a reasonable accommodation request if (1) the persons requesting the accommodation or, in the case of a group home, persons residing in or expected to reside in the group home are persons with a disability under the Act; (2) the state or local government knows or should reasonably be expected to know of their disabilities; (3) an accommodation in the land use or zoning ordinance or other rules, policies, practices, or services of the state or locality was requested by or on behalf of persons with disabilities; (4) the requested accommodation may be necessary to afford one or more persons with a disability an equal opportunity to use and enjoy the dwelling; (5) the state or local government refused to grant, failed to act on, or unreasonably delayed the accommodation request; and (6) the state or local government cannot show that granting the accommodation would impose an undue financial and administrative burden on the local government or that it would fundamentally alter the local government's zoning scheme. A requested accommodation may be necessary if there is an identifiable relationship between the requested accommodation and the group home residents' disability. Further information is provided in Q&A 10 above and the HUD/DOJ Joint Statement on Reasonable Accommodations under the Fair Housing Act.

### **21. Can a local government deny a group home's request for a reasonable accommodation without violating the Fair Housing Act?**

Yes, a local government may deny a group home's request for a reasonable accommodation if the request was not made by or on behalf of persons with disabilities (by, for example, the group home developer or operator) or if there is no disability-related need for the requested accommodation because there is no relationship between the requested accommodation and the disabilities of the residents or proposed residents.

In addition, a group home's request for a reasonable accommodation may be denied by a local government if providing the accommodation is not reasonable—in other words, if it would impose an undue financial and administrative burden on the local government or it would fundamentally alter the local government's zoning scheme. The determination of undue financial and administrative burden must be decided on a case-by-case basis involving various factors, such as the nature and extent of the administrative burden and the cost of the requested accommodation to the local government, the financial resources of the local government, and the benefits that the accommodation would provide to the persons with disabilities who will reside in the group home.

When a local government refuses an accommodation request because it would pose an undue financial and administrative burden, the local government should discuss with the requester whether there is an alternative accommodation that would effectively address the disability-related needs of the group home's residents without imposing an undue financial and administrative burden. This discussion is called an "interactive process." If an alternative accommodation would effectively meet the disability-related needs of the residents of the group home and is reasonable (that is, it would not impose an undue financial and administrative burden or fundamentally alter the local government's zoning scheme), the local government must grant the alternative accommodation. An interactive process in which the group home and the local government discuss the disability-related need for the requested accommodation and possible alternative accommodations is both required under the Act and helpful to all concerned, because it often results in an effective accommodation for the group home that does not pose an undue financial and administrative burden or fundamental alteration for the local government.

## **22. What is the procedure for requesting a reasonable accommodation?**

The reasonable accommodation must actually be requested by or on behalf of the individuals with disabilities who reside or are expected to reside in the group home. When the request is made, it is not necessary for the specific individuals who would be expected to live in the group home to be identified. The Act does not require that a request be made in a particular manner or at a particular time. The group home does not need to mention the Fair Housing Act or use the words "reasonable accommodation" when making a reasonable accommodation request. The group home must, however, make the request in a manner that a reasonable person would understand to be a disability-related request for an exception, change, or adjustment to a rule, policy, practice, or service. When making a request for an exception, change, or adjustment to a local land use or zoning regulation or policy, the group home should explain what type of accommodation is being requested and, if the need for the accommodation is not readily apparent or known by the local government, explain the relationship between the accommodation and the disabilities of the group home residents.

A request for a reasonable accommodation can be made either orally or in writing. It is often helpful for both the group home and the local government if the reasonable accommodation request is made in writing. This will help prevent misunderstandings regarding what is being requested or whether or when the request was made.

Where a local land use or zoning code contains specific procedures for seeking a departure from the general rule, courts have decided that these procedures should ordinarily be followed. If no procedure is specified, or if the procedure is unreasonably burdensome or intrusive or involves significant delays, a request for a reasonable accommodation may,

nevertheless, be made in some other way, and a local government is obligated to grant it if the requested accommodation meets the criteria discussed in Q&A 20, above.

Whether or not the local land use or zoning code contains a specific procedure for requesting a reasonable accommodation or other exception to a zoning regulation, if local government officials have previously made statements or otherwise indicated that an application for a reasonable accommodation would not receive fair consideration, or if the procedure itself is discriminatory, then persons with disabilities living in a group home, and/or its operator, have the right to file a Fair Housing Act complaint in court to request an order for a reasonable accommodation to the local zoning regulations.

### **23. Does the Fair Housing Act require local governments to adopt formal reasonable accommodation procedures?**

The Act does not require a local government to adopt formal procedures for processing requests for reasonable accommodations to local land use or zoning codes. DOJ and HUD nevertheless strongly encourage local governments to adopt formal procedures for identifying and processing reasonable accommodation requests and provide training for government officials and staff as to application of the procedures. Procedures for reviewing and acting on reasonable accommodation requests will help state and local governments meet their obligations under the Act to respond to reasonable accommodation requests and implement reasonable accommodations promptly. Local governments are also encouraged to ensure that the procedures to request a reasonable accommodation or other exception to local zoning regulations are well known throughout the community by, for example, posting them at a readily accessible location and in a digital format accessible to persons with disabilities on the government's website. If a jurisdiction chooses to adopt formal procedures for reasonable accommodation requests, the procedures cannot be onerous or require information beyond what is necessary to show that the individual has a disability and that the requested accommodation is related to that disability. For example, in most cases, an individual's medical record or detailed information about the nature of a person's disability is not necessary for this inquiry. In addition, officials and staff must be aware that any procedures for requesting a reasonable accommodation must also be flexible to accommodate the needs of the individual making a request, including accepting and considering requests that are not made through the official procedure. The adoption of a reasonable accommodation procedure, however, will not cure a zoning ordinance that treats group homes differently than other residential housing with the same number of unrelated persons.

**24. What if a local government fails to act promptly on a reasonable accommodation request?**

A local government has an obligation to provide prompt responses to reasonable accommodation requests, whether or not a formal reasonable accommodation procedure exists. A local government's undue delay in responding to a reasonable accommodation request may be deemed a failure to provide a reasonable accommodation.

**25. Can a local government enforce its zoning code against a group home that violates the zoning code but has not requested a reasonable accommodation?**

The Fair Housing Act does not prohibit a local government from enforcing its zoning code against a group home that has violated the local zoning code, as long as that code is not discriminatory or enforced in a discriminatory manner. If, however, the group home requests a reasonable accommodation when faced with enforcement by the locality, the locality still must consider the reasonable accommodation request. A request for a reasonable accommodation may be made at any time, so at that point, the local government must consider whether there is a relationship between the disabilities of the residents of the group home and the need for the requested accommodation. If so, the locality must grant the requested accommodation unless doing so would pose a fundamental alteration to the local government's zoning scheme or an undue financial and administrative burden to the local government.

**Questions and Answers on Fair Housing Act Enforcement of  
Complaints Involving Land Use and Zoning**

**26. How are Fair Housing Act complaints involving state and local land use laws and practices handled by HUD and DOJ?**

The Act gives HUD the power to receive, investigate, and conciliate complaints of discrimination, including complaints that a state or local government has discriminated in exercising its land use and zoning powers. HUD may not issue a charge of discrimination pertaining to "the legality of any State or local zoning or other land use law or ordinance." Rather, after investigating, HUD refers matters it believes may be meritorious to DOJ, which, in its discretion, may decide to bring suit against the state or locality within 18 months after the practice at issue occurred or terminated. DOJ may also bring suit by exercising its authority to initiate litigation alleging a pattern or practice of discrimination or a denial of rights to a group of persons which raises an issue of general public importance.

If HUD determines that there is no reasonable cause to believe that there may be a violation, it will close an investigation without referring the matter to DOJ. But a HUD or DOJ



decision not to proceed with a land use or zoning matter does not foreclose private plaintiffs from pursuing a claim.

Litigation can be an expensive, time-consuming, and uncertain process for all parties. HUD and DOJ encourage parties to land use disputes to explore reasonable alternatives to litigation, including alternative dispute resolution procedures, like mediation or conciliation of the HUD complaint. HUD attempts to conciliate all complaints under the Act that it receives, including those involving land use or zoning laws. In addition, it is DOJ's policy to offer prospective state or local governments the opportunity to engage in pre-suit settlement negotiations, except in the most unusual circumstances.

## **27. How can I find more information?**

For more information on reasonable accommodations and reasonable modifications under the Fair Housing Act:

- HUD/DOJ Joint Statement on Reasonable Accommodations under the Fair Housing Act, *available at* <https://www.justice.gov/crt/fair-housing-policy-statements-and-guidance-0> or <http://www.hud.gov/offices/fheo/library/huddojstatement.pdf>.
- HUD/DOJ Joint Statement on Reasonable Modifications under the Fair Housing Act, *available at* <https://www.justice.gov/crt/fair-housing-policy-statements-and-guidance-0> or [http://www.hud.gov/offices/fheo/disabilities/reasonable\\_modifications\\_mar08.pdf](http://www.hud.gov/offices/fheo/disabilities/reasonable_modifications_mar08.pdf).

For more information on state and local governments' obligations under Section 504:

- HUD website at [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/disabilities/sect504](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/disabilities/sect504).

For more information on state and local governments' obligations under the ADA and *Olmstead*:

- U.S. Department of Justice website, [www.ADA.gov](http://www.ADA.gov), or call the ADA information line at (800) 514-0301 (voice) or (800) 514-0383 (TTY).
- Statement of the Department of Justice on Enforcement of the Integration Mandate of Title II of the Americans with Disabilities Act and *Olmstead v. L.C.*, *available at* [http://www.ada.gov/olmstead/q&a\\_olmstead.htm](http://www.ada.gov/olmstead/q&a_olmstead.htm).
- Statement of the Department of Housing and Urban Development on the Role of Housing in Accomplishing the Goals of *Olmstead*, *available at* <http://portal.hud.gov/hudportal/documents/huddoc?id=OlmsteadGuidnc060413.pdf>.

For more information on the requirement to affirmatively further fair housing:

- Affirmatively Furthering Fair Housing, 80 Fed. Reg. 42,272 (July 16, 2015) (to be codified at 24 C.F.R. pts. 5, 91, 92, 570, 574, 576, and 903).
- U.S. Department of Housing and Urban Development, Version 1, Affirmatively Furthering Fair Housing Rule Guidebook (2015), *available at* <https://www.hudexchange.info/resources/documents/AFFH-Rule-Guidebook.pdf>.
- Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, Vol. 1, Fair Housing Planning Guide (1996), *available at* <http://www.hud.gov/offices/fheo/images/fhpg.pdf>.

For more information on nuisance and crime-free ordinances:

- Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Enforcement of Local Nuisance and Crime-Free Housing Ordinances Against Victims of Domestic Violence, Other Crime Victims, and Others Who Require Police or Emergency Services (Sept. 13, 2016), *available at* <http://portal.hud.gov/hudportal/documents/huddoc?id=FinalNuisanceOrdGdnce.pdf>.

ORDINANCE NO. 4326

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, TO APPROVE A TEXT AMENDMENT (2-TA-2017) TO THE ZONING ORDINANCE OF THE CITY OF SCOTTSDALE (ORDINANCE NO. 455), SPECIFICALLY, SEC. 1.202 (INTERPRETATIONS AND DECISIONS), SEC. 1.801 (POWERS OF THE BOARD OF ADJUSTMENT), SEC. 1.1304 (ENLARGEMENT, EXTENSION, RECONSTRUCTION OR STRUCTURAL ALTERATION OF NONCONFORMING STRUCTURE; ENLARGEMENT OF NONCONFORMING USE), SEC. 3.100 (DEFINITIONS), SEC. 5.010 (SINGLE-FAMILY RESIDENTIAL (R1-190)), SEC. 5.012 (USE REGULATIONS), SEC. 5.100 (SINGLE-FAMILY RESIDENTIAL (R1-43)), SEC. 5.102 (USE REGULATIONS), WHICH AFFECTS ALL OTHER SINGLE-FAMILY RESIDENTIAL AND TWO-FAMILY RESIDENTIAL DISTRICTS (R1-130, R1-70, R1-35, R1-18, R1-10, R1-7, R1-5 AND R-2), SEC. 5.700 (MEDIUM-DENSITY RESIDENTIAL (R-3)), SEC. 5.703 (USE REGULATIONS), SEC. 5.800 (TOWNHOUSE RESIDENTIAL (R-4)), SEC. 5.803 (USE REGULATIONS), SEC. 5.900 (RESORT/TOWNHOUSE RESIDENTIAL (R-4R)), SEC. 5.903 (USE REGULATIONS), SEC. 5.1001 (MULTIPLE-FAMILY RESIDENTIAL (R-5)), AND SEC. 5.1003 (USE REGULATIONS), ADD NEW SEC. 1.806 (DISABILITY ACCOMMODATION), AND ADD NEW SEC. 1.920 (REQUEST FOR DISABILITY ACCOMMODATION) TO ADDRESS VARIOUS TYPES OF CARE HOMES AND GROUP HOMES IN RESIDENTIAL ZONING DISTRICTS.

WHEREAS, in response to a citizen petition City staff has conducted research on state and federal law as well as looked at numerous ordinances of other jurisdictions; and

WHEREAS, the City of Scottsdale desires to permit disabled persons to reside in single family residential neighborhoods in compliance with the Fair Housing Act and the Americans with Disabilities Act; and

WHEREAS the City of Scottsdale desires to promote the social and treatment benefits to disabled persons provided in a residential setting by preventing a concentration of facilities for the disabled in any particular area so as to institutionalize that area; and

WHEREAS the City desires to maintain the residential character of its neighborhoods as a quiet place for families of all kinds to thrive; and

WHEREAS, federal and state fair housing laws protect the rights of persons with disabilities to obtain housing and pursuant to federal and state fair housing laws; and

WHEREAS, persons recovering from alcohol and drug addiction are considered persons with disabilities and thus are protected by fair housing laws so long as such persons are not currently using alcohol and drugs; and

WHEREAS, due to the care needs and transient residencies of disabled residents in some residential care facilities, such facilities reportedly result in increased parking demand, increased traffic, and the potential for impacts to the residential character of neighborhoods, which the City Council desires to address by providing limits on the size of both licensed and unlicensed facilities while providing persons with a disability opportunities for housing; and

WHEREAS, the Fair Housing Act does not preempt local zoning laws or preclude the adoption, amendment or enforcement of zoning regulations by the City of Scottsdale pursuant to its local police powers so long as such zoning regulations are consistent with state and federal laws, including the Fair Housing Act as amended; and

WHEREAS, the adoption of zoning ordinances and land use planning is a fundamental function and police power of local government; and

WHEREAS, zoning regulations are adopted and enforced in the City of Scottsdale for the protection of the health, safety and welfare of the public; and

WHEREAS, the State of Arizona licenses certain care homes for people with disabilities, which licensing necessitates the involvement of local jurisdictions in determining life safety code compliance of said care homes; and

WHEREAS, the Fair Housing Act makes it unlawful to utilize land use policies or actions that treat groups of persons with disabilities less favorably than groups of nondisabled persons; and

WHEREAS, the Fair Housing Act does not allow local land use policies or actions that treat groups of persons with some disabilities less favorably than groups of people with other disabilities; and

WHEREAS, clustering of care homes undermines the ability of care homes to achieve normalization and community integration for their residents which is one of the essential purposes of a care home; and

WHEREAS, the City of Scottsdale is hereby amending its zoning ordinance to make the reasonable accommodations required by the Fair Housing Act by removing any terms and conditions that have the effect of limiting or making housing unavailable to people with disabilities while preserving the ability of care homes and group living situations to emulate a family and achieve normalization and community integration of their residents; and

WHEREAS, while no aggregation of more than six adults will constitute a "family," the new zoning provisions establish a reasonable accommodation process for disabled persons who need relief from the limitations of the ordinance; and

WHEREAS, a care home for people with disabilities that has been denied required state licensing or certification would not be allowed due to the state's own licensing or certification laws; and

WHEREAS, current users of illegal controlled substances, persons convicted for illegal manufacture or distribution of a controlled substance, sex offenders, and juvenile offenders, are not considered disabled under the Fair Housing Act, by virtue of that status, and

WHEREAS, the City Council has determined that the proposed amendments will not unreasonably restrict the rights of persons with a disability to fair housing while providing protections and mitigation of impacts to the residential character of neighborhoods, and it is in the best interest of the public health, safety and general welfare of the Town to adopt the proposed amendments; and



WHEREAS, all required public notice was provided and all required public meetings and hearings were held in accordance with applicable state and local laws.

WHEREAS, the Planning Commission held a public hearing on October 25, 2017 to consider a text amendment to the City of Scottsdale Zoning Ordinance, Case No. 2-TA-2017; and

WHEREAS, that certain document entitled "2-TA-2017 – Care Homes/Group Homes Text Amendment," one paper and one digital copies of which are on file in the office of the City Clerk, was declared to be a public record by Resolution No. 10963; and

WHEREAS, the City Council has determined that the subject Zoning Ordinance amendment is in conformance with the General Plan;

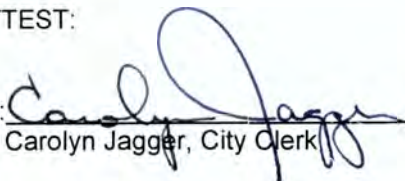
NOW THEREFORE BE IT ORDAINED by the Council of the City of Scottsdale that a text amendment to the City of Scottsdale Zoning Ordinance is hereby approved as follows.

Section 1. That the Zoning Ordinance of the City of Scottsdale is hereby amended as specified in that certain document entitled "2-TA-2017 – Care Homes/Group Homes Text Amendment," declared to be a public record by Resolution No. 10963 of the City of Scottsdale, is hereby referred to, adopted, and made a part hereof as if fully set out in this Ordinance.

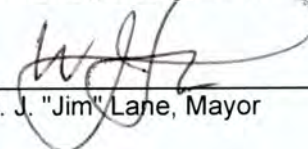
Section 2. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the document adopted herein is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the City Council of the City of Scottsdale this 5<sup>th</sup> day of December, 2017.

ATTEST:

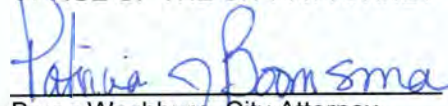
By:   
Carolyn Jagger, City Clerk

CITY OF SCOTTSDALE, an  
Arizona municipal corporation

By:   
W. J. "Jim" Lane, Mayor

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY

  
Bruce Washburn, City Attorney  
By: Patricia J. Boomsma, Assistant City Attorney

RESOLUTION NO. 10963

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK OF THE CITY OF SCOTTSDALE AND ENTITLED "2-TA-2017--CARE HOMES/GROUP HOMES TEXT AMENDMENT."

WHEREAS, State Law permits cities to declare documents a public record for the purpose of incorporation into city ordinances; and


WHEREAS, the City of Scottsdale wishes to incorporate by reference amendments to the Zoning Ordinance, Ordinance No. 455, by first declaring said amendments to be a public record.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Scottsdale, Maricopa County, Arizona, as follows:

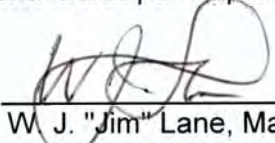
Section 1. That certain document entitled "2-TA-2017--Care Homes/Group Homes Text Amendment," attached as Exhibit 'A', a paper and an electronic copy of which are on file in the office of the City Clerk, is hereby declared to be a public record. Said copies are ordered to remain on file with the City Clerk for public use and inspection.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Maricopa County, Arizona this 5th day of December, 2017.

ATTEST:

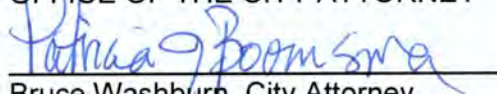
By:   
Carolyn Jagger, City Clerk

CITY OF SCOTTSDALE, an  
Arizona municipal corporation

By:   
W. J. "Jim" Lane, Mayor

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY

  
Bruce Washburn, City Attorney

By: Patricia J. Boomsma, Assistant City Attorney



**AMENDMENTS TO ZONING ORDINANCE RELATING TO  
GROUP LIVING AND CARE HOMES**

The City Council of the City of Scottsdale hereby amends the Zoning Ordinance (Ord. No. 455), specifically, Sec. 1.202 (Interpretations and Decisions), Sec. 1.801 (Powers of the Board of Adjustment), Sec. 1.1304 (Enlargement, extension, reconstruction or structural alteration of nonconforming structure; enlargement of nonconforming use), Sec. 3.100 (Definitions), Sec. 5.010 (Single-family Residential (R1-190)), Sec. 5.012 (Use Regulations), Sec. 5.100 (Single-family Residential (R1-43)), Sec. 5.102 (Use Regulations), which affects all other Single-family Residential and Two-Family Residential districts (R1-130, R1-70, R1-35, R1-18, R1-10, R1-7, R1-5 and R-2), Sec. 5.700 (Medium-Density Residential (R-3)), Sec. 5.703 (Use Regulations), Sec. 5.800 (Townhouse Residential (R-4)), Sec. 5.803 (Use Regulations), Sec. 5.900 (Resort/Townhouse Residential (R-4R)), Sec. 5.903 (Use Regulations), Sec. 5.1001 (Multiple-family Residential (R-5)), and Sec. 5.1003 (Use Regulations), and adds new Sec. 1.806 (Disability Accommodation), and new Sec. 1.920 (Request for Disability Accommodation) as specified below, with strikethroughs indicating deleted language and shading indicating new language:

**Sec. 1.202. - Interpretations and decisions.**

A. The provisions of this Zoning Ordinance shall be interpreted and applied by the Zoning Administrator. Any request for a Zoning Ordinance interpretation or decision must be made in writing to the Zoning Administrator. The Zoning Administrator shall respond in writing to such requests for Zoning Ordinance interpretations or other decisions within forty-five (45) days from the date of the written request, provided no building permits have been issued on the subject development. A record of the Zoning Administrator's responses shall be available for public review.

B. The appeal of Zoning Ordinance interpretations or other decisions by the Zoning Administrator may be initiated by any aggrieved person or by any officer, department, board or commission of the city affected by the interpretation or decision of the Zoning Administrator. For purposes of this subsection an aggrieved person is one who receives a particular and direct adverse impact from the interpretation or decision which is distinguishable from the effects or impacts upon the general public. Appeals must be filed with the City Clerk no later than thirty (30) days after the Zoning Administrator issues any written interpretation or decision. Any timely appeal shall be processed pursuant to Section 1.805.

C. When the provisions of this Zoning Ordinance are interpreted or applied they shall be held to be the minimum requirements for the promotion of the public safety, health and general welfare.

D. The presumption established in this Zoning Ordinance is that all general uses of land are permissible within at least one (1) zoning district in the city's planning jurisdiction. The use regulations set forth in each district cannot be all inclusive, and may include general use descriptions that encompass several specific uses. Uses listed specified in each district shall be interpreted liberally to include other uses which have similar impacts to the listed uses. However, the use regulations shall not be interpreted to allow more than one principal use

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in a dwelling in a residential district shown on Table 4.100.A. or the residential portion of a Planned Community P-C-, or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown in Table 4.100.A., or to allow an unspecified use in one (1) zoning district which more closely relates to a use that is permissible in another zoning district. The Zoning Administrator shall interpret uses within each district.

E. Accessory uses are allowed in all districts. Accessory uses shall not alter the principal/primary use of building or lot, or adversely affect other properties in the district. All accessory uses shall be reasonably compatible with the types of uses permitted in the surrounding areas.

### **Sec. 1.801. – Powers of the Board of Adjustment.**

The Board of Adjustment shall hear all applications for:

A. ~~Variances from the provisions of this Zoning Ordinance; The Board shall also hear appeals from the:~~

A. B. Appeals from the Zoning Administrator's interpretation of the Zoning Ordinance or other decisions; and

B. C. Requests for Disability Accommodation made pursuant to section 1.920; and

D. Under the Land Divisions ordinance, the General Manager's interpretations and decisions made on appeals.

[Renumber current 1.806 to 1.807, and insert the following new 1.806:]

### **Sec. 1.806. - Disability Accommodation**

A. A disability accommodation from a development standard or separation requirement shall not be authorized unless the Board shall find upon sufficient evidence all of the following:

1. The requested accommodation is requested by or on the behalf of one (1) or more individuals with a disability protected under federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.);
2. The requested accommodation is necessary to afford an individual with a disability equal opportunity to use and enjoy a dwelling;
3. The standard or requirement unduly restricts the opportunity for a person with a disability from finding adequate housing within the City of Scottsdale;
4. The requested accommodation does not fundamentally alter the nature and purpose of the Zoning Ordinance of the City of Scottsdale;
5. The requested accommodation will not impose an undue financial or administrative burden on the City, as "undue financial or administrative burden" is defined in federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.) and interpretive case law;

B. The profitability or financial hardship of the owner/service provider of a facility shall not be considered in determining whether to grant a disability accommodation.



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- C. The requested accommodation must comply with all applicable building and fire codes.
- D. The requested accommodation must not, under the specific facts of the application, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others;

### **Sec. 1.920. Request for Disability Accommodation.**

An applicant may request a disability accommodation from a development standard or separation requirement if the standard or requirement unduly restricts the opportunity for a person with a disability from finding adequate housing within the city of Scottsdale. The zoning administrator may administratively approve up to a ten percent (10%) modification of a development standard or separation requirement upon finding that such a modification will further the policies contained in the Arizona and federal fair housing laws and the Americans with Disabilities Act. All other requests for disability accommodation shall be submitted to the Board of Adjustment as a request for disability accommodation.

### **Sec. 1.1304. - Enlargement, extension, reconstruction or structural alteration of nonconforming structure; enlargement of nonconforming use.**

- A. Except as set forth in paragraph (b) of this subsection, no existing structure designed or arranged in a manner not permitted under the regulations of this Zoning Ordinance for the district in which such structure is located shall be enlarged, extended, reconstructed or structurally altered unless such structure together with such enlargement, extension, reconstruction or structural alterations conform in every respect with the regulations specified by this Zoning Ordinance for such district in which said structure is located. Provided nothing herein shall prohibit any reasonable repairs or alterations to such structure. Similarly, except as set forth in paragraph (c) of this subsection, no existing use not permitted under the regulations of this Zoning Ordinance shall be enlarged or extended unless such use conforms in every respect with the regulations specified by this ordinance for the district in which such use is located.
- B. For all dwellings located in residential zoning districts that are not located within an environmentally sensitive lands overlay zone:
  - 1. Structural enlargements, extensions, reconstruction or modifications to dwellings are permitted if:
    - a. The enlargement, extension, reconstruction or modification is made to the ground level story;
    - b. The height of any portion of the dwelling is not increased;
    - c. The total of the initial and any subsequent enlargement, extension, reconstruction or modification constitutes less than fifty (50) percent of the gross floor area of the existing dwelling; and
    - d. The dwelling enlargement, extension, reconstruction, or structural modification conforms to all of the regulations specified by this Zoning Ordinance for such district in which the dwelling is located.
  - 2. Nothing contained in this subsection shall prohibit any reasonable repairs or alterations to such dwelling.

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3. An existing use not permitted under the regulations of this Zoning Ordinance shall not be enlarged or extended unless such use conforms to the regulations specified by this Zoning Ordinance for the district in which the use is located.
- C. Any authorized care home that is lawfully located and operating in a residential zoning district on December 5, 2017, may continue to operate in their existing location. Nothing in this section will grandfather a care home operating unlawfully or that is located in violation of the provisions of the Zoning Ordinance of the City of Scottsdale existing on December 5, 2017.

### Section 3.100. Definitions

*Adult eCare home* shall mean a residential care institution which provides supervisory care, personal care, or custodial care services to adults who require the assistance of no more than one (1) person to walk or to transfer from a bed, chair, or toilet, but who are able to self-propel a wheelchair, as subject to licensing by the State of Arizona dwelling shared as a primary residence by no more than ten adults with a disability that is licensed as a health care institution under Arizona law, and in which on-site supervisory or other care services are provided to the disabled residents. For purposes of this definition, a person must live in the dwelling a minimum of thirty consecutive days for this dwelling to be considered a primary residence. A care home is a principal, not an accessory, use.

*Convalescent home or nursing home* shall mean any place or institution which makes provisions for bed care, or for chronic or convalescent care for one (1) or more persons exclusive of relatives, who by reason of illness or physical infirmity are unable to properly care for themselves. Alcoholics, drug addicts, persons with mental diseases and persons with communicable diseases, including contagious tuberculosis, shall not be admitted or cared for in these homes licensed under the State of Arizona, as a convalescent and nursing home.

*Disability* means a physical or mental impairment that substantially limits one or more major life activities where the person with a disability either has a record of having such impairment or is regarded as having such impairment. A person with a disability shall not include any person currently engaging in the illegal use of controlled substances under Arizona law. The term disability will be interpreted consistent with the Americans with Disabilities Act and the Federal Fair Housing Act.

*Dwelling* shall mean any building, or portion thereof, which that is designed exclusively principally for residential purposes, and that includes sleeping, cooking and sanitary facilities.

*Family* shall mean one (1) to six (6) adults and, if any, their related dependent children or more persons occupying a premise[s] and living as a single housekeeping unit, as distinguished from a group occupying a boardinghouse, lodginghouse or hotel as herein defined. For purposes of the Zoning Ordinance, "Family" includes a residential facility as that term is defined in Title 36, Chapter 5.1, Article 2 of the Arizona Revised Statutes, in which persons with developmental disabilities live and that is licensed, operated, supported or supervised by the State of Arizona.

*Group home* means a dwelling shared by more than six adults as their primary residence in which no supervisory or other care is provided. For purposes of this definition, a person must

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live in the dwelling a minimum of thirty consecutive days for this dwelling to be considered a primary residence.

*Minimal residential health care facility* shall mean a residential health care facility which provides resident rooms or residential units, and may include independent living units and such services such as central dining, transportation and limited medical assistance.

*Related dependent children* shall mean all persons under the age of 18, or who have been declared dependent by a court of competent jurisdiction, who are related to one of the adults by blood, guardianship, or adoption, or who is the foster child of one of the adults.

*Residential health care facility* shall mean a health care institution with, at a minimum, 24-hour supervisory care services.

*Single housekeeping unit* shall mean a group of one (1) or more persons residing together in a dwelling who share use of and responsibility for common areas, household activities, and responsibilities such as meals, chores, household maintenance, and expenses. This term excludes living situations where an entity or individual other than a resident provides job training or life skill development services on-site, or provides supervisory, medical, personal, or custodial care services to more than six adults residing in the dwelling.

*Specialized residential health care facility* shall mean a health care institution that provides inpatient beds or resident beds and nursing services to persons who need continuous nursing services but who do not require hospital care or direct daily care from a physician. ~~convalescent or nursing home which normally provides medical care and supervision.~~

*Supervisory care services* means general supervision, including daily awareness of resident functioning and continuing needs, and the ability to intervene in a crisis and to assist in the self-administration of prescribed medications.

### **Sec. 5.012. - Use regulations. [R1-190]**

A. *Permitted uses.* Buildings, structures, or premises shall be used and buildings and structures shall hereafter be erected, altered, or enlarged only for the following uses:

1. Accessory buildings, swimming pools, home occupations and other accessory uses. The landing and taking-off of aircraft is not a valid accessory use in residential districts and is prohibited.
2. Adult care homes; subject to the following criteria:
  - a. *Floor area ratio:* Is limited to thirty-five hundredths (0.35) of the net lot area.
  - b. *Capacity:* The maximum number of residents, other than including up to ten disabled persons, the manager/supervisor, or property owner, and residential staff at the home is ~~twelve~~ ~~ten~~ (12) per residential lot.
  - c. *Location:* An adult care home shall not be located within ~~seven hundred fifty~~ ~~hundred~~ (750) feet, measured from lot line to lot line, of another adult care home on the same street frontage or within five hundred (500) feet in any other direction of another adult care home.



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- d. *Compatibility*: The home and its premises shall be maintained in a clean, well-kept condition, that is consistent in materials and design style with homes in the surrounding or adjacent neighborhood.
  - e. *Criteria*: Care homes must be licensed by the State of Arizona and must provide proof of such licensing by the State of Arizona as a health care institution to the Director of Planning prior to the commencement of operations. All care homes must pass an initial and annual fire inspection administered by the Scottsdale Fire Department. Proof of such inspection and of correction of any noted deficiencies must be available at the care home at all times.
  - f. *Accommodation*: A disabled person may request a disability accommodation from the above criteria or a development standard pursuant to Section 1.806 of this Zoning Ordinance.
- 3. Charter school located on property with a net lot size of one (1) acre or more.
  - 4. Day care home.
  - 5. Day care group home.
  - 6. Dwelling units, single-family, including Vacation rental or Short-term rental; limited to one main dwelling unit per lot.
  - 7. Guest house, as an accessory use subject to the following criteria:
    - a. The cumulative square footage of the guest house(s) shall be no greater than one-half (1/2) the livable square footage of the main dwelling.
    - b. Any guest house shall be connected to the existing water meter for the main dwelling. It shall not be separately metered.
    - c. The guest house shall not be rented or offered for rent independent of the main dwelling.
  - 8. Model homes.
  - 9. Municipal uses.
  - 10. Wireless communications facilities; Types 1, 2, and 3, subject to the requirements of Sections 1.906, 3.100 and 7.200.
  - 11. Private tennis courts.
  - 12. Public, elementary and high schools
  - 13. Temporary sales office buildings and buildings for uses incidental to construction work, to be removed upon completion or abandonment of construction work.
  - 14. Churches and places of worship; subject to Development Review Board approval and compliance with the following standards, as well as those otherwise required in the R1-190 District:
    - a. Lot area: The minimum lot area shall be equal to that required for the district, except that no lot shall be less than twenty thousand (20,000) square feet (net).
    - b. Floor area ratio: In no case shall the gross floor area of the structure(s) exceed an amount equal to 0.20 multiplied by the net lot area.



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- c. Building height: Development Review Board may allow building heights, including, towers, spires, and mechanical equipment (such equipment must be screened) limited to thirty (30) feet in height, and may allow a maximum of ten (10) percent of the roof area to exceed the height limit by fifteen (15) feet. Height and location are subject to the Development Review Board review and approval for compatibility with the established neighborhood character. Maximum permissible heights may not be achievable in all neighborhoods. (This provision supersedes Section 7.100, through 7.102, exceptions to height restrictions, which shall not apply to churches within this district.)
- d. Required open space:
  - i. Minimum: 0.24 multiplied by the net lot area.
  - ii. For building heights over twenty (20) feet: the minimum open space requirement plus 0.004 multiplied by the net lot area for each foot of building height over twenty (20) feet.
  - iii. NAOS may be included in the required open space.
- e. Parking: Parking shall observe the minimum front yard setbacks of the district for all frontages. On streets classified in the Transportation Master Plan as major arterial or greater, parking may be located between the established front building line and the front yard setback. On all other street classifications, parking shall be located behind the established front building line(s).

A minimum of fifteen (15) percent of all parking areas shall be landscaped.

A ten-foot minimum landscaped setback shall be provided where parking is adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.

- f. Lighting: All pole mounted lighting shall be directed down and shielded and shall be a maximum of sixteen (16) feet in height.

All lighting adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A. shall be set back a minimum of thirty (30) feet from the property line. All lighting, other than security, shall be shut off by 10:00 p.m.

- g. Screening: There shall be a minimum six-foot high masonry wall and/or landscape screen, as approved by the Development Review Board, on the side and rear property lines that are adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.

There shall be a three-foot high landscaped berm along all street frontage where parking occurs.

## 2-TA-2017 – Care Homes/Group Homes Text Amendment

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- h. Access: All churches must have primary access to a street classified in the Transportation Master Plan as a minor collector or greater.

Access to a local or local collector residential street is prohibited when the primary worship center, auditorium or other major gathering place exceeds three thousand (3,000) square feet.

- i. Operations: No outdoor activities shall be permitted after 10:00 p.m.
- j. Noise: Outdoor speakers or paging systems are not allowed.

B. *Uses subject to conditional use permit.*

1. Cemetery (see Section 1.403 for criteria).
2. Ham transmitting or receiving radio antennas in excess of seventy (70) feet.
3. Community buildings and recreational facilities not publicly owned, such as: athletic fields, boys' clubs, etc.
4. Farms and ranches.
5. Golf course (except miniature golf course or commercial driving range).
6. Wireless communications facilities; Type 4, subject to requirements of Sections 1.400, 3.100 and 7.200.
7. Private colleges and universities having a regular curriculum, with their related services and activities.
8. Private school having no room regularly used for housing or sleeping overnight. Subject to Development Review Board approval and compliance with the following standards, including, but not limited to, the following as well as those otherwise required in the R1-190 District.
  - a. Lot area: The minimum lot area shall be equal to that required for the district, except that no lot shall be less than eighty-six thousand (86,000) square feet minimum lot size.
  - b. Floor area ratio: In no case shall the gross floor area of the structure(s) exceed an amount equal to 0.20 multiplied by the net lot area.
  - c. Noise: Outdoor speaker systems or bells are not allowed.
  - d. Required open space:
    - i. Minimum: 0.24 multiplied by the net lot area.
    - ii. For building heights over twenty (20) feet: the minimum open space requirement plus 0.004 multiplied by the net lot area for each foot of building height over twenty (20) feet.
    - iii. NAOS may be included in the required open space.
  - e. Parking: Parking shall be allowed in the front yard setbacks of the district for schools on streets classified in the Transportation Master Plan as minor collector or greater. There shall be a three-foot high landscaped berm or wall along the street frontage where parking occurs. On all other street classifications, parking shall be located behind the established front building line(s). A minimum of fifteen (15) percent of all parking areas shall be landscaped in addition to open space in

## 2-TA-2017 – Care Homes/Group Homes Text Amendment

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- d. above. A twenty-foot minimum landscaped setback shall be provided where parking is adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.
- f. Lighting: All pole mounted lighting shall be directed down and shielded and shall be a maximum of sixteen (16) feet in height. All lighting adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A., shall be setback a minimum of thirty (30) feet from the property line. All lighting, other than security, shall be turned off by 10:00 p.m., unless otherwise approved through a special event permit.
- g. Screening: There shall be a minimum six-foot high masonry wall and/or landscape screen, as approved by the Development Review Board, on the side and rear property lines adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.
- h. Access: All private schools shall have frontage on a street classified in the Transportation Master Plan as a minor collector or greater. Side street access to a local collector residential street is prohibited when the number of students allowed to attend the school is greater than two hundred fifty (250). A drop off area shall be provided that accommodates a minimum of five (5) cars at one (1) time.
- i. Operations: No outdoor activities shall be permitted after 8:00 p.m. unless otherwise approved through a special event permit. Any additions to, expansions of or proposed playgrounds or outdoor activity areas shall be setback fifty (50) feet from any single-family residential district shown on Table 4.100.A., or the single-family residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the single-family residential districts shown on Table 4.100.A. property line (including right-of-way width) or setback twenty-five (25) feet from any Two-family Residential R-2, Medium Density Residential R-3, Townhouse Residential R-4, Resort/Townhouse Residential R-4R, Multiple-family Residential R-5 or Manufactured Home M-H district property line (including right-of-way width). All playgrounds and outdoor activity areas shall be screened from any residential district shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A. by a minimum six-foot high screen wall and/or landscape screen, as approved by the Development Review Board.
- j. Building design: All buildings shall be designed to be compatible with the surrounding residential neighborhood. All building elevations shall be approved by the Development Review Board.
- k. Circulation plan: The applicant shall submit a circulation plan to ensure minimal conflicts between the student drop-off area, potential van and bus drop-off area, parking, access driveways, pedestrian and bicycle paths on site.



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9. Public utility buildings, structures or appurtenances thereto for public service uses.
10. Recreational uses (see section 1.403 for specific uses and development criteria for each).

### **Sec. 5.102. - Use regulations. [R1-43]**

A. *Permitted uses.* Buildings, structures or premises shall be used and buildings and structures shall hereafter be erected, altered or enlarged only for the following uses:

1. Accessory buildings, swimming pools, home occupations and other accessory uses. The landing and taking-off of aircraft is not a valid accessory use in residential districts and is prohibited.
2. Adult-care homes; subject to the following criteria:
  - a. Floor area ratio: Is limited to thirty-five hundredths (0.35) of the net lot area.
  - b. Capacity: The maximum number of residents, including up to ten disabled persons, ~~other than the manager/supervisor, or property owner, and residential staff at the home is ten-twelve (1240)~~ per residential lot.
  - c. Location: ~~An adult-care home shall not be located within seven-hundred-fifty (750) twelve hundred (1200) feet, measured from lot line to lot line, of another adult-care home on the same street frontage or within five hundred (500) feet in any other direction of another adult-care home.~~
  - d. Compatibility: The home and its premises shall be maintained in a clean, well-kept condition that is consistent in materials and design style with homes in the surrounding or adjacent neighborhood.
  - e. Parking: All parking for the ~~property owner~~ residents and any employees shall be provided in off-street locations but in no case shall parking occupy more than three-tenths (0.3) of the required front yard.
  - f. Criteria: Care homes must provide proof of licensing as a health care institution by the State of Arizona to the Director of Planning prior to the commencement of operations. All care homes must pass an initial and annual fire inspection administered by the Scottsdale Fire Department. Proof of such inspection and of correction of any noted deficiencies must be available at the care home at all times.
  - g. Accommodation: A disabled person may request a disability accommodation from the above criteria or a development standard pursuant to Section 1.806 of this Zoning Ordinance.
3. Charter school located on property with a net lot size of one (1) acre or more.
4. Day care home.
5. Day care group home.
6. Dwelling units, single-family, including Vacation rental or Short-term rental, limited to one main dwelling per lot.
7. Guest houses, as an accessory use subject to the following criteria:
  - a. The cumulative square footage of the guest house(s) shall be no greater than one-half (1/2) the livable square footage of the main dwelling.



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- b. The guest house shall be connected to the water meter for the main dwelling. It shall not be separately metered.
- c. The guest house shall not be rented or offered for rent independent of the main dwelling.
- 8. Model homes.
- 9. Municipal uses.
- 10. Wireless communications facilities; Types 1, 2, and 3, subject to the requirements of Sections 1.906, 3.100 and 7.200.
- 11. Private tennis courts.
- 12. Public, elementary and high schools.
- 13. Temporary sales office buildings and buildings for uses incidental to construction work, to be removed upon completion or abandonment of construction work.
- 14. Churches and places of worship; subject to Development Review Board approval and compliance with the following standards, as well as those otherwise required in the R1-43 District:
  - a. Lot area: The minimum lot area shall be equal to that required for the district, except that no lot shall be less than twenty thousand (20,000) square feet (net).
  - b. Floor area ratio: In no case shall the gross floor area of the structure(s) exceed an amount equal to 0.20 multiplied by the net lot area.
  - c. Building height: Development Review Board may allow building heights, including towers, spires, and mechanical equipment (such equipment must be screened) limited to thirty (30) feet in height, and may allow a maximum of ten (10) percent of the roof area to exceed the height limit by fifteen (15) feet. Height and location are subject to the Development Review Board review and approval for compatibility with the established neighborhood character. Maximum permissible heights may not be achievable in all neighborhoods. (This provision supersedes Sections 7.100 through 7.102, exceptions to height restrictions, which shall not apply to churches within this district.)
  - d. Required open space.
    - i. Minimum: 0.24 multiplied by the net lot area.
    - ii. For building heights over twenty (20) feet: the minimum open space requirement plus 0.004 multiplied by the net lot area for each foot of building height over twenty (20) feet.
    - iii. NAOS may be included in the required open space.
  - e. Parking: Parking shall observe the minimum front yard setbacks of the district for all frontages. On streets classified in the Transportation Master Plan as major arterial or greater, parking may be located between the established front building line and the front yard setback. On all other street classifications, parking shall be located behind the established front building line(s). A minimum of fifteen (15) percent of all parking areas shall be landscaped. A ten-foot minimum landscape setback shall be provided where parking is adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential

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Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.

f. Lighting: All pole mounted lighting shall be directed down and shielded and shall be a maximum of sixteen (16) feet in height. All lighting adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A., shall be set back a minimum of thirty (30) feet from the property line. All lighting, other than security, shall be shut off by 10:00 p.m.

- g. Screening: There shall be a minimum six-foot high masonry wall and/or landscape screen, as approved by the Development Review Board, on the side and rear property lines that are adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.

There shall be a three-foot high landscaped berm along all street frontages where parking occurs.

- h. Access: All churches must have primary access to a street classified in the Transportation Master Plan as a minor collector or greater.

Access to a local or local collector residential street is prohibited when the primary worship center, auditorium or other major gathering place exceeds three thousand (3,000) square feet.

- i. Operations: No outdoor activities shall be permitted after 10:00 p.m.  
j. Noise: Outdoor speakers or paging systems are not allowed.

B. *Uses subject to conditional use permit.*

1. Cemetery (see section 1.403 for criteria).
2. Community buildings and recreational facilities not publicly owned, such as: Athletic fields, boys' clubs, etc.
3. Farms.
4. Golf course (except miniature golf course or commercial driving range).
5. Ham transmitting or receiving radio antennas in excess of seventy (70) feet.
6. Wireless communications facilities; Type 4, subject to requirements of Sections 1.400, 3.100 and 7.200.
7. Private colleges and universities having a regular curriculum, with their related services and activities.
8. Private school having no room regularly used for housing or sleeping overnight. Subject to Development Review Board approval and compliance with standards, including, but not limited to, the following as well as those otherwise required in the R1-43 District.

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- a. Lot area: The minimum lot area shall be equal to that required for the district, except that no lot shall be less than eighty-six thousand (86,000) square feet minimum lot size.
- b. Floor area ratio: In no case shall the gross floor area of the structure(s) exceed an amount equal to 0.20 multiplied by the net lot area.
- c. Noise: Outdoor speaker systems or bells are not allowed.
- d. Required open space:
  - i. Minimum: 0.24 multiplied by the net lot area.
  - ii. For building heights over twenty (20) feet: the minimum open space requirement plus 0.004 multiplied by net lot area for each foot of building height over twenty (20) feet.
  - iii. NAOS may be included in the required open space.
- e. Parking: Parking shall be allowed in the front yard setbacks of the district for schools on streets classified in the Transportation Master Plan as minor collector or greater. There shall be a three-foot high landscaped berm or wall along the street frontage where parking occurs. On all other street classifications, parking shall be located behind the established front building line(s). A minimum of fifteen (15) percent of all parking areas in addition to open space in d. above shall be landscaped. A twenty-foot minimum landscaped setback shall be provided where parking is adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.
- f. Lighting: All pole mounted lighting shall be directed down and shielded and shall be a maximum of sixteen (16) feet in height. All lighting adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A., shall be setback a minimum of thirty (30) feet from the property line. All lighting, other than security, shall be turned off by 10:00 p.m., unless otherwise approved through a special event permit.
- g. Screening: There shall be a minimum six-foot high masonry wall and/or landscape screen, as approved by the Development Review Board, on the side and rear property lines adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.
- h. Access: All private schools shall have frontage on a street classified in the Transportation Master Plan as a minor collector or greater. Side street access to a local collector residential street is prohibited when the number of students allowed to attend the school is greater than two hundred fifty (250). A drop off area shall be provided that accommodates a minimum of five (5) cars at one (1) time.
- i. Operations: No outdoor activities shall be permitted after 8:00 p.m. unless otherwise approved through a special event permit. Any additions to, expansions

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of or proposed playgrounds or outdoor activity areas shall be setback fifty (50) feet from the property line (including right-of-way width) of any single-family residential district shown on Table 4.100.A., or the single-family residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the single-family residential districts shown on Table 4.100.A. or setback twenty-five (25) feet from any Two-family Residential R-2, Medium Density Residential R-3, Townhouse Residential R-4, Resort/Townhouse Residential R-4R, Multi-family Residential R-5 or Manufactured Home M-H district property line (including right-of-way width). All playgrounds and outdoor activity areas shall be screened from any residential district shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A. by a minimum six-foot high screen wall and/or landscape screen, as approved by the Development Review Board.

- j. Building design: All buildings shall be designed to be compatible with the surrounding residential neighborhood. All building elevations shall be approved by the Development Review Board.
  - k. Circulation plan: The applicant shall submit a circulation plan to ensure minimal conflicts between the student drop-off area, potential van and bus drop-off area, parking, access driveways, pedestrian and bicycle paths on site.
9. Public utility buildings, structures or appurtenances thereto for public service uses.
10. Recreational uses including commercial stables, ranches and tennis clubs (see section 1.403 for specific uses and development criteria for each).

### **Sec. 5.703. - Use regulations. [R-3]**

A. *Permitted uses.* Buildings, structures or premises shall be used and buildings and structures shall hereafter be erected, altered or enlarged only for the following uses:

- 1. Group homes.
- 42. Day care home.
- 23. Dwelling unit(s), including Vacation rental or Short-term rental.
- 34. Accessory buildings; swimming pool, private home occupations and other accessory uses. The landing and taking-off of aircraft is not a valid accessory use in residential districts and is prohibited.
- 45. Temporary buildings for uses incidental to construction work to be removed upon completion or abandonment of construction work.
- 56. Model dwelling units.
- 67. Municipal uses.
- 6-48. Wireless communications facilities; types 1, 2, and 3, subject to the requirements of Sections 1.906, 3.100 and 7.200.

B. *Uses permitted by conditional use permit.*



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1. Wireless communications facilities; type 4, subject to requirements of sections 1.400, 3.100 and 7.200.

2. Residential health care facility (see section 1.403 for criteria except as modified in section 5.704.C.)

### **Sec. 5.803. - Use regulations. [R-4]**

A. *Permitted uses.* Building, structures or premises shall be used and buildings and structures shall hereafter be erected, altered or enlarged only for the following uses:

1. Single-family dwelling having either party walls or walled courtyards, including Vacation rental or Short-term rental.

2. Accessory buildings and uses customarily incident to the permitted uses, including private garage, home occupations, swimming pools and recreation buildings. The landing and taking-off of aircraft is not a valid accessory use in residential districts and is prohibited.

3. Group homes.

4. Municipal uses.

3.15. Wireless communications facilities; Types 1, 2, and 3, subject to the requirements of Sections 1.906, 3.100 and 7.200.

46. Temporary sales office buildings and model homes.

57. Churches and places of worship.

68. Day care home.

B. *Permitted uses by conditional use permit.*

1. Wireless communications facilities; Type 4, subject to requirements of sections 1.400, 3.100 and 7.200.

2. Residential health care facility (see section 1.403 for criteria except as modified in section 5.804.D.)

### **Sec. 5.903. - Use regulations. [R-4R]**

A. Permitted Uses

1. Travel Accommodation.

2. Dwelling units having either party walls or walled courtyards, including Vacation rental or Short-term rental.

3. Accessory buildings and uses customarily incidental to the permitted uses, including private garages, home occupations, swimming pool, recreation buildings and walled driveway entrance.

4. Group homes.

5. Municipal uses.

56. Wireless communications facilities, Types 1, 2 and 3, subject to the requirements of Sections 1.906, 3.100 and 7.200.

67. Churches and places of worship.

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- 78. Day care home.
- B. *Permitted uses by conditional use permit.*
  - 1. Golf courses.
  - 2. Wireless communications facilities; Type 4, subject to requirements of sections 1.400, 3.100 and 7.200.
  - 3. Recreational uses (see section 1.403 for specific uses and development criteria for each).

### **Sec. 5.1003. - Use regulations. [R-5]**

A. *Permitted uses.* Buildings, structures or premises shall be used and buildings and structures shall hereafter be erected, altered or enlarged only for the following uses:

1. Accessory buildings; swimming pool; home occupations; and other accessory uses. The landing and taking-off of aircraft is not a valid accessory use in residential districts and is prohibited.

2. Group home.

23. Day-care home.

34. Dwelling, single-family detached or attached, including Vacation rental or Short-term rental.

45. Dwelling, multiple family.

56. Municipal uses.

67. Wireless communications facilities; Types 1, 2, and 3, subject to the requirements of Sections 1.906, 3.100 and 7.200.

78. School: Public and charter, elementary and high.

89. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of construction work.

910. Temporary sales office buildings and model homes.

1011. Churches and places of worship.

B. *Uses permitted by conditional use permit.*

1. Commercial and/or ham transmitting or receiving radio and television antennas in excess of seventy (70) feet.

2. Community buildings or recreational fields not publicly owned.

3. Convent.

43. Day-care center.

54. Golf course, regulation or par-three, that is incidental to and located within the development.

6. Orphanage.

75. Plant nursery; provided, however, that all materials (other than plant materials) shall be screened from view by a solid fence or wall at least six (6) feet in height, and further that a

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completely enclosed building having a minimum floor area of five hundred (500) square feet shall be provided.

86. Private club, ~~fraternity, sorority and lodges.~~

97. Private lake, semi-public lake, tennis courts.

408. Private school having no room regularly used for housing or sleeping overnight. Subject to Development Review Board approval and compliance with the following standards, as well as those otherwise required in the R-5 District.

a. Lot area: The minimum lot area shall be equal to that required for the district, except that no lot shall be less than forty-three thousand (43,000) square feet (net).

b. Floor area ratio: In no case shall the gross floor area of the structure(s) exceed an amount equal to 0.20 multiplied by the net lot area.

c. Noise: Outdoor speaker system or bells are not allowed if the school building is within one hundred (100) feet of a single-family dwelling or multifamily dwelling unit.

d. Required open space.

i. Minimum: 0.24 multiplied by the net lot area.

ii. For building heights over twenty (20) feet: the minimum open space requirement plus 0.004 multiplied by the net lot area for each foot of building height over twenty (20) feet.

iii. NAOS may be included in the required open space.

e. Parking: Parking shall be allowed in the front yard setbacks of the district for schools on streets classified in the Transportation Master Plan as minor collector or greater. There shall be a three-foot high landscaped berm or wall along the street frontage where parking occurs. On all other street classifications, parking shall be located behind the established front building line(s). A minimum of fifteen (15) percent of all parking areas shall be landscaped. A twenty-foot minimum landscaped setback shall be provided where parking is adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.

f. Lighting: All pole mounted lighting shall be directed down and shielded and shall be a maximum of sixteen (16) feet in height. All lighting adjacent to residential districts shall be setback a minimum of thirty (30) feet from the property line. All lighting, other than security, shall be turned off by 10:00 p.m., unless otherwise approved through a special event permit.

g. Screening: There shall be a minimum six-foot high masonry wall and/or landscape screen, as approved by the Development Review Board, on the side and rear property lines adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.

h. Access: All private schools shall have frontage on a street classified in the Transportation Master Plan as a minor collector or greater. Side street access to a

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local collector residential street is prohibited when the number of students allowed to attend the school is greater than two hundred fifty (250). A drop off area shall be provided that accommodates a minimum of five (5) cars at one (1) time.

i. Operations: No outdoor activities shall be permitted after 8:00 p.m. unless otherwise approved through a special event permit. No playground or outdoor activity area shall be located within fifty (50) feet of any single-family residential district shown on Table 4.100.A., or the single-family residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the single-family residential districts shown on Table 4.100.A., or within twenty-five (25) feet of any Two-family Residential R-2, Medium Density Residential R-3, Townhouse Residential R-4, Resort/Townhouse Residential R-4R, Multiple-family Residential R-5 or Manufactured Home M-H district. All playgrounds and outdoor activity areas shall be screened from any residential district shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A., by a minimum six-foot high screen wall.

j. Building design: All buildings shall be designed to be compatible with the surrounding residential neighborhood. All building elevations shall be approved by the Development Review Board.

- 449. Public buildings other than hospitals.
- 102. Public utility buildings, structures or appurtenances thereto for public service uses.
- 113. Recreational uses.
- 124. Residential health care facility.
- 135. Travel accommodation.
- 16. Wireless communications facilities; Type 4, subject to requirements of sections 1.400., 3.100., and 7.200.



# CITY COUNCIL REPORT

Applicant's Exhibit 9

Item 27



Meeting Date: December 5, 2017  
General Plan Element: *Land Use*  
General Plan Goal: *Create a sense of community through land uses*

## ACTION

### Care Homes/Group Homes Text Amendment 2-TA-2017

#### Request to consider the following:

1. Adopt Ordinance No. 4326 amending the Zoning Ordinance (Ord. No. 455); specifically, Sec. 1.202 (Interpretations and Decisions), Sec. 1.801 (Powers of the Board of Adjustment), Sec. 1.1304 (Enlargement, extension, reconstruction or structural alteration of nonconforming structure; enlargement of nonconforming use), Sec. 3.100 (Definitions), Sec. 5.010 (Single-family Residential (R1-190)), Sec. 5.012 (Use Regulations), Sec. 5.100 (Single-family Residential (R1-43)), Sec. 5.102 (Use Regulations), which affects all other Single-family Residential and Two-Family Residential districts (R1-130, R1-70, R1-35, R1-18, R1-10, R1-7, R1-5 and R-2), Sec. 5.700 (Medium-Density Residential (R-3)), Sec. 5.703 (Use Regulations), Sec. 5.800 (Townhouse Residential (R-4)), Sec. 5.803 (Use Regulations), Sec. 5.900 (Resort/Townhouse Residential (R-4R)), Sec. 5.903 (Use Regulations), Sec. 5.1001 (Multiple-family Residential (R-5)), and Sec. 5.1003 (Use Regulations), add new Sec. 1.806 (Disability Accommodation), and add new Sec. 1.920 (Request for Disability Accommodation) to address various types of care homes and group homes in residential zoning districts.
2. Adopt Resolution No. 10963 declaring "2-TA-2017 – Care Homes/Group Homes Text Amendment," as a public record.

#### Goal/Purpose of Request

The primary objective of the proposed text amendment is to respond to citizen concerns about single-family residences that are being used as "care homes" to provide services to residents with disabilities, including elder care homes and "sober homes". This effort has been focused on amending the City's current ordinance to provide neighborhood protections and to be consistent with Federal and State Law. To that end, the proposed amendment seeks to increase oversight and clarify separation requirements between care homes. The proposal is to amend and add land uses related to home care for disabilities, amend and add definitions, strengthen the use criteria associated with care homes, and add new sections to the ordinance intended to address disability accommodations.

**Key Items for Consideration**

- Citizen petition submitted to City Clerk requesting additional regulations/restrictions be placed on “sober homes”
- Compliance with Federal and State Laws that provide protections for persons with disabilities
- The term “disability”, as defined by the Federal Fair Housing Act (FHA), includes persons recovering from substance abuse
- Persons with disabilities must have “equal opportunity” to housing in residential neighborhoods (FHA and Americans with Disabilities Act)
- Recently passed State of Arizona legislation (HB 2107) grants municipalities limited ability to regulate “structured sober living” homes
- Limits “family” to six adults and their related dependent children
- Integration of care homes into residential areas; maintaining single-family residential setting
- Amendment does not supersede or limit Homeowner’s Associations (HOA) from enforcing private contract rules and regulations
- Significant public outreach and interest (120 citizens and providers on Interested Parties list and close to 300 attendees at Open Houses)
- Planning Commission heard this case as a Non-Action item on 10/11/17
- Additional public comment received after 10/11/17 Planning Commission hearing (refer to Attachment #14)
- Planning Commission heard this case on October 25, 2017 and recommended approval with a 5-1 vote.

**APPLICANT CONTACT**

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Greg Bloemberg  
Senior Planner  
City of Scottsdale  
480-312-4306

**LOCATION**

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City-wide

## BACKGROUND

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In 1993, Ord. No. 2636 was adopted to add “Adult Care Home” (ACH) as a permitted use in all single-family residential zoning districts. Along with the land use, operational criteria were established in an effort to integrate ACH’s into residential areas while also maintaining as much as possible the single-family neighborhood setting. At the time the ordinance was adopted, home care was primarily considered elderly care and the current definition in the Zoning Ordinance reflects that. Since that time, home care has evolved to include treatment of persons suffering from a variety of disabilities, including those recovering from substance abuse. Homes that treat persons recovering from substance abuse are commonly referred to as “sober homes”.

The Zoning Ordinance is not clear when it comes to treatment of substance abuse in residential districts. Section 1.202.D of the Zoning Ordinance (Interpretations and Decisions) states that *“The presumption established .....is that all general uses of land are permissible within one (1) zoning district”*; and that *“Uses listed in each district shall be interpreted liberally to include other uses which have similar impacts to the listed uses”*. When the City was first approached by a party interested in devoting a single-family residence to treatment of persons recovering from substance abuse, the most analogous use at the time was determined to be the “Adult Care Home” use; which is permitted by right in single-family residential districts subject to certain criteria.

Treatment for various afflictions both physical and mental in a residential setting is becoming an increasingly popular alternative to the larger treatment facilities typically administered by medical providers, such as clinics or hospital settings, primarily because it is believed a single-family living environment may be more conducive to successful recovery. Many cities and towns across Arizona are experiencing a spike in the number of “sober homes” and group homes, and are exploring methods to regulate them; or have already amended their ordinances to address them. In May of 2015, the City of Prescott adopted an ordinance placing regulations and restrictions on “community residences” and transitional housing. Subsequently, the ordinance was challenged by the United States Department of Housing and Urban Development (HUD), citing “burdensome restrictions” on group homes for the disabled. The City of Prescott has since amended their ordinance. In response to the demand for “sober homes” in residential neighborhoods, the State of Arizona passed House Bill 2107 in May of 2016; which gives cities and towns limited ability to place regulations on “structured sober living homes”.

Many residents with “sober homes” or group homes (commonly referred to as “halfway homes”) in their neighborhoods, express concern that the residents of these homes pose a threat to their quality of life. The FHA is fairly clear in stating that a home for the disabled cannot be denied the opportunity to locate in a residential neighborhood based solely on neighbor perceptions, although public safety and saturation of care homes in a single neighborhood can be considerations when adopting zoning regulations.

It has been suggested that Scottsdale should use the Prescott ordinance as a model, that Scottsdale should do what other cities are doing. Even a cursory review of other city’s ordinances shows that

there is no unanimity in the approach being taken. In part, this is because different cities have different circumstances, and what the circumstances are can affect legally what a city can do. In the case of Prescott, a study was conducted to demonstrate the effects of sober homes in its community; with the intent being to justify their extensive regulations.

### **Federal Fair Housing Act**

In 1968, Congress adopted Title VIII of the Civil Rights Act; more commonly known as the Fair Housing Act (FHA). The original FHA made it illegal to deny or discourage housing options for persons based on race, color, religion, sex or national origin. In 1988, the FHA was amended to add familial status (the presence or anticipated presence of children under age 18 in a household) and disability as protected characteristics. Per the FHA, a “disability” is defined as *“a mental or physical impairment which substantially limits one or more major life activities”*. Mental or physical impairment may include alcoholism, drug addiction and other mental illnesses.

Because it is settled law that persons recovering from substance abuse are “disabled” for purposes of the FHA and the Americans with Disabilities Act (ADA), the City may not impose more restrictions on homes where persons recovering from substance abuse live than it does on families. Refer to Attachment #3 of this report for a Joint Statement from the Federal Department of Justice and Department of Housing and Urban Development for information regarding the FHA.

### **Arizona Revised Statutes**

In addition to Federal law, the Arizona Revised Statutes (ARS) also provide protections for persons with disabilities. A specific provision protects persons with “developmental disabilities”, i.e. cognitive disabilities, cerebral palsy, epilepsy or autism, by preventing a city from prohibiting in residential zoning districts residential care for up to six persons with a developmental disability. Per ARS 36-582, developmental disability and many other home care facilities require State licensing. Refer to Attachment #5 for a comprehensive list of care home types that require licensing.

### **State of Arizona House Bill 2107**

In May of 2016, the Arizona House of Representatives adopted House Bill (HB) 2107, an amendment to Article IX of the ARS relating to local health and safety ordinances. HB 2107 provides local governments the ability to adopt ordinance standards for “structured sober living” homes. Most of the available options for regulation are operational in nature and include the following:

- a) A written notification from the structured sober living home; to include contact information,
- b) Supervision requirements for the residents during all hours of operation, and
- c) Establishment of a maintenance and operation plan that facilitates the rehabilitative process, including discharge planning

By definition, the statute applies only to a home that provides *“structured activities that are primarily directed toward recovery from substance abuse disorders, in a supervised setting, to a group of unrelated individuals who are recovering from drug or alcohol addiction, and who are*



*receiving outpatient behavioral health services for substance abuse or addiction treatment while living in the home” (ARS 9-500.40.C.1) The Bill also allows municipalities to exclude from regulation “any structured sober living home that is subject to adequate oversight by another governmental agency or contractor.” Refer to Attachment #4 for more information.*

### **Definition of Family**

The State of Arizona Revised Statutes (ARS) includes regulations for “residential facilities” in single-family neighborhoods. Per Section 36-582 of the ARS, *a residential facility which serves six (6) or fewer persons shall be considered a residential use of property for the purposes of all local zoning ordinances if such facility provides care on a twenty-four hour basis. The residents and operators of such a facility shall be considered a family for the purposes of any law or zoning ordinance which relates to residential use of property.* While this regulation applies only to “residential facilities” that treat persons with “developmental disabilities” (cognitive disability, cerebral palsy, epilepsy or autism), and not to all types of care homes, it does provide a benchmark for what should be considered a “family” with regard to establishing zoning regulations.

### **Other Related Policies, References:**

- Federal Fair Housing Act of 1968 (and as amended in 1988)
- Americans with Disabilities Act of 1990
- Arizona Revised Statutes
- State of Arizona House Bill No. 2107

## **STAFF PROPOSAL**

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Currently, the Zoning Ordinance includes definitions, land use categories and Use Regulations that are either obsolete or outdated; and do not sufficiently take into account the variety of options available for home care in the community. The term “Adult Care Home” is antiquated and is geared (by definition) primarily toward homes that provide care for the elderly. With this amendment other types of care homes, including those that offer care to persons recovering from substance abuse and developmental disabilities, will be recognized and consolidated into a single “Care Home” category.

The current definition of “Family” in the Zoning Ordinance is as follows: *“one (1) or more persons occupying a premise[s] and living as a single housekeeping unit as distinguished from a group occupying a boardinghouse, lodginghouse or hotel herein”.* This definition is proposed to be amended to be consistent with the aforementioned State statute, and to set a limit on the number of persons that can live in a single-family residence and still be considered a family, the objectives being to establish consistency with the intent of single-family zoning and preserve the character of single-family neighborhoods.

While some definitions and land uses are being amended or eliminated outright, others are proposed to be consolidated or in some cases added in support of new or amended land uses. The definitions affected are as follows:

Definition	Add	Amend	Eliminate	Reasoning/Objective
<i>Adult Care Home</i>		X		Change to “Care Home”; clarification
<i>Convalescent Home or Nursing Home</i>			X	Redundant; covered under “Specialized Residential Health Care Facility” use
<i>Disability</i>	X			Identify and define; clarify what constitutes a disability as it relates to “Care Home” (consistent with FHA)
<i>Dwelling</i>		X		Clarification
<i>Family</i>		X		Clarification; limited to 6 adults and their related dependent children
<i>Group Home</i>	X			Identify and define; provide distinction from “Care Home” use; provide for homes with more than 6 adult residents
<i>Health Care Institution</i>	X			Identify and define; provide reference to State law
<i>Minimal Residential Health Care Facility</i>		X		Clarification
<i>Related Dependent Children</i>	X			Identify and define; clarification as it relates to “Family” definition
<i>Residential Health Care Facility</i>	X			Identify and define
<i>Single Housekeeping Unit</i>	X			Identify and define; clarification as it relates to “Care Home” and “Group Home” uses
<i>Specialized Residential Health Care Facility</i>		X		Clarification
<i>Supervisory Care Services</i>	X			Identify and define; clarification as it relates to “Care Home” use

In addition to updating ordinance definitions, Use Regulations in the residential zoning districts must also be updated or added. They are as follows:

Use Regulation	Add	Amend	Eliminate	Reasoning/Objective
<i>Adult Care Home (R1- districts)</i>		X		Change to “Care Home”; amend criteria; consistency with FHA and HB 2107 (all other single-family zoning districts refer to the R1-190 and R1-43 districts for permitted uses)
<i>Day Care Group Home (R1- districts)</i>			X	Redundant; covered under “Day Care Home” use (all other single-family zoning districts refer to the R1-190 and R1-43 districts for permitted uses)
<i>Group Home (in R-3 district)</i>	X			Add to Permitted Uses
<i>Group Home (in R-4 district)</i>	X			Add to Permitted Uses
<i>Group Home (in R-4R district)</i>	X			Add to Permitted Uses
<i>Children’s Group Home or Group Home (in R-5 district)</i>		X		Change to “Group Home”

Additionally, in accordance with the FHA, the proposed ordinance will include provisions that provide those with disabilities the option of requesting a “disability accommodation” from development standards or requirements if the standard or requirement unduly restricts the opportunity for a person with a disability to find adequate housing within the City of Scottsdale. The Zoning Administrator will have the authority to approve a maximum modification of 10% to a development standard or requirement. Any request for accommodation greater than 10% will be subject to approval by the City’s Board of Adjustment (BOA). Refer to Attachment #2 for the proposed BOA criteria.

To provide opportunities for the disabled to live in a single-family residential setting; while preserving as much as possible the integrity of single-family neighborhoods, amendments to the existing use criteria for Adult Care Homes (Care Homes) are proposed. On the following pages are the current criteria, along with proposed changes, and the criterion proposed to be added as part of this amendment.

<u>Existing Adult Care Home Criteria</u>		
Land Use Criterion	Current	Proposed
<i>Floor Area Ratio</i>	35% of the net lot area (0.35)	No change
<i>Capacity</i>	Maximum of 10 residents	Maximum 10 disabled residents + up to 2 resident staff for a total of 12
<i>Location</i>	Minimum 500-foot separation between care homes in any direction, or 750-foot separation on the same street	1,200-foot separation between care homes
<i>Compatibility</i>	The home and its premises shall be maintained in a clean, well-kept condition that is consistent in materials and design style with homes in the surrounding adjacent neighborhoods	No change



<i>Licensing</i>	Not addressed	<p>Care homes must be licensed by the State of Arizona and must provide proof of licensing by the State of Arizona as a health care facility to the Director of Planning prior to commencement of operations.</p> <ul style="list-style-type: none"> <li>• Location to be conditionally mapped and a permit issued for a Certificate of Occupancy.</li> <li>• After 6 months, if a license has not been secured, location to be removed from map and the accompanying Adult Care (AC) application voided.</li> <li>• Unlicensed homes may fall into a Group Home use category and be restricted to a multi-family residential zoning district (R-3, R-4, R-4R and R-5)</li> </ul>
<i>Safety Inspection</i>	Not addressed	<p>All care homes must pass an initial and annual fire inspection administered by the Scottsdale Fire Department. Proof of such inspection and of correction of any noted deficiencies must be available at the care home at all times</p>
<i>Accommodation</i>	Not addressed	<p>A disabled person may request a disability accommodation from the above criteria or a development standard, pursuant to Section 1.806 of the Zoning Ordinance</p>

## IMPACT ANALYSIS

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### Land Use

Though “Adult Care Homes” have been part of the community for decades, only recently have they been the subject of greater scrutiny; primarily because of the influx of “sober homes”. The proposed text amendment provides opportunities for housing for disabled persons in single-family neighborhoods; while also providing additional oversight and separation to assure homes are properly licensed and helping to prevent conglomeration and saturation that may negatively impact single-family neighborhoods.

### Public Safety

The Police Department, Fire Department and Code Enforcement were all represented at the Open Houses held during the Community Outreach phase of this process. At the Open Houses, several residents expressed concerns about “sober homes” and group homes causing an increase in crime and a disruption to the quality of life in their neighborhoods. When queried, the Police Department indicated that no significant increase in calls for service was or has been received from neighborhoods where a “sober home” or group home is located. In recent months, as the number of care homes and group homes has increased, Code Enforcement has seen an increase in calls from neighbors either expressing concern about the residents of the home, condition of the property, or inquiring as to whether or not the home is operating legally. In some cases, evidence has been found that a home is not operating legally and appropriate action has been taken; however the majority of homes have been found to be operating within current ordinance requirements.

It should also be noted that the City’s Fire Ordinance (Chapter 36-18, Ordinance #4283) establishes occupancy classifications for single-family facilities that provide care and/or accommodations for other than immediate family occupants. Per the ordinance, a “Congregate Living Facility” or “Convalescent Facility” with five (5) or fewer persons residing in the residence is classified as an “R-3” occupancy, and is required to have an approved safety evacuation plan and smoke alarms. A facility with at least six (6) but not more than ten (10) persons residing in the residence is classified as an “R-4” occupancy and is required to have fire sprinklers and fire extinguishers, in addition to an approved safety evacuation plan and smoke alarms. Refer to Attachment #7 for additional information.

### Community Involvement

Extensive community involvement was undertaken during the initial phases of this process. Steps taken include the following:

- Notification of persons on the text amendment Interested Parties list,
- Creation of a web page on the City website to allow the public to track the progress of the amendment, access documentation relevant to the subject, and provide written feedback,
- 1/8-page advertisement in the Arizona Republic,
- Notification via the City’s Facebook, Twitter pages, Scottsdale Planning and Zoning Link and the NextDoor website, and

- Email notification to over 500 Homeowners Associations (through Neighborhood Services)

Additionally, a total of four Community Open Houses were conducted and staff attended two City-sponsored meetings to inform the public and obtain feedback on the proposed amendment. Upwards of 300 people, both residents and industry providers attended the Open Houses and staff received several written and verbal comments. Below is a timeline outlining the Open Houses, community meetings and hearings to date.

- 4/19/17: Open House at Granite Reef Senior Center (+/- 35 attendees)
- 4/26/17: Neighborhood Advisory Commission (informational)
- 4/27/17: Open House at Via Linda Senior Center (+/- 50 attendees)
- 5/16/17: Open House at Appaloosa Library (+/- 120 attendees)
- 6/29/17: Open House at Mountain View Park (+/- 50 attendees)
- 8/30/17: Community Engagement Group Meeting (informational; sponsored by the Police Department)
- 9/27/17: Planning Commission (informational; Study Session)
- 10/11/17: Planning Commission (informational; Non-Action)
- 10/25/17: Planning Commission (Action)

A variety of comments, suggestions and concerns were received during the Open Houses; both from residents and industry providers. An abbreviated summary of feedback is provided below. The first four items in bold print were identified by citizens as the most significant issues, based on the number of comments received. Refer to Attachments 11 and 12 for all written comments.

#### **Comments/Concerns from residents**

- **Public safety**

The Police Department, Fire Department and Code Enforcement were all represented at the Open Houses held during the Community Outreach phase of this process. At the Open Houses, several residents expressed concerns about “sober homes” and group homes causing an increase in crime and a disruption to the quality of life in their neighborhoods. When queried, the Police Department indicated that no significant increase in calls for service was or has been received from neighborhoods where a “sober home” or group home is located.

- **Licensing** - In addition to requiring a State license, comments received suggested that the City should license care homes, including sober homes.

The State has a robust licensing program and the expertise to administer it. The City has no expertise in licensing homes for the disabled, and so it seems advisable to only allow care homes where supervision and care is being provided to be those licensed by the State. This advances

two policies: avoidance of taking on extra licensing and regulatory responsibilities that would require the City to add personnel, and avoidance of imposing City regulations in areas where another jurisdiction, in this case the State, has already extensively regulated the subject activity. Care homes the State does license will be tracked by the State through their license and they must provide proof of their license to the City so that the City may determine whether they meet the other care home criteria; including the 1,200-foot separation requirement.

- **Distinction of uses** - Comments received suggested that elderly care homes should be classified separately from “sober homes”.

The State has authorized cities to impose some requirements on structured sober living homes, subject to the limitations of the FHA and ADA. This “subject to” is significant as it not only prevents the City from discriminating between abled and disabled persons, but also prevents the City from discriminating between types of disabilities without proof of a specific need or threat. This is why staff is not recommending a separate category for “sober living homes” and “assisted living homes”.

- **Enforcement of HOA regulations** - Comments received suggested that the City should enforce HOA regulations prohibiting care homes in residential subdivisions

A resident living in a subdivision with an HOA agrees to live within the parameters of the rules and regulations established by the HOA. It is in essence a “private contract” between the HOA and the resident that, in many cases, may not be consistent with City Zoning Ordinances or Policies. The City has no standing to enforce private contracts. HOA’s are responsible for enforcing their regulations. The City has consistently referred the resident back to the HOA when a conflict arises.

- Model ordinance after Prescott’s ordinance
- Require operators to live at the home; many operators or owners live out-of-state and are not easily accessible when a problem arises
- Identification of existing sober homes under the new regulations (Currently complaint-based)
- Add separation requirements from schools for sober homes and encourage “gender specific” housing
- Require neighborhood notification of proposed sober homes or group homes
- Require greater separation between care homes in larger-lot neighborhoods
- Requiring a City license would help to hold operators accountable
- Residential neighborhoods cannot accommodate care homes with 10 residents; maximum # of residents should be reduced to 6
- 10 residents ok for elderly care homes; not ok for sober homes



### **Comments from industry providers**

- Elderly care homes provide a much-needed community service and contribute to the local economy
- Elderly care homes provide residents an opportunity to “age in place” and be close to family
- Reducing number of residents from 10 to 6 is not feasible for elderly care homes; it will force operators to raise prices, thus pricing some elderly residents out of available housing
- “Grandfathering” of existing care homes operating legally at the time of ordinance adoption
- Distinction of uses - elderly care homes should be classified separately from “sober homes”

### **Policy Implications**

- Increasing separation requirement will help prevent residential communities from becoming “saturated” by care homes; while still providing opportunities for the disabled to find housing in single-family neighborhoods.
- Requiring proof of licensure from the State should result in greater accountability from care home operators and ensure operators are acting in the best interest of their residents.
- Providing a “disability accommodation” offers some flexibility in criteria and development standards for persons with disabilities to request an exception in cases where a need is demonstrated.

## **OTHER BOARDS & COMMISSIONS**

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### **Neighborhood Advisory Commission**

Planning staff attended the 4/26/17 hearing to provide information to the Commission about the proposed text amendment and answer questions from Commission members. Refer to Attachment #13.

### **Planning Commission**

The Planning Commission heard this case as a Non-Action item at the 10/11/17 hearing. This was the first public hearing regarding this subject and the purpose was to inform the Commission about the intricacies of the subject matter and provide an opportunity for the public to ask questions or provide comments. During the presentation, staff detailed the community outreach efforts, concerns and suggestions raised by the public and providers, challenges in creating the draft ordinance and a summary of the proposed amendment. There were three requests to speak during public comment. Two of the speakers recommended there be a distinction between uses; specifically “sober homes” and elderly care homes. One speaker suggested the proposed ordinance treats “sober homes” differently by requiring group homes with six or more residents to locate in multi-family zoning districts. Another speaker indicated that a limitation on staff in care homes (maximum two staff proposed in draft ordinance) is too restrictive. The speaker indicated that, depending on the care provided, additional staff is often needed to provide adequate care and supervision. It was also suggested Scottsdale should follow both the Prescott and Gilbert

ordinances with regard to licensing of care homes and sober homes. Staff was queried by the Commission as to whether or not the State requires operators to live at the care home, and if there are any penalties for operating an unlicensed care home. Staff responded that they would look into those matters and follow up with the Commission at the next hearing.

Planning Commission heard this case as an Action item at the 10/25/17 hearing. There was one request to speak. The speaker contended that the State has no jurisdiction to regulate sober homes; as such, the City should license them. Additionally, the speaker informed the Commission that a vote taken at the Open Houses resulted in a majority of attendees supporting a distinction in the ordinance between elderly care homes and sober homes. After some discussion and questions directed at staff, the Commission recommended approval with a vote of 5-1.

## **STAFF RECOMMENDATION**

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### **Recommended Approach:**

1. Adopt Ordinance No. 4326 amending the Zoning Ordinance (Ord. No. 455); specifically, Sec. 1.202 (Interpretations and Decisions), Sec. 1.801 (Powers of the Board of Adjustment), Sec. 1.1304 (Enlargement, extension, reconstruction or structural alteration of nonconforming structure; enlargement of nonconforming use), Sec. 3.100 (Definitions), Sec. 5.010 (Single-family Residential (R1-190)), Sec. 5.012 (Use Regulations), Sec. 5.100 (Single-family Residential (R1-43)), Sec. 5.102 (Use Regulations), which affects all other Single-family Residential and Two-Family Residential districts (R1-130, R1-70, R1-35, R1-18, R1-10, R1-7, R1-5 and R-2), Sec. 5.700 (Medium-Density Residential (R-3)), Sec. 5.703 (Use Regulations), Sec. 5.800 (Townhouse Residential (R-4)), Sec. 5.803 (Use Regulations), Sec. 5.900 (Resort/Townhouse Residential (R-4R)), Sec. 5.903 (Use Regulations), Sec. 5.1001 (Multiple-family Residential (R-5)), and Sec. 5.1003 (Use Regulations), add new Sec. 1.806 (Disability Accommodation), and add new Sec. 1.920 (Request for Disability Accommodation) to address various types of care homes and group homes in residential zoning districts.
2. Adopt Resolution No. 10963 declaring “2-TA-2017 – Care Homes/Group Homes Text Amendment,” as a public record.

## **RESPONSIBLE DEPARTMENT**

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### **Planning and Development Services**

Current Planning Services

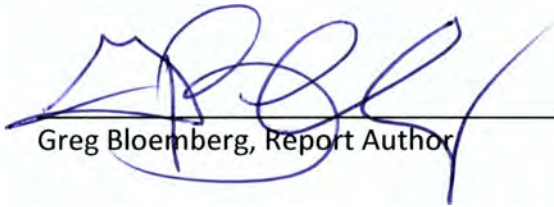
## **STAFF CONTACT**

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**APPROVED BY**

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Greg Bloernberg, Report Author

11-1-17  
Date



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Tim Curtis, AICP, Current Planning Director  
480-312-4210, tcurtis@scottsdaleaz.gov

11/15/2017  
Date



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Randy Grant, Director  
Planning and Development Services  
480-312-2664, rgrant@scottsdaleaz.gov

11/15/17  
Date

## ATTACHMENTS

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1. Ordinance No. 4326
2. Resolution No. 10963  
Exhibit A: 2-TA-2017 – Care Homes/Group Homes Text Amendment
3. Joint Statement from Department of Justice and Department of Housing and Urban Development (FHA)
4. State of Arizona House Bill 2107
5. Arizona Department of Health Services License Types (for Care Homes)
6. Frequently Asked Questions
7. Municipal Comparison Chart
8. Fire Ordinance Requirements
9. Licensed Care Home Location Map
10. Citizen Petition
11. Community Outreach/Public Comment
12. Additional Public Comment (received after 10/11/17 Planning Commission hearing)
13. 4/26/17 Neighborhood Advisory Commission Meeting Minutes
14. 10/11/17 Planning Commission Meeting Minutes
15. 10/25/17 Planning Commission Meeting Minutes
16. 10/25/17 Planning Commission Meeting public comment



### 36-407. Prohibited acts

A. A person shall not establish, conduct or maintain in this state a health care institution or any class or subclass of health care institution unless that person holds a current and valid license issued by the department specifying the class or subclass of health care institution the person is establishing, conducting or maintaining. The license is valid only for the establishment, operation and maintenance of the class or subclass of health care institution, the type of services and, except for emergency admissions as prescribed by the director by rule, the licensed capacity specified by the license.

### 36-403. Licensure by counties and municipalities

Nothing in this chapter shall prevent counties or municipalities from adopting and enforcing building and zoning regulations for health care institutions which are equal to or more restrictive than regulations of the department.

DHS License for residential care	Type of care	Distinguishing features
Assisted Living home	supervisory care services, personal care services or directed care services	10 or fewer residents
Behavioral Health	services that pertain to mental health and substance use disorders and performed by or under the supervision of a licensed professional or staff	General category for behavioral health services not separately licensed
Behavioral Health respite	same	Temporary (<30 days) services to persons otherwise cared for in foster homes and in private homes to provide an interval of rest or relief to operators of foster homes or to family members.
Behavioral Health specialized transitional	same	Specifically for persons determined to be sexually violent
Behavioral Health therapeutic	same	assists in acquiring daily living skills, coordinates transportation to scheduled appointments, monitors behaviors, assists in the self-administration of medication, and provides feedback to a case manager related to behavior for an individual 18 years of age or older
Hospice inpatient		Includes medical social services plus palliative care, i.e. medical services or nursing services provided to a patient that is not curative and is designed for pain control or symptom management
Nursing Care		services that pertain to the curative, restorative and preventive aspects of nursing care and that are performed at the direction of a physician by or under the supervision of a registered nurse licensed in this state
Substance abuse transitional	behavioral health services	Persons over 18 with substance abuse problems
Unclassified	medical services, nursing services, behavioral health services, health screening services, other health-related services, supervisory care services, personal care services or directed care services	Catch-all category for health care institutions not separately licensed

### Statutory definitions

### **36-401**

7. "Assisted living center" means an assisted living facility that provides resident rooms or residential units to eleven or more residents.
8. "Assisted living facility" means a residential care institution, including an adult foster care home, that provides or contracts to provide supervisory care services, personal care services or directed care services on a continuous basis.
9. "Assisted living home" means an assisted living facility that provides resident rooms to ten or fewer residents.
10. "Behavioral health services" means services that pertain to mental health and substance use disorders and that are either:
- (a) Performed by or under the supervision of a professional who is licensed pursuant to title 32 and whose scope of practice allows for the provision of these services.
  - (b) Performed on behalf of patients by behavioral health staff as prescribed by rule.
21. "Health care institution" means every place, institution, building or agency, whether organized for profit or not, that provides facilities with medical services, nursing services, behavioral health services, health screening services, other health-related services, supervisory care services, personal care services or directed care services and includes home health agencies as defined in section 36-151, outdoor behavioral health care programs and hospice service agencies. Health care institution does not include a community residential setting as defined in section 36-551.
27. "Inpatient beds" or "resident beds" means accommodations with supporting services, such as food, laundry and housekeeping, for patients or residents who generally stay in excess of twenty-four hours.
29. "Medical services" means the services that pertain to medical care and that are performed at the direction of a physician on behalf of patients by physicians, dentists, nurses and other professional and technical personnel.
33. "Nursing services" means those services that pertain to the curative, restorative and preventive aspects of nursing care and that are performed at the direction of a physician by or under the supervision of a registered nurse licensed in this state.
36. "Personal care services" means assistance with activities of daily living that can be performed by persons without professional skills or professional training and includes the coordination or provision of intermittent nursing services and the administration of medications and treatments by a nurse who is licensed pursuant to title 32, chapter 15 or as otherwise provided by law.
38. "Residential care institution" means a health care institution other than a hospital or a nursing care institution that provides resident beds or residential units, supervisory care services, personal care services, behavioral health services, directed care services or health-related services for persons who do not need continuous nursing services.
39. "Residential unit" means a private apartment, unless otherwise requested by a resident, that includes a living and sleeping space, kitchen area, private bathroom and storage area.
40. "Respite care services" means services that are provided by a licensed health care institution to persons otherwise cared for in foster homes and in private homes to provide an interval of rest or relief of not more than thirty days to operators of foster homes or to family members.
43. "Supervisory care services" means general supervision, including daily awareness of resident functioning and continuing needs, the ability to intervene in a crisis and assistance in the self-administration of prescribed medications.

### **36-151**

5. "Home health agency" means an agency or organization, or a subdivision of such an agency or organization, which meets all of the following requirements:
- (a) Is primarily engaged in providing skilled nursing services and other therapeutic services.
  - (b) Has policies, established by a group of professional personnel, associated with the agency or organization, including one or more physicians and one or more registered professional nurses, to govern the services referred to in subdivision (a), which it provides, and provides for supervision of such services by a physician or registered professional nurse.

### **36-551**

15. "Community residential setting" means a residential setting in which persons with developmental disabilities live and are provided with appropriate supervision by the service provider responsible for the operation of the residential setting. Community residential setting includes a child developmental home or an adult developmental home operated or contracted by the department or the department's contracted vendor or a group home operated or contracted by the department.

## **Regulations**

### **R 9-10-101**

10. "Adult behavioral health therapeutic home" means a residence that provides room and board, assists in acquiring daily living skills, coordinates transportation to scheduled appointments, monitors behaviors, assists in the self-administration of medication, and provides feedback to a case manager related to behavior for an individual 18 years of age or older based on the individual's behavioral health issue and need for behavioral health services and may provide behavioral health services under the clinical oversight of a behavioral health professional.

17. "Assistance in the self-administration of medication" means restricting a patient's access to the patient's medication and providing support to the patient while the patient takes the medication to ensure that the medication is taken as ordered.

22. "Behavioral care":

a. Means limited behavioral health services, provided to a patient whose primary admitting diagnosis is related to the patient's need for physical health services, that include:

i. Assistance with the patient's psychosocial interactions to manage the patient's behavior that can be performed by an individual without a professional license or certificate including:

(1) Direction provided by a behavioral health professional, and

(2) Medication ordered by a medical practitioner or behavioral health professional; or

ii. Behavioral health services provided by a behavioral health professional on an intermittent basis to address the patient's significant psychological or behavioral response to an identifiable stressor or stressors; and

b. Does not include court-ordered behavioral health services.

23. "Behavioral health facility" means a behavioral health inpatient facility, a behavioral health residential facility, a substance abuse transitional facility, a behavioral health specialized transitional facility, an outpatient treatment center that only provides behavioral health services, an adult behavioral health therapeutic home, a behavioral health respite home, or a counseling facility.

24. "Behavioral health inpatient facility" means a health care institution that provides continuous treatment to an individual experiencing a behavioral health issue that causes the individual to:

a. Have a limited or reduced ability to meet the individual's basic physical needs;

b. Suffer harm that significantly impairs the individual's judgment, reason, behavior, or capacity to recognize reality;

c. Be a danger to self;

d. Be a danger to others;

e. Be persistently or acutely disabled as defined in A.R.S. § 36-501; or

f. Be gravely disabled.

29. "Behavioral health residential facility" means a health care institution that provides treatment to an individual experiencing a behavioral health issue that:

a. Limits the individual's ability to be independent, or

b. Causes the individual to require treatment to maintain or enhance independence.

30. "Behavioral health respite home" means a residence where respite care services, which may include assistance in the self-administration of medication, are provided to an individual based on the individual's behavioral health issue and need for behavioral health services.
31. "Behavioral health specialized transitional facility" means a health care institution that provides inpatient behavioral health services and physical health services to an individual determined to be a sexually violent person according to A.R.S. Title 36, Chapter 37.
52. "Counseling facility" means a health care institution that only provides counseling, which may include:
- a. DUI screening, education, or treatment according to the requirements in 9 A.A.C. 20, Article 1; or
  - b. Misdemeanor domestic violence offender treatment according to the requirements in 9 A.A.C. 20, Article 2.
58. "Daily living skills" means activities necessary for an individual to live independently and include meal preparation, laundry, housecleaning, home maintenance, money management, and appropriate social interactions.
61. "Detoxification services" means behavioral health services and medical services provided to an individual to:
- a. Reduce or eliminate the individual's dependence on alcohol or other drugs, or
  - b. Provide treatment for the individual's signs or symptoms of withdrawal from alcohol or other drugs.
97. "Hospice inpatient facility" means a subclass of hospice that provides hospice services to a patient on a continuous basis with the expectation that the patient will remain on the hospice's premises for 24 hours or more.
195. "Substance abuse" means an individual's misuse of alcohol or other drug or chemical that:
- a. Alters the individual's behavior or mental functioning;
  - b. Has the potential to cause the individual to be psychologically or physiologically dependent on alcohol or other drug or chemical; and
  - c. Impairs, reduces, or destroys the individual's social or economic functioning.
196. "Substance abuse transitional facility" means a class of health care institution that provides behavioral health services to an individual over 18 years of age who is intoxicated or may have a substance abuse problem.
211. "Unclassified health care institution" means a health care institution not classified or subclassified in statute or in rule.





Planning & Development Services

7447 E. Indian School Rd.  
Scottsdale, AZ 85251

PHONE 480-312-7000  
WEB [www.ScottsdaleAZ.gov](http://www.ScottsdaleAZ.gov)

~~December 7, 2017~~

JANUARY 11, 2018

Michelle Siwek  
Centered Living, CL Holdings 68<sup>th</sup> Pl, LLC  
12012 N. 68<sup>th</sup> Place  
Scottsdale, Arizona 85254

Re: Adult Care Home Separation Requirement

Ms. Siwek,

On November 27, 2017 you requested a disability accommodation from the Adult Care Home separation requirement of 750 feet per Section 5.102.2.c of the Zoning Ordinance. Included in your request is to change from a family to a care home. I have determined that an accommodation is not warranted in this case. I also determine that the living situation you describe is a "family" under the ordinance existing at the time you began operating so long as no care is provided. As such, your family is "grandfathered" under the City's amended Ordinance under the following conditions:

1. No increase in the number of disabled residents and
2. No care is being provided at the residence

Centered Living at 12012 N. 68<sup>th</sup> Place is approximately 410 feet from a licensed adult care home to the north, 12202 N. 68<sup>th</sup> Place. The properties are separated by one single family home property and E. Cactus Road. Because the property is on the same N. 68<sup>th</sup> Place street frontage as the adult care home to the north, under the ordinance existing at the time you began the standard calls for adult care homes to be separated by 750 feet. Because it is not currently authorized as an adult care home, we assume there are fewer than 6 residents.

City Council approved the text amendment, Care Homes/Group Homes Text Amendment (2-TA-2017), on December 4, 2017 and it went into effect January 5, 2018. Because this request was received prior to the adoption of the new text, the authority to analyze this request belongs to the Zoning Administrator, per Section 1.202 of the Zoning Ordinance.

Although you can continue as a family with no care provided, a care home is not allowed at this location because:

1. The property is within 750' of another care home.
2. There is no justification for waiving this standard because there are alternative locations nearby. Within the City of Scottsdale there are currently 113 adult care homes. If the disabled residents at 12012 N. 68<sup>th</sup> Place need additional care that can only be achieved in a care home within a residential environment, those disabled residents have other dwellings within Scottsdale to choose from. Alternatively, Centered Living could choose to apply for an adult care home at a different property that is properly separated from

other adult care homes, per City of Scottsdale requirements. There are many locations that could meet the criteria for a new care home. (See Attachment 1, Care home availability map)

3. I find that allowing a care home to operate at this location would fundamentally alter the nature and purpose of the Zoning Ordinance of the City of Scottsdale. The purpose of this ordinance is to promote and protect the public health, safety, and welfare of the citizens of the City of Scottsdale and to provide for the social, physical and economic advantages resulting from comprehensive and orderly planned use of land resources, as reflected in the General Plan. In addition the purpose of the Single-family residential (R1-35) zoning district is to promote and preserve residential development. The minimum lot size, although less than one (1) acre, still results in a low density of population. The principal land use is single-family dwellings and uses incidental or accessory thereto, together with required recreational, religious and educational facilities. (Zoning Ordinance, Section 5.201)

The buffers between Adult Care Homes are in place to protect the character of neighborhoods, and to insure, as in this case, that the low density of the zoning district is maintained and to protect neighboring citizens welfare.

Because there is only one real property between the existing Adult Care Home on the north side of E Cactus Rd. and this subject property, the impact for the neighboring property would be considerable and the Zoning Ordinance established separation requirement should be upheld.

At this time I do not see good cause to grant a disability accommodation. The home can continue to be used as it has been, with no increase in the number of residents or level of activity.

Sincerely,



Randy Grant

Director, Planning and Development Services

**ATTACHMENTS:**

1. Care home availability location map
2. Requested letter of determination

You can appeal the Zoning Administrator's decision to the Board of Adjustment pursuant to Zoning Ordinance Section 1.202.B and any timely appeal shall be processed pursuant to Section 1.805



RECEIVED  
11/27/17 Bu

November 27, 2017

To: Randy Grant, Zoning Administrator  
7447 E. Indian School Road  
Scottsdale, Arizona 85251

Subject: Letter of Determination  
Request Disability Accommodation Request of 750' Setback for Group Home for the Disabled

Dear Sir,

The purpose of this letter is to respectfully request the Zoning Administrator make a determination to allow CL Holdings 68<sup>th</sup> Place, LLC (Centered Living) located at 12012 N. 68<sup>th</sup> Place, permission to operate an adult care home within 750' of another adult care home for the disabled as outlined in the Draft Care Home Ordinance (Draft Ordinance) dated September 5, 2017.

Per the Draft Ordinance, the City has outlined a disability/reasonable accommodation pathway for those protected classes with a disability. For purposes of this letter, the disabled class are those individuals in recovery from drug and alcohol abuse pursuant to the Federal Fair Housing Act (FFHA), 42 U.S.C. §3604(f)(3)(B). In addition, Disability shall be defined and construed as the term by the Americans with Disabilities Act (ADA) of 1990 (P.L. 101-336) and the ADA amendments act of 2008 (P.L. 110-325; 122 Stat. 3553).

As part of the Draft Ordinance, the City outlines the process for a disability/reasonable accommodation pathway set for vote on December 5, 2017; a critical step in allowing those in recovery from drug and alcohol abuse certain accommodations as outlined by the FFHA. This further includes the application of municipalities land use ordinances understanding that one of the purposes of a disability accommodation provision is to address individual needs and respond to individual conditions. In this regard, courts have held that municipalities are encouraged to change, waive, or make exception to their zoning rules to afford people with disabilities the same access to housing as those who are without disabilities.

I appreciate, at the direction from staff at the initial planning and zoning meeting, the opportunity to write this request for a reasonable accommodation determination. For your reference the following conditions are extracted for the Draft Ordinance (in grey) outlining the conditions for a disability/reasonable accommodation.

**SECTION 1.806 – Disability Accommodation:**

**A. A disability accommodation from a development standard or separation requirement shall not be authorized unless the Board shall find upon sufficient evidence all of the following:**

1. The requested accommodation is requested by or on the behalf of one (1) or more individuals with a disability protected under federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.);
2. The requested accommodation is necessary to afford an individual with a disability equal opportunity to use and enjoy a dwelling;
3. The standard or requirement unduly restricts the opportunity for a person with a disability from finding adequate housing within the City of Scottsdale;



4. The requested accommodation does not fundamentally alter the nature and purpose of the Zoning Ordinance of the City of Scottsdale;
5. The requested accommodation will not impose an undue financial or administrative burden on the City, as "undue financial or administrative burden" is defined in federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.) and interpretive case law;
- B. The profitability or financial hardship of the owner/service provider of a facility shall not be considered in determining whether to grant a disability accommodation.
- C. The requested accommodation must comply with all applicable building and fire codes.
- D. The requested accommodation must not, under the specific facts of the application, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others;

The above conditions are set forth below outlining sufficient evidence to authorize a disability accommodation for Centered Living.

***1. The requested accommodation is requested by or on the behalf of one (1) or more individuals with a disability protected under federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.);***

Centered Living is requesting a disability accommodation to the separation requirement of 750' of another adult care home pursuant to the Federal Fair Housing Act (FFHA), 42 U.S.C. §3604(f)(3)(B) on behalf of the residents and owner of Centered Living located at 12012 N. 68th Place, Scottsdale, Arizona 85254.

The residents of Centered Living are considered "handicapped" under the 1988 amendments to the FFHA, unlike other groups of unrelated, non-disabled persons. See 42 U.S.C. 3600 et seq. Recovering addicts and alcoholics are specifically included within the definition of "handicapped individual." See, 42 U.S.C. 3602(h) and 24 C.F.R. 100.201(a)(2).

"Handicap" means, with respect to a person, (1) a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) a record of having such an impairment, or (3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)). This request for a disability accommodation are for those disabled individuals who are indeed recovering addicts and alcoholics.

Pursuant to A.R.S. § 41-1491 et seq.), the residents of Centered Living are considered "disabled". A "Disability" means a mental or physical impairment that substantially limits at least one major life activity, a record of such an impairment or being regarded as having such an impairment. Disability shall be defined and construed as the term is defined and construed by the Americans with disabilities act of 1990 (P.L. 101-336) and the ADA amendments act of 2008 (P.L. 110-325; 122 Stat. 3553).

***2. The requested accommodation is necessary to afford an individual with a disability equal opportunity to use and enjoy a dwelling;***

Centered Living can demonstrate that the proposed disability accommodation is reasonable, for the FFHA requires a showing that the accommodation "may be necessary to afford [handicapped] person[s] equal opportunity to use and enjoy a dwelling." 42 U.S.C. 3604(f)(3)(B).

In addition, for purposes of this request, 42 U.S.C. 3604(f)(3)(B) defines discrimination to include a "refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such (handicapped) person equal opportunity to use and enjoy a dwelling." Centered Living asserts that the request is necessary for disabled individuals recovering from substance abuse and to use 12012 N. 68<sup>th</sup> Place for this equal opportunity.

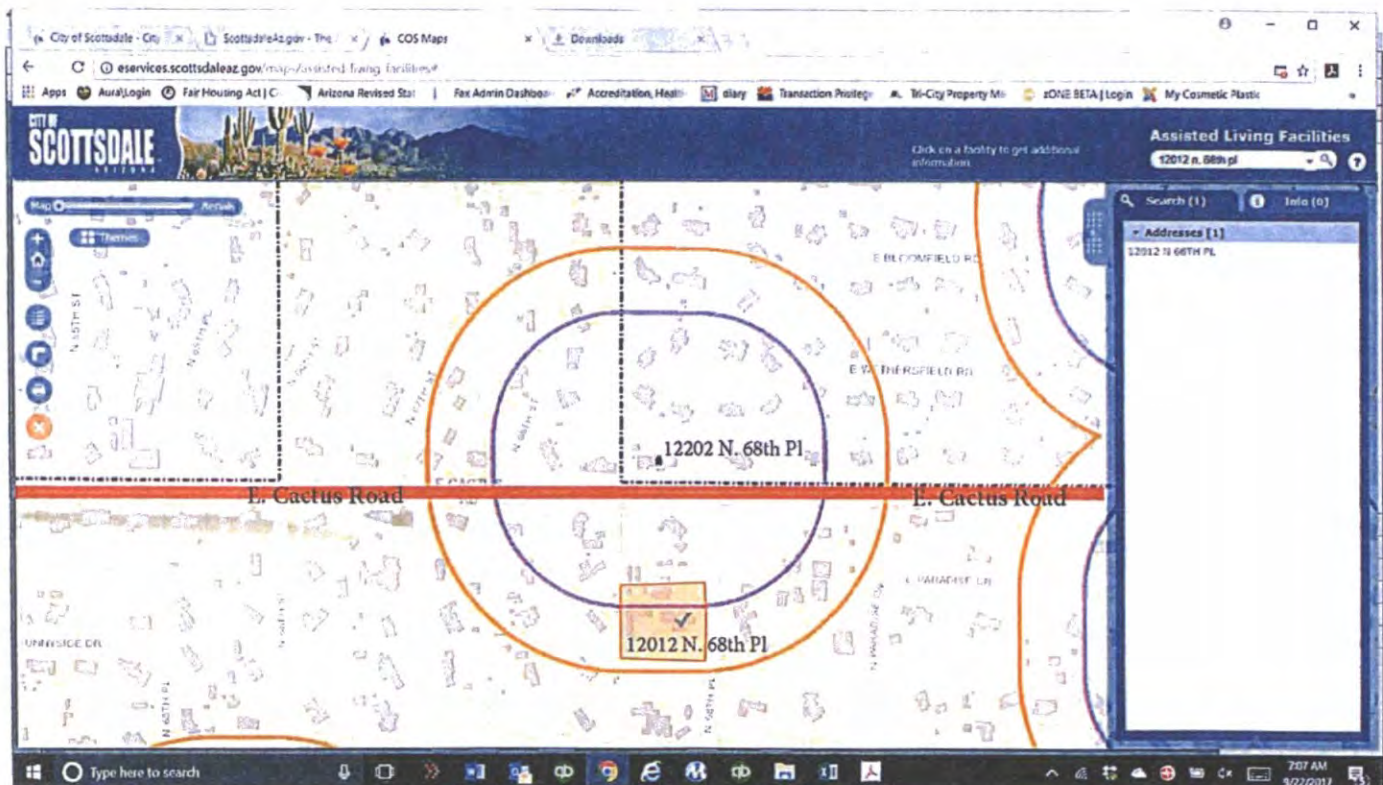
***3. The standard or requirement unduly restricts the opportunity for a person with a disability from finding adequate housing within the City of Scottsdale;***



The 750' setback unduly restricts this disabled class from finding adequate housing. On June 5, 2017, Governor Ducey declared a statewide health emergency in the opioid epidemic. As part of this public health emergency, the Arizona Department of Health Services has been commissioned to identify ways to expand access to treatment. Denying this reasonable accommodation will restrict a disabled class from finding adequate housing in a therapeutic environment necessary for recovery from substance abuse disorders. The national state of emergency was declared in August of 2017 again demanding more access to treatment for this disabled class. There are not currently enough available resources for those seeking treatment for substance abuse as denoted in the declaration signed by Governor Ducey and is attached for your reference.

**4. The requested accommodation does not fundamentally alter the nature and purpose of the Zoning Ordinance of the City of Scottsdale;**

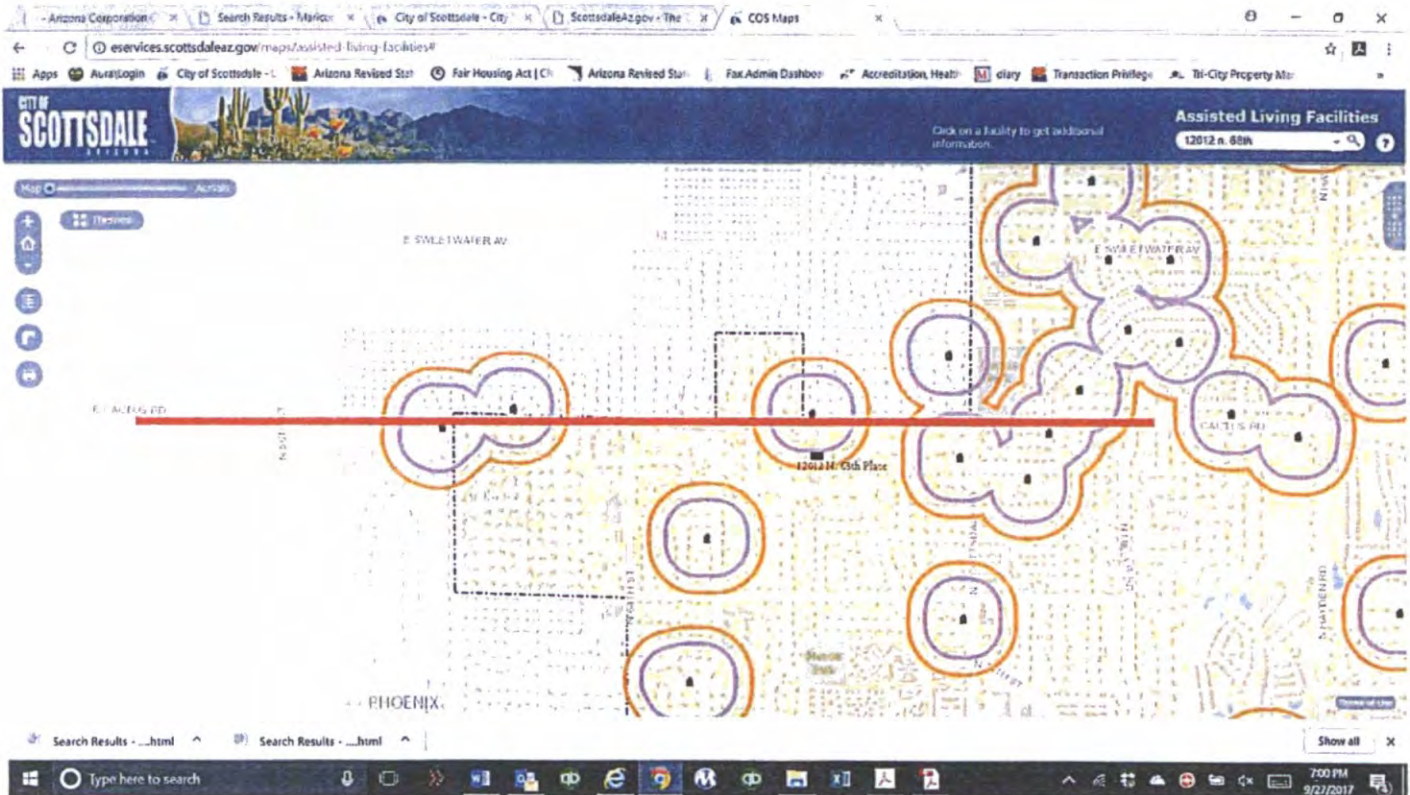
The map below depicts the two properties in question. <http://www.scottsdaleaz.gov/maps>



- This request does not fundamentally alter the nature and purpose of the zoning ordinance. The assisted living home located at 12202 N. 68<sup>th</sup> Pl in Scottsdale (Royal Palm) is located on the north side of Cactus Road, an arterial road or arterial thoroughfare defined as a high-capacity urban road. Cactus road is a man-made barrier providing the necessary separation and this main arterial road clearly provides the necessary separation between the two properties allowing the character of the two distinct neighborhoods to remain unchanged.
- Secondly, the two properties are in two different developments, Sunrise Shadows located in a Phoenix neighborhood vs. Desert Estates located in a Scottsdale neighborhood.
- In addition, permitting Centered Living to exist would not significantly compromise the policies reflected in any of its land use ordinances that the City would apply or enforce nor is there any significant evidence that such an accommodation would significantly compromise the City's legitimate interests in protecting the residential character of the surrounding neighborhood. In addition, there are no other care homes within 750' or 1200' (Draft Ordinance increased the separation to 1200') for recovering addicts and alcoholics in the area, therefore, Centered Living is integrated into the community and does not change the character of the neighborhood.



Access to housing for this disabled class is imperative. The map below shows a snapshot view of care homes for the disabled but the homes in the immediate area are for the elderly, very few, if any are for those recovering from substance abuse.



- d) It is important to note; Centered Living has been operating as a sober living residence since 2011 and is integrated in the community and the neighborhood (Royal Palm began operation in 2015). Centered Living has not had any complaints and has operated for the benefit of those recovering from substance abuse. Per the City's zoning code permits "any number of persons living as a single housekeeping unit" are to be considered a family and operate as single housekeeping unit. The Centered Living household functions as the equivalent of a family and allows recovering persons to provide one another with continual mutual support as well as mutual monitoring to prevent relapse. The potential recovery of people who are handicapped or disabled by reason of alcoholism or drug abuse and are in recovery are greatly enhanced by the mutual support and mutual monitoring provided by living with other recovering persons. The quality and nature of the relationship among the residents are akin to that of a family. The need of groups of unrelated recovering alcoholics and substance abusers to live in a structured, safe and therapeutic environment is necessary to the recovery process. Therefore, this request for disability accommodation is an extension of what Centered Living provides to the disabled and will be under the licensing of ADHS.

**5. The requested accommodation will not impose an undue financial or administrative burden on the City, as "undue financial or administrative burden" is defined in federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.) and interpretive case law.**

In addition to the criteria outlined in the Draft Ordinance, per the federal guidelines, a reasonable accommodation must meet two tests: (1) Does the request proposed create a fundamental alteration in the zoning scheme and (2) Does the request impose an undue burden or expense to the local government? Allowing Centered Living to operate does not alter the zoning scheme nor or does not pose an undue burden or expense on the City.



Here, accommodating Centered Living would not cause the City any undue financial or administrative burdens nor would it undermine the purpose which the requirement seeks to achieve. Centered Living is not requesting that the City build housing, rather, it is requesting that the City remove an obstacle to housing for the disabled. The FFHA places an affirmative duty on the municipality to accommodate the needs of persons with disabilities. The FHA stresses that municipalities such as the City to make exceptions to the way its zoning ordinances are applied to afford the disabled the same opportunity to housing as those who are not disabled.

***B. The profitability or financial hardship of the owner/service provider of a facility shall not be considered in determining whether to grant a disability accommodation.***

The owner of Centered Living acknowledges and understands that the profitability or financial hardship is not considered when determining a disability accommodation. None is cited here.

***C. The requested accommodation must comply with all applicable building and fire codes.***

Centered Living will comply with all applicable building and fire codes including fire suppression requirements, permits, drawings and fees mandated by ADHS for licensure. Centered Living is aware of such requirements and asserts compliance.

***D. The requested accommodation must not, under the specific facts of the application, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others;***

The requested disability accommodation does not result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others. Failure to approve a reasonable accommodation can result in a threat to health and safety of disabled individuals; recovering addicts and alcoholics seeking treatment for substance abuse and undermines the state emergency directive. The state emergency seeks to expand access to treatment not hinder it. The state emergency seeks to expand access to treatment not hinder it. Currently, statistics from the Governor's Office of Youth, Faith and Family denote 99% of AHCCCS centers for substance abuse are 99% occupied with all available beds operating at the max and approximately 400 individuals on average are on the waitlist for treatment as of 2017.

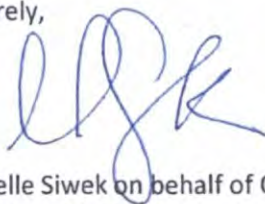
**Additional Request.**

If a public hearing is part of the zoning process, Centered Living kindly requests an accommodation be made to allow this process to occur administratively and/or not open to a public hearing. The current climate in Scottsdale, as evidenced in the town hall meetings, have aggressive neighbors not only targeting those individuals in recovery from substance abuse but the homes in which they live. Therefore, we request for the safety of those individuals and the homes in which they reside that this hearing is not open to the public.

In summary, we feel that the information outlined above is sufficient evidence to grant a reasonable accommodation for Centered Living to operate an adult care home within 750' of another care home for the disabled.

If you need further information, please do not hesitate to call me at 480.414.2596.

Sincerely,



Michelle Siwek on behalf of Centered Living  
12012 N. 68<sup>th</sup> Place  
Scottsdale, AZ 85254

## Title 36. Public Health and Safety

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Includes current version of Arizona statutes, constitution & court rules. Browse Table of Contents below or search above.

Effective Date: 08/16/2021

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Effective date versioning not available for certain content such as court rules and Federal Sentencing Guidelines

Collapse All

### 36 AZ ST Refs & Annos

#### + Chapter 1. State and Local Boards and Departments of Health

#### + Chapter 2. State Health Institutions and Agencies

#### + Chapter 3. Vital Records and Public Health Statistics

#### - Chapter 4. Health Care Institutions

36 AZ ST Ch. 4, Refs & Annos

36 AZ ST Ch. 4, Disp Table

##### + Article 1. General Provisions

##### + Article 2. License Provisions

##### + Article 2.1. Hospital Staff Privileges

##### + Article 3. Review of Rates, Rules and Regulations

##### + Article 3.1. Colocation at Outpatient Treatment Centers

##### + Article 4. Health Care Utilization Review

##### + Article 5. Review of Certain Health Care Practices

##### + Article 6. Licensing of Nursing Care Institution Administrators and Certification of Assisted Living Facility Managers

##### + Article 7. Nursing Care Institutions

##### + Article 8. Pain Management Clinics

##### + Article 9. Recovery Care Centers

##### + Article 10. Abortion Clinics

##### + Article 11. Patient Safety Reporting and Nonretaliatory Policies

Note: Sober Living Homes are not licensed as "Health Care Institutions", as demonstrated by A.R.S. Title 36, Chapter 4.

#### + Chapter 4.1. Clinical Laboratories

#### + Chapter 4.2. Arizona Health Facilities Authority [Repealed]

#### + Chapter 4.3. Environmental Laboratories

#### + Chapter 5. Mental Health Services

#### + Chapter 5.1 . Developmental Disabilities

#### + Chapter 6. Public Health Control

#### + Chapter 7. Disposition of Human Bodies

#### + Chapter 7.1. Child Care Programs

#### + Chapter 7.2. Child Hearing Evaluation and Vision Screening Programs

#### + Chapter 8. Pure Food Control

#### + Chapter 9. Regulation of Alkalies, Acids, Human Blood and Its Derivatives and Poisons

#### + Chapter 10. Group Homes for Juveniles

#### + Chapter 11. Health Care Services Freedom of Choice



- + Chapter 12. Public Housing
- + Chapter 13. Safety
- + Chapter 14. Human Eggs
- + Chapter 15. Mobile Food Vendors and Mobile Food Units
- + Chapter 16. Public Water Supplies [Repealed]
- + Chapter 17. Hearing Aid Dispensers, Audiologists and Speech-Language Pathologists
- + Chapter 17.1. Commission for the Deaf and the Hard of Hearing

#### - Chapter 18. Alcohol and Drug Abuse

36 AZ ST Ch. 18, Refs & Annos 

- + Article 1. General Provisions
- + Article 2. Evaluation and Treatment of Persons Impaired by Alcoholism
- + Article 3. Drug Detoxification and Maintenance Standards
- + Article 4. Sober Living Homes

- + Chapter 19. Kidney Treatment Centers
- + Chapter 20. Abortion
- + Chapter 21. Medically Underserved Areas
- + Chapter 21.1. Emergency Medical Services
- + Chapter 22. Protection of Minors
- + Chapter 23. Protection of Fetus or Embryo
- + Chapter 24. Medically-Underserved Area Health Services
- + Chapter 25. Health Care Quality
- + Chapter 26. Nutritional Supplements
- + Chapter 27. Uniform Controlled Substances Act
- + Chapter 27.1. Controlled Substances Therapeutic Research [Expired]
- + Chapter 28. Controlled Substances Prescription Monitoring Program
- + Chapter 28.1 . Arizona Medical Marijuana Act
- + Chapter 28.2. Responsible Adult Use of Marijuana
- + Chapter 29. Arizona Health Care Cost Containment System Administration
- + Chapter 30. Domestic Violence Services
- + Chapter 31. Solid Waste Management [Renumbered]
- + Chapter 32. Living Wills and Health Care Directives
- + Chapter 33. Underground Storage Tank Regulation [Renumbered]
- + Chapter 34. Behavioral Health Services
- + Chapter 35. Child Fatalities
- + Chapter 36. Telehealth
- + Chapter 36.1. Teledentistry
- + Chapter 37. Sexually Violent Persons
- + Chapter 38. Health Information Organizations
- + Chapter 39. Children's Camps

Note: Sober Living Homes are regulated separate and apart from "Health Care Institutions." They are two entirely different uses with different statutory requirements and regulations.

**ARIZONA DEPARTMENT OF HEALTH SERVICES  
PUBLIC HEALTH LICENSING SERVICES  
OFFICE OF ASSISTANT DIRECTOR  
SP-019-PHL-OAD**

**INTERPRETATION OF “HEALTH CARE INSTITUTION”**

*This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties, you may petition the agency under Arizona Revised Statutes Section 41-1033 for a review of the statement.*

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The purpose of this substantive policy statement is to notify the public of the Department’s interpretation of the definition of “health care institution,” contained in A.R.S. § 36-401(21), as it relates to a health care institution license under A.R.S. §§ 36-424 and 36-425.

A.R.S. § 36-401(21) states: "Health care institution" means every place, institution, building or agency, whether organized for profit or not, that provides facilities with medical services, nursing services, behavioral health services, health screening services, other health-related services, supervisory care services, personal care services or directed care services and includes home health agencies as defined in section 36-151, outdoor behavioral health care programs and hospice service agencies.

The Department interprets this definition to mean that in order to be a health care institution, a place, institution, building, or agency must be providing medical services, nursing services, behavioral health services, health screening services, other health-related services, supervisory care services, personal care services, or directed care services. A place, institution, building, or agency that does not provide any of these services for an extended period of time ceases to be a health care institution, because it no longer fits within the statutory definition of “health care institution.”

If the Department determines upon performing a compliance inspection for a health care institution that a licensed “health care institution” has not provided medical services, nursing services, behavioral health services, health screening services, other health-related services, supervisory care services, personal care services, or directed care services for 12 consecutive months, the Department shall revoke the health care institution license on the grounds that the place, institution, building, or agency is not a health care institution and thus is ineligible for licensure.

## Scottsdale Recovery Center



# SCOTTSDALE RECOVERY

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RECONNECT • REBUILD • RECOVER

## SRC Mission Statement

SRC is a beacon of healing and hope for those who struggle with addiction; offering support and education to their families and a lifeline of services to the community in which they live.



SCOTTSDALE RECOVERY



SRC Tag Line



# SCOTTSDALE RECOVERY

---

RECONNECT • REBUILD • RECOVER

# Good Neighbor Policy

**Our Company is committed to maintaining a healthy, vibrant, clean and safe neighborhood. Our Company understands that our actions and our neighbors directly impact the stability of the neighborhood.**

## **Noise**

We are considerate of our neighbors by keeping the noise level down between the hours of 10:00 pm and 7:00 am. Our residents are off site Monday through Fridays from 8am- 430pm and during the evening hours are monitored by house managers to ensure we are following all appropriate noise levels during the hours prior to 10pm.

## **Parking**

We are mindful of where we park. We park in our garage, driveway, or assigned space. City Code makes it unlawful to park our vehicles in any private driveway or block driveways without the property owner's consent.

## **Loitering**

We will be respectful of our neighbors by avoiding lingering, congregating, or trespassing in un- authorized areas.

## **Smoking**

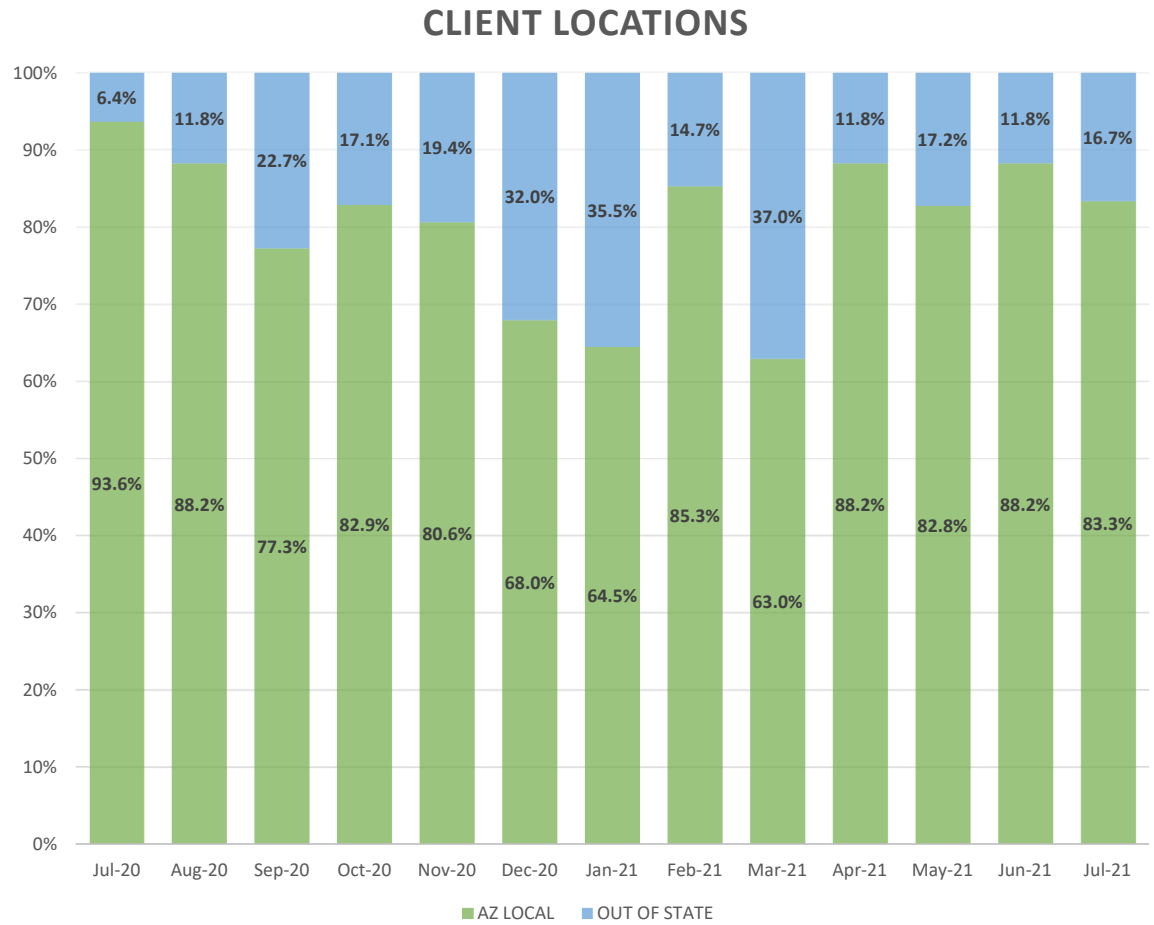
Smoking is only allow in designated smoking areas on the property.

## **Property Maintenance**

We protect our neighborhoods against hazardous, blighting, and deteriorating influences or conditions that contribute to the downgrading of property values. The maintenance of building exteriors and vacant land are an integral part of creating safe and healthy neighborhoods. We also ensure the maintenance of all pools and/or hot tubs on a weekly basis.

*If you ever have concerns or questions regarding our Good Neighbor Policy, please contact us directly at (602)793-2529.*

## Client Local VS. National



*Percentage of client served by SRC that are AZ Local VS Out of State.*

# Scottsdale Recovery Continued (Alumni)

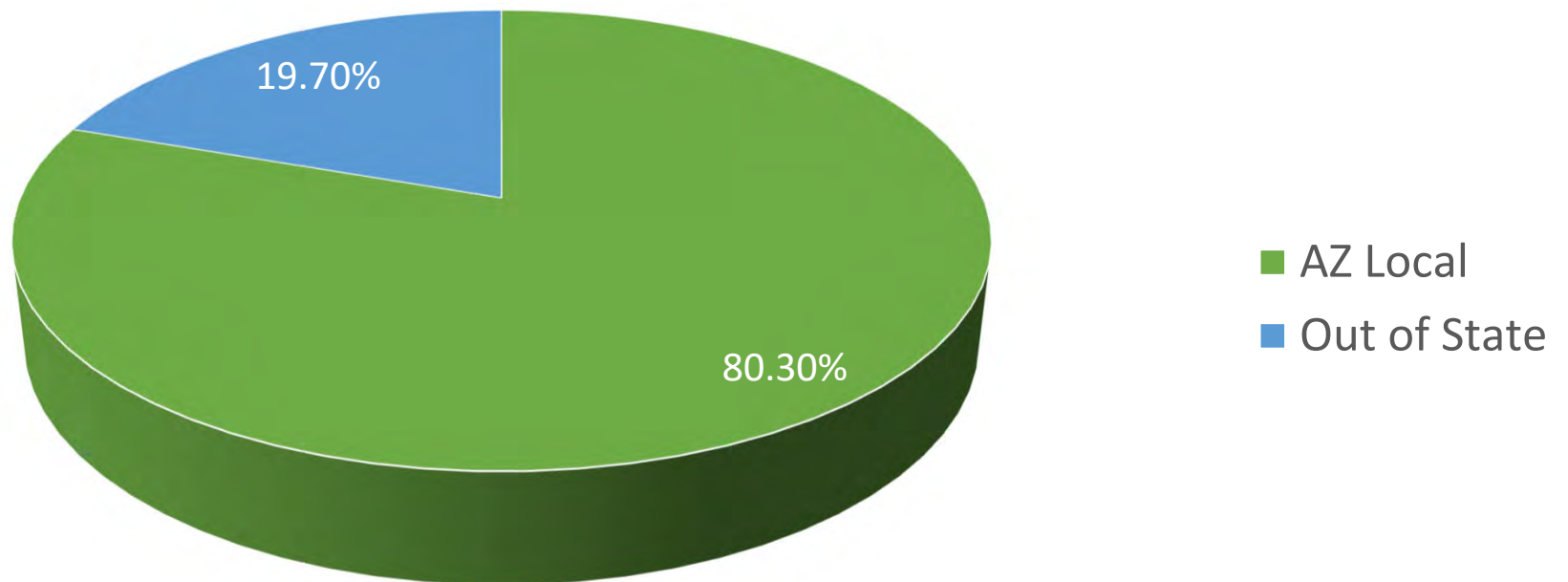
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**249 ALUMNI  
STRONG!**



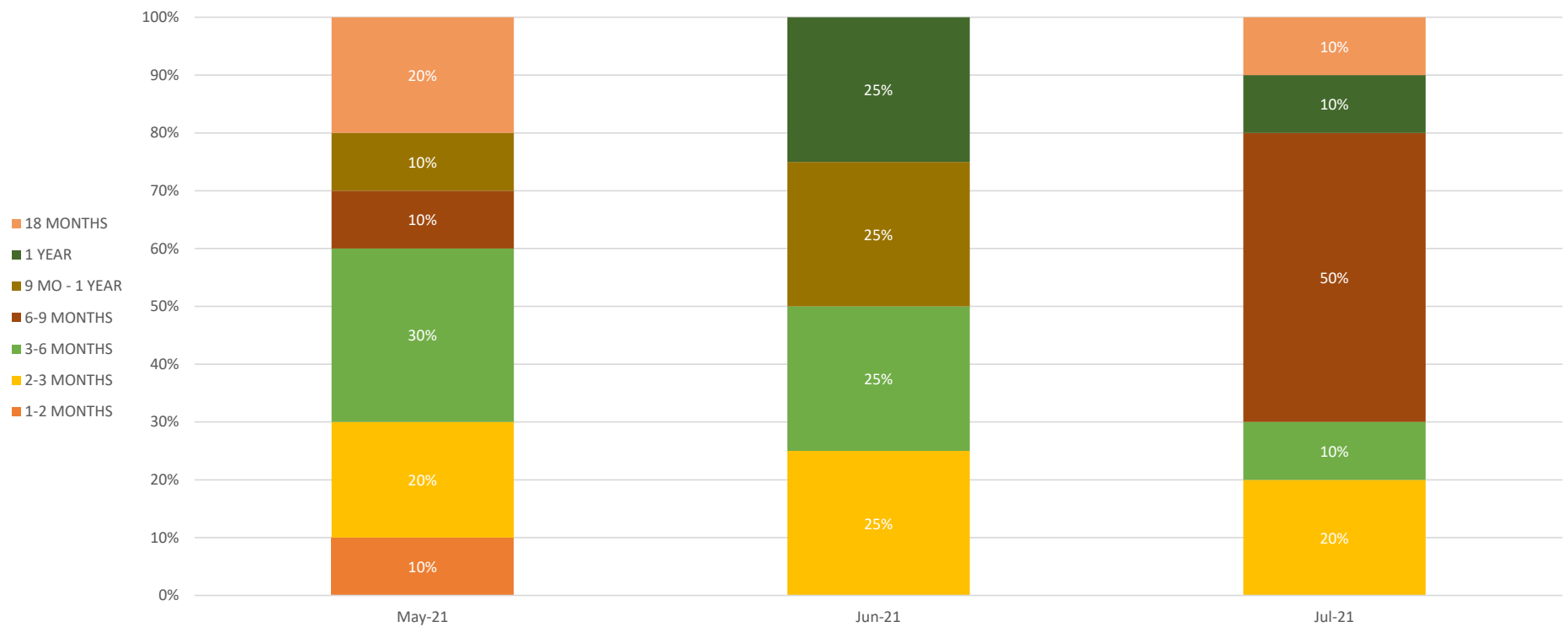


## SRC Alumni Locations



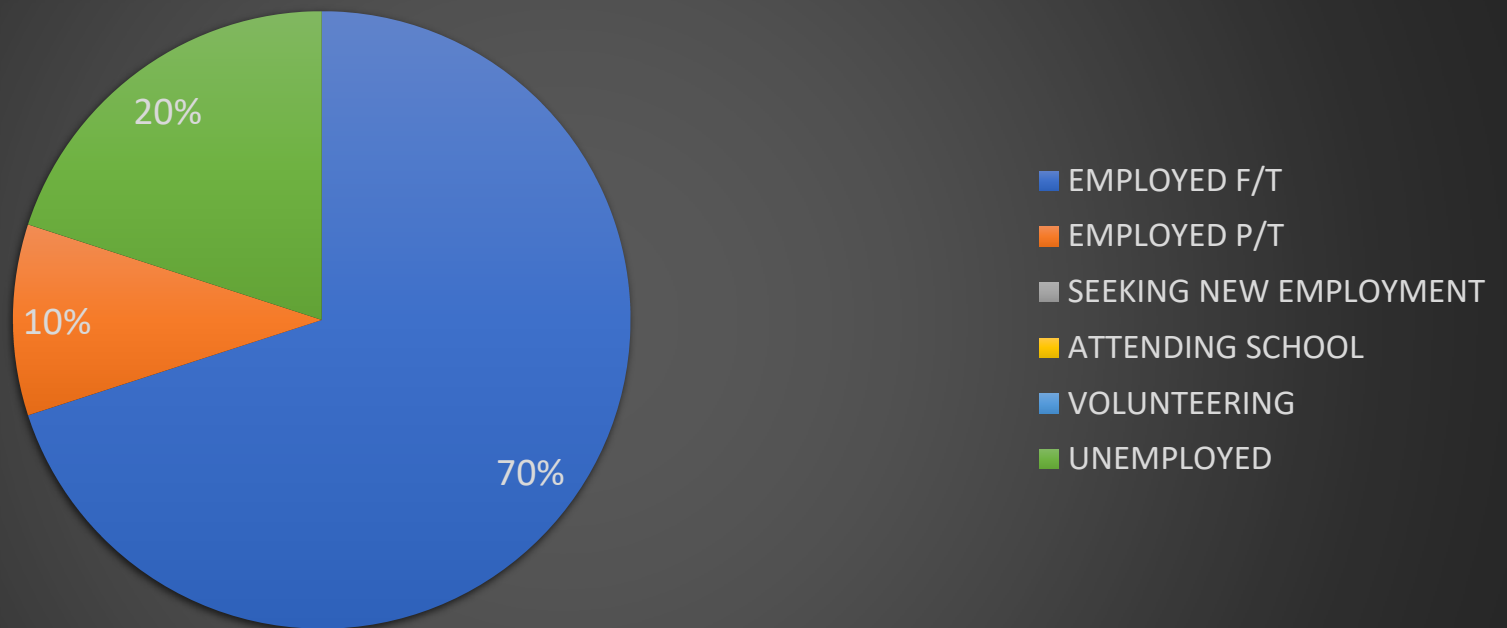
*Percentage of Alumni local to Arizona VS Out of State.*

# Alumni Length of Sobriety



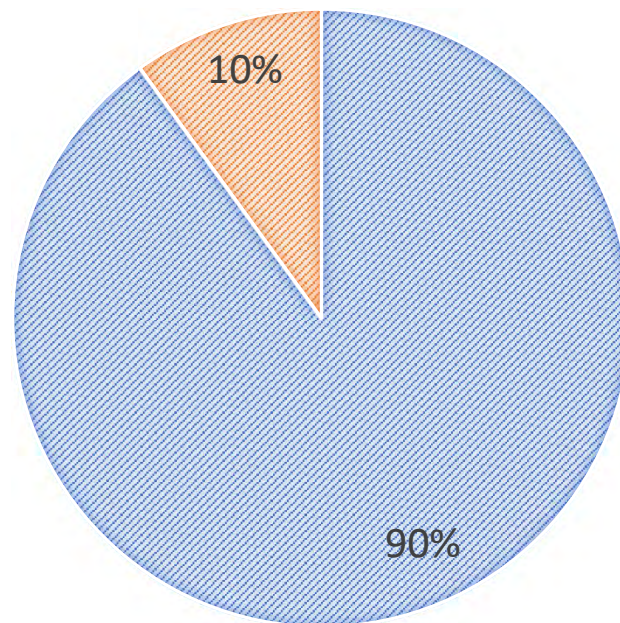
*Percentage of Alumni surveyed length of sobriety over the last 90 days.*

# Alumni Employment Status



*Percentage of Alumni surveyed current employment status.*

# Alumni Recovery Support Community Engagement



## *Examples:*

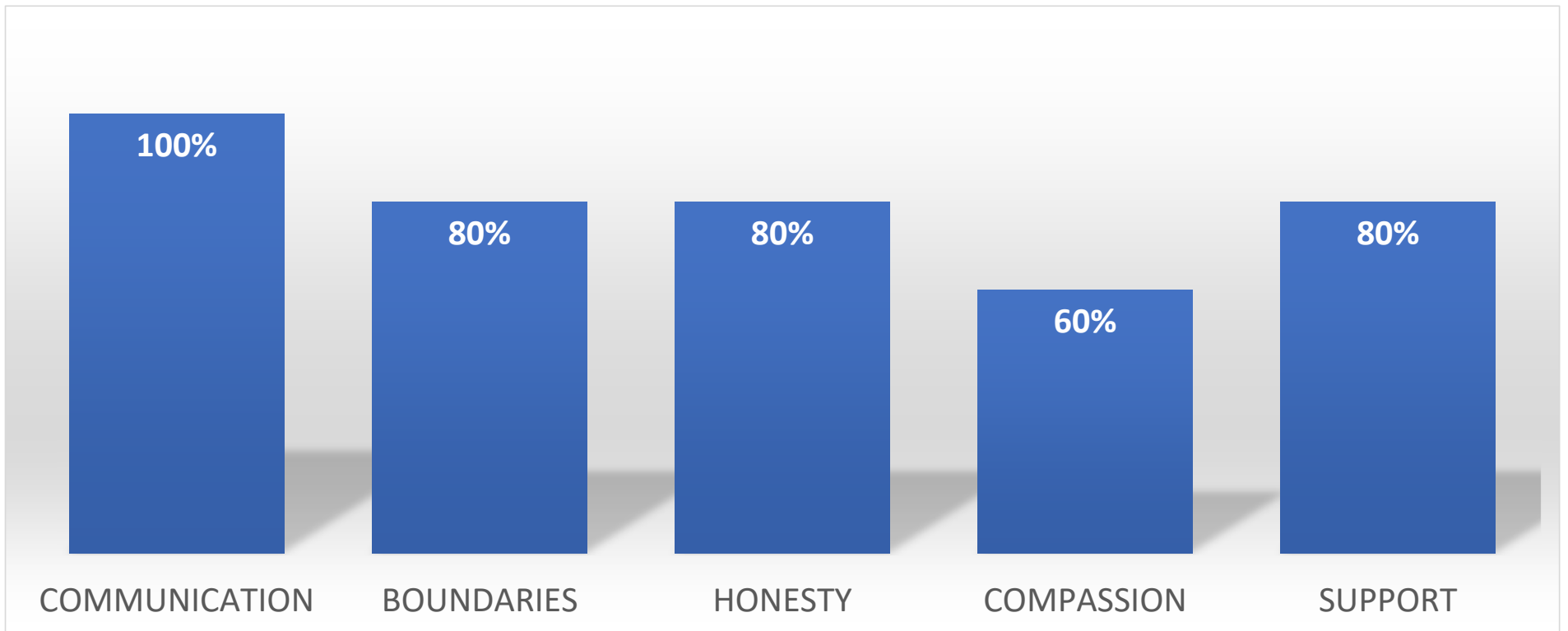
- *Al-Anon*
- *SMART Recovery*
- *Celebrate Recovery*
- *Refuge Recovery*
- *CODA*
- *PAL*
- *AA, NA, CA, HA, NA*  
*(among other 12-step groups)*

■ ENGAGED  
■ NOT ENGAGED

*Percentage of Alumni surveyed that note engagement in recovery support communities.*



## Alumni Relationship Improvements



*Percentage of Alumni surveyed that note relationship improvement in identified areas.*

# Recent Alumni Participation



[08/12/2021]

Board of Adjustment  
CITY OF SCOTTSDALE  
7447 E. Indian School Road  
Scottsdale, Arizona 85251

RE: Board of Adjustment Case No. 6-BA-2021 – Scottsdale Recovery Center Interpretation for  
Property located at 7910 and 7920 E. Wilshire Drive

Dear Board Members:

My name is Wyatt Madsen and I am writing this letter in support of the Scottsdale Recovery Center interpretation referenced above.

Before my stay at SRC sober living, I had been to one prior to SRC. When I first arrived, they were welcoming with open arms. SRC's sober living program taught me how to re-live a normal life. It taught me life skills that I didn't get at prior sober livings. Scottsdale Recovery Center is important to me because they saw something in me that I didn't. They got me to a place where I could believe in myself again and learned how to love myself. This place truly does care about you and will do anything for you if your willing to put in the same effort.

My Sobriety date is 12/15/2020. My experience at SRC during my stay was something i had never experienced before. Being in there sober living, was like living with a second family. I always felt safe, and there was always someone there to help if you needed it. The difference between other sober livings, and SRC's sober living, is they keep you accountable. Many other places let you do pretty much whatever you want. At SRC, you are kept in an environment that is healthy and safe for your recovery.

Sober living is very important in recovery. I think after you get out of inpatient rehab, people need to go to sober living. It gives you more time to be kept accountable and keeps you on the right track to sobriety. I feel as if I didn't go through SRC's program, I would not be where I am today. The staff cares about you so much that even after you're done with the program they still want to keep connected with you. I've started a new job, made new relationships, and gotten my driving privileges back. Without SRC, I wouldn't have been capable to do any of this. My life is so much different today, and I truly thank Scottsdale Recovery Center for all of the help.

Sincerely,

[Wyatt Madsen]

CC: Jeff Barnes, Staff Coordinator (via email – JBarnes@Scottsdaleaz.gov)  
Bryan Cluff, Principal Planner (via email – Bcluff@Scottsdaleaz.gov)



October 12<sup>th</sup>, 2021

Board of Adjustment  
CITY OF SCOTTSDALE  
7447 E. Indian School Road  
Scottsdale, Arizona 85251

RE: Board of Adjustment Case No. 6-BA-2021 – Scottsdale Recovery Center Interpretation for Property located at 7910 and 7920 E. Wilshire Drive

Dear Board Members:

My name is Jared Birnbaum and I am writing this letter in support of the Scottsdale Recovery Center interpretation referenced above.

- The sober living house has been critical to my recovery program. The lessons that I learned of accountability, developing a sober network of friends, and life structure has been essential to my success in sobriety. Scottsdale Recovery Center is extremely important to me. The Scottsdale Recovery staff has played a significant role in my life and I have numerous lifelong friends that I developed through the program. I am always participating in the alumni events and always looking to give back. I owe my life to Scottsdale Recovery.
- My sobriety date is September 24<sup>th</sup>, 2018.
- I attended treatment at Scottsdale Recovery Center.
- My experience at Scottsdale Recovery Center was amazing. I was able to rebuild my life and shape a network of sober friends and companions that have established my new sober life. I am always able to reach out to Scottsdale Recovery peers and they are always there for me at a time of need. I have also implemented spirituality into my life through meditation and prayer. Attending Sober Recovery Center was the greatest moment of my life.
- I gratefully attended sober living at SRC.
- Scottsdale Recovery Center was by far the greatest sober living I have been to or lived at. They are supportive, understanding, and comprehend the importance of accountability and life balance.
- Sober living is a huge part of my recovery. There are not enough words to describe the value that Scottsdale Recovery Center sober living has meant to my life. The experience made me a well-rounded individual and rebuilt the foundation to my current success in life.
- Scottsdale Recovery Center provided a solid day to day structure which carried into my life outside of the sober living. The daily life involves forming a well-balanced life including cooking, ensuring rooms are clean, yoga, meditation techniques, peer support, and accountability. The life tools I learned at sober living have been vital to my success living on my own.
- Sober living has been such an important part of my recovery. The sober living experience has engrained in me a well-balanced sober lifestyle and created productive habits and structure.

- Life has changed in so many positive ways for me since my sober living experience. I have created countless sober friends that I can lean on for support or help whenever I need it. I am exercising everyday including doing yoga and going to the gym. I am eating healthy and sleeping well due to my meditation and prayer that I have instilled in my life. Due to the sober living, I was able to make a smooth transition to living independently and still maintain the discipline and standards that I established through my sober living experience.

Sincerely,

Jared Birnbaum

8/12/21

*Board of Adjustment:*

*CITY OF SCOTTSDALE*

7447 E. Indian School Road

Scottsdale, Arizona 85251

RE: Board of Adjustment Case No. **6-BA-2021**--Scottsdale Recovery Center Interpretation for Property located at 7910 and 7920 E. Wilshire Drive.

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Dear Board Members:

My name is Hailey Anne Kurtzer and I am writing and addressing this letter in support of the Scottsdale Recovery Center interpretation which is referenced above.

The availability of sober living housing is significant to me because it offered me the acquisition of knowledge, being: How to not only maintain my sobriety but how to interact in a healthy manner with other newly sober individuals. It also allowed me to learn self-sufficiency, while still attending daily programming and treatment groups. Sober living housing prepared me for one of the most frightening transitions I've ever experienced, that was entering into the world as a sober adult on my own. SRC is crucial, in my perspective, because it had the capacity to redirect and save my life. Almost every skill and/or mechanism I use in the present day was taught to me here. Most importantly, my attendance altered my dismal thinking patterns. Throughout my time in rehabilitation, I became willing to believe that I have the strength to wholeheartedly live again and form healthy relationships with people, as well as myself. I was finally able to see my potential and desire to have a successful, stable future.

My personal date of sobriety is the Eighth of May, year 2020. I attended a sober living house known as The Ranch, owned by SRC. From there, I pursued PHP at the Scottsdale Center itself. The experience I had at SRC was overall vibrant and mesmerizing. Life-changing, so to speak. I have only been to a few other sober livings, these being SAL (Sober Apartment Living) and Spero House. However, my time at the Ranch was positively surreal, for where I was in the context of life at the time. This Center stood out from the rest because it felt like home to me, a structured family environment as a matter of fact. Per the house recognized as a sober living, no medical staff (Doctors or Nurses) were present. All treatment and care services were provided at a nearby off-site treatment center.

I do not think that I would have been able to make it to where I am today without SRC and/or sober living. My life has changed dramatically. I was cumbrously hurting and losing the loved ones that I care about, myself included as an entirety and setting myself up for setbacks and failure. Now, life is beautifully vivid. I have a job in which I am grateful for and passionate about, being of service to SRC and giving back to what they gave me. My relationships are flourishing - with family, friends and a partner. I would not have what I do today without the kindness of Scottsdale Recovery Center. For that, I am more than thankful.

Sincerely,

Hailey Anne Kurtzer

August 11, 2021

Board of Adjustment  
CITY OF SCOTTSDALE  
7447 E. Indian School Road  
Scottsdale, Arizona 85251

RE: Board of Adjustment Case No. 6-BA-2021 – Scottsdale Recovery Center Interpretation for Property located at 7910 and 7920 E. Wilshire Drive

Dear Board Members:

My name is James Sanchez, and I am writing this letter in support of the Scottsdale Recovery Center interpretation referenced above.

I just want to state how important Scottsdale Recovery Center/ Sober living housing was to my recovery, to me it's like going to school for a career, you do all this stuff to get to the goal you are trying to achieve and then getting hands on training before entering the work force. It allowed me to be put up against everyday life obstacles without being fully submerged. The added support from my housemates at the sober living house, I believe is what made my sobriety so successful!

I have been sober since 5/5/2020. I have received continual treatment beginning 9/7/2019. My whole experience at SRC, has been amazing from in house treatment to sober living and outpatient. Every part of this team shows nothing but love and care. SRC loves helping others and it shows not only through the whole process, but also through the successes of they're clients.

Sober living at SRC was the cherry on top that gave me the confidence to handle any situation put in front of me when it came to my sobriety, and how to cope with everyday situations. I have been to another sober living facility and the way this one was managed was totally different. The support, togetherness and sober living experience is what made SRC better than any previous substance abuse treatment center that I have attended.

Everyday living in the SRC sober living facility is strictly sober living on your own. All the medical services and treatment were handled offsite and kept separate from the sober living facility. While there I felt part of a family. It appears most clients enrolled in SRC were serious about their goal to be sober, so that helped a lot to be around like-minded people who were actually there to also help one another in their journey.

Without my selection of Scottsdale Recovery Center and their whole rounded program and services they offer, I swear I really don't know where I would be in my sobriety. I don't think it would be this pretty. I have never been in such a beautiful mindset, health, and happiness with my complete life. I have so much gratitude for this group of people that have brought what I call a miracle program together. I honestly don't think I would be sober this day. My family has never been so happy! Everything has come together as far as my career I've been promoted at my job and recognized as an important part of our works there. My children I finally see the



August 13<sup>th</sup>, 2021

Board of Adjustment  
CITY OF SCOTTSDALE  
7447 E. Indian School Road  
Scottsdale, Arizona 85251

RE: Board of Adjustment Case No. 6-BA-2021 – Scottsdale Recovery Center Interpretation for Property located at 7910 and 7920 E. Wilshire Drive

Dear Board Members:

As a former patient of Scottsdale Recovery Center's inpatient and intensive outpatient program, I am writing this letter in support of the Scottsdale Recovery Center interpretation referenced above.

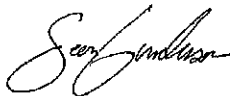
The U.S. record high 93,000 deaths from drug overdoses in 2020 and approximately 95,000 deaths from alcoholism drives home the importance of increasing the availability of treatment centers and sober living facilities. There is a significant shortage of behavioral health services in Arizona, and this is at a time when one-in-five COVID-19 patients are reporting a new mental health issue.

The quality of treatment I received while at Scottsdale Recovery Center (SRC) Inpatient and the amount of time I spent in SRC's Sober Living is the key to my long-term sobriety. It is important to understand that addiction is not "fixed" in 10 days or often even in 30 days. Much like diabetes, living with the disease of addiction requires a long-term treatment plan.

The SRC Sober living house was a home for me while I worked on recovering from my disease of addiction. The staff was like a second family for me, and they helped me build up the confidence and resiliency to maintain my long-term sobriety. I was able to see offsite medical staff for my physical care while residing at my SRC sober living home.

Today, I am back with my wife and children, working at a new job where I am helping people succeed in life after incarceration, and I am actively involved in the SRC Aftercare program. I believe that if I had not spent the time, I did in sober living at SRC, I would still be suffering from the negative effects of my disease. I am very grateful to the team at SRC for their program and their commitment to all of their patient's well-being.

Sincerely,



Sean Gunderson

CC: Jeff Barnes, Staff Coordinator (via email – JBarnes@Scottsdaleaz.gov)  
Bryan Cluff, Principal Planner (via email – Bcluff@Scottsdaleaz.gov)

8/13/2021

Board of Adjustment  
CITY OF SCOTTSDALE  
747 East Indian School Road  
Scottsdale, AZ 85251

RE: Board of Adjustment Case No. 6-BA-2021 – Scottsdale Recovery Center Interpretation for  
Property located at 7910 and 7920 E. Wilshire Drive

Dear Board Members:

My name is Alissa Cruz and I am writing this letter in support of the Scottsdale Recovery Center interpretation referenced above.

Having the opportunity to be able to live at a sober living house during my recovery definitely had the biggest impact on my journey to sobriety. The Scottsdale Recovery Center was so important to me and my recovery because the whole team treated me like family the moment I walked into the door. I was never treated like an alcoholic, they treated me as just a person who just needed a little bit help. I have been sober since April 1<sup>st</sup>, 2021 and I have never felt more confident in myself than I do today.

I attended treatment at SRC as well. I had the greatest experience during my time in treatment. I enjoyed the location, amenities, staff, and the program. The group sessions each day were extremely informative, and I learned so much about myself and my disease. I was in sober living for 90 days of my time with SRC. Sober living with SRC was different from anywhere I have ever stayed before. Other sober livings I've stayed in were run down, unorganized, and unsupportive. Sober living has always been important in my recovery because of the support system I receive. I can utilize the tools I've learned when I am with my roommates who are also struggling in their recovery and we can keep each other accountable in our day to day recovery. Another great part of SRC is that all our medical needs are met when we leave housing and go to the center.

My daily life at the SRC sober living home was a beautiful experience. I made a lot of good friends during my time and would even consider them to be family. If I didn't have the foundation of sober living, I don't think that I would still be sober today. Since I've left sober living I have gone back to work, have been working on my relationships with my family, created boundaries, and am starting to develop a healthy daily schedule.

I am grateful for my time with SRC and with the tools they have given me I know I will be successful in my sobriety.

Sincerely,

Alissa Cruz

08/12/2021

Board of Adjustment  
CITY OF SCOTTSDALE  
7447 E. Indian School Road  
Scottsdale, Arizona 85251

RE: Board of Adjustment Case No. 6-BA-2021 – Scottsdale Recovery Center Interpretation for Property located at 7910 and 7920 E. Wilshire Drive

Dear Board Members,

My name is Courtney Hansche, and I am writing this letter in support of the Scottsdale Recovery Center interpretation referenced above.

Living at The Trullies, the Sober Living Facility for SRC, has been an invaluable asset to my recovery journey. With the help of SRC, I have remained sober since 06/05/2021. The Sober Living facility has been particularly important to me, because I was able to learn how to live as a responsible, functional member of society while under the care of the house managers on staff.

Every morning we were pleasantly awoken by the night shift house manager. I never had a negative experience being woken up. I was always greeted with a smile and encouragement to have a wonderful, productive day. I got up, made my bed, made sure my room was ready in case of a tour, and took my coffee to enjoy outside seated within the beautiful gazebo. I admired the lovely fireplace, brilliant chandelier, and singing birds as the house manager took my temperature and ensured I had no COVID symptoms. This process helped me feel especially safe and well looked after.

Afterwards, I prepared my breakfast as well as my lunch for the day. The house manager on morning shift drove us from The Trullies to the recovery center in time for Yoga at 8 a.m. After yoga we took a brief break and prepared for group at 9 a.m. I especially enjoyed the sophisticated coffee machine and the ION water that was always available. Morning, afternoon, and Saturday groups varied each week according to the week's therapeutic theme. Themes we covered include Addiction, Boundaries, Healthy Relationships, and Relapse Prevention.

After our day of learning and processing at the center, the afternoon house manager drove us back to The Trullies. We have fun talking about what we learned and listening to music while enjoying the Scottsdale scenery along the way. When we arrive, we open any packages addressed to us, put away any groceries that were brought, and prepare for dinner. I've enjoyed cooking dinner in the condo with my roommates. We also sometimes take turns cooking together outside on the grills for the entire property.

We are always encouraged to learn how to properly take care of ourselves while also having a wonderful time. After the dishes are washed and put away, we reflect on our day. Every night we meet at 7 pm in the Gazebo and share, as a community, our answers to the following questions together:

- Did I have any struggles today?

August 10, 2021

Board of Adjustment  
CITY OF SCOTTSDALE  
7447 E. Indian School Road  
Scottsdale, Arizona 85251

RE: Board of Adjustment Case No. 6-BA-2021 – Scottsdale Recovery Center Interpretation for Property located at 7910 and 7920 E. Wilshire Drive

Dear Board Members:

My name is Noreen Ruane and I am writing this letter in support of the Scottsdale Recovery Center interpretation referenced above. Scottsdale Recovery center is important to me because they played an integral role with turning my life around and giving me a second chance. I had hit rock bottom in April 2019 and had nowhere to turn. The people at Scottsdale Recovery Center welcomed me in and treated me like family. They provided a support network that guided me back to productive and fulfilling life. I spent time in the residential treatment at SRC, transitioned to the PHP program, IOP, outpatient and eventually graduated from the program. The availability of sober living is integral for progression forward in sobriety and success because it provides a safe, supportive environment. It continues the family environment felt in the other programs through SRC. Sober living allows those of us in recovery to be accountable to someone, which is integral for an honest program.

Although there were medical services at the offsite SRC treatment center and SRC residential and PHP programs, there are no medical services provided in the SRC sober living facility. There are no medical doctors or nurses present. This give people an opportunity to establish with medical care in the community instead.

I have been sober since April 5<sup>th</sup>, 2019 and without Scottsdale Recovery I wouldn't be here today to write this letter. I have a wonderful job, supportive husband and 4 amazing children and SRC has helped me to remain sober to attain this.

Sincerely,

Noreen Ruane

CC: Jeff Barnes, Staff Coordinator (via email – JBarnes@Scottsdaleaz.gov)  
Bryan Cluff, Principal Planner (via email – Bcluff@Scottsdaleaz.gov)



August 11, 2021

Board of Adjustment  
CITY OF SCOTTSDALE  
7447 E. Indian School Road  
Scottsdale, Arizona 85251

RE: Board of Adjustment Case No. 6-BA-2021 – Scottsdale Recovery Center Interpretation for Property located at 7910 and 7920 E. Wilshire Drive

Dear Board Members:

My name is Carole Uhrig and I am writing this letter in support of the Scottsdale Recovery Center interpretation referenced above.

I made the decision to enter Scottsdale Recovery Center's sober living recovery program in March of 2019 and am thankful every day. I was caught in an emotional, anxiety-riddled, insomniac, alcoholic quickly-descending downward spiral and knew that unless I removed myself from life, there was a chance I'd no longer have one.

Scottsdale Recovery Center and sober living was important to me because there was no other way to recalibrate/hit the reset button. Being a high functioning alcoholic is a blessing and a curse since no one knows the pain you are in, but the people at SRC do. They understand it's not about the drug of choice we are addicted to but rather the underlying trauma we weren't equipped to work through. SRC sober living provided the haven to safely stop drinking and provide the tools and shift in perspective to navigate challenges in a healthier way.

The sober living home was comfortable, safe and more than well-equipped with anything one would need to make it a home. Camaraderie, sharing life stories, making meals together, sharing in clean up, keeping each other focused and on-task made it feel like a family environment, providing connection some of us may not otherwise have had, especially while wanting to become sober. Keeping all medical related services off-site at the treatment center also made sober living feel like a home and not a "facility".

My sober date is August 14, 2019 and while that is after I was in SRC, it seems to be the path of most alcoholics to try and drink again to be "normal" before coming to the acceptance that we need to trudge the road to happy destiny using the tools we learned in sober living.

SRC has always been supportive throughout my personal journey of recovery and I've recommended SRC sober living to several friends who have come to me in their own path to recovery.

As much as I wanted to stop drinking while I was deep in it, I'm unsure that I would have without having had the opportunity to enter the sober living home environment. It gave me the break needed in automatic, unhealthy, reactionary and numbing patterns in life.

Coming up on 2 years of sobriety on August 14, 2021, I can honestly say that having had the experience at SRC with its amazing staff members, my life has been and continues to be on a better path. It does not at all mean that life is all of a sudden easy, but it does mean that I have more awareness when old triggers arise, that I have more calm when I need to navigate challenges, that I have more authentic

relationships in which I am more present. Since being sober, I've also needed less doctor and dental visits and am also able to treat underlying medical situations with more resilience and clarity.

Sober living can be the catalyst that provides the best opportunity for creating a healthier, more blessed life for oneself.

Sincerely,

Carole Uhrig

CC: Jeff Barnes, Staff Coordinator (via email – JBarnes@Scottsdaleaz.gov)  
Bryan Cluff, Principal Planner (via email – Bcluff@Scottsdaleaz.gov)

August 11, 2021

Board of Adjustment  
CITY OF SCOTTSDALE  
7447 E. Indian School Road  
Scottsdale, Arizona 85251

RE: Board of Adjustment Case No. 6-BA-2021 – Scottsdale Recovery Center Interpretation for  
Property located at 7910 and 7920 E. Wilshire Drive

Dear Board Members:

My name is Andrea Dermott, and I am writing this letter in support of the Scottsdale Recovery Center interpretation referenced above.

I believe having a sober living environment was crucial to my success in recovery and Scottsdale Recovery Center helped me every step of the way. They excelled in every aspect of having a professional and caring sober living that could help me recover from alcoholism. I was embarrassed of my addiction, and they fostered an environment where I felt safe and could learn new healthy habits to get my life back.

I lived in one of their sober living environments for 30 days when I began my recovery journey, and it exceeded my expectations! It was spacious, clean, and comfortable. They do not have any groups or services at the sober living environment because that was provided at a different location. The sober living environment was strictly for me to continue to work on my sobriety. I was able to start updating my resume and start planning for the next stages of my recovery to become a productive member of society.

I attended Scottsdale Recovery Center in 2018 and it was the best decision of my life. My sobriety date is August 14th, 2018 and I am sober, happy and healthy! My experience was outstanding, and my treatment plan was customized to best fit my needs. The staff was compassionate, and they treated me like family. I would recommend Scottsdale Recovery Center to anyone because I am proof that their program works. My career has taken off, my relationships have improved significantly, and I have my life back!

I would not be sober today if it weren't for Scottsdale Recovery Center and I will be forever grateful for them. My success in recovery is a direct result of this facility and I can't thank them enough for saving my life.

Sincerely,

Andrea Dermott

CC: Jeff Barnes, Staff Coordinator (via email – JBarnes@Scottsdaleaz.gov)  
Bryan Cluff, Principal Planner (via email – Bcluff@Scottsdaleaz.gov)

August 12, 2021

Board of Adjustment  
CITY OF SCOTTSDALE  
7447 E. Indian School Road  
Scottsdale, Arizona 85251

RE: Board of Adjustment Case No. 6-BA-2021 – Scottsdale Recovery Center Interpretation for Property located at 7910 and 7920 E. Wilshire Drive

Dear Board Members:

My name is Shawna Smith and I am writing this letter in support of the Scottsdale Recovery Center interpretation referenced above.

Sober living is an essential part of recovery. It gave me the opportunity to focus on my recovery and have a support system where everyone is overcoming an addiction. I was in sober living for 3 months and was able to learn what life is without alcohol. I could laugh, have a good time, and meet friends without judgement.

It provided a nice structure and helped to instill a normalcy to my routine. I got up, took care of my personal hygiene, was responsible for taking my daily medications, on my own without a nurse telling me too. It was like a sense of freedom in a responsible way, I wish I had the exact words to explain it. Re-learning a structured routine is important if you want to succeed in life, it's needed daily, work, school, etc.

Living with what I would call my sober family was a great experience, we worked as a support system/team/family. We were there for each other, honestly, we did everything together. We prepared meals, did chores, played games, had our own house meetings after dinner, watched movies, just like a typical normal functioning family but without the drugs or alcohol.

Another amazing thing is the group sessions held at the treatment center Monday - Friday from 830am - 4pm. I learned so much from those sessions. I went through 3 large journals and took notes in every class for 3 months. I still look back at those, they are priceless. I saw a counselor every week along with a mental health therapist, truly incredible.

I probably would have failed for a second time if I didn't have SRC and the amazing support. Staff is knowledgeable, experienced, understanding, and most importantly, compassionate. If I needed extra counseling, it was given without question. SRC really cared about my sobriety and wanted me to succeed in every way possible, they saw the potential in me and never hesitated to let me know that.

My past experience in sober living was nothing compared to SRC. They were completely lacking in every aspect, which is why I sought out a different place this last time. I didn't feel the "family" vibe or compassion. Everyday was a struggle and when I needed extra support they would just shrug their shoulders and would tell me they will try and find someone available who is available.



I would NOT be sober today without my SRC family and their program. I have rekindled relationships that I have completely destroyed during my addiction, thriving again with my job. I never lost my job, thank goodness, but I am completely grateful to them in every aspect.

Sincerely,

Shawna Smith

CC: Jeff Barnes, Staff Coordinator (via email – JBarnes@Scottsdaleaz.gov)  
Bryan Cluff, Principal Planner (via email – Bcluff@Scottsdaleaz.gov)

08/12/2021

Board of Adjustment  
CITY OF SCOTTSDALE  
7447 E. Indian School Road  
Scottsdale, Arizona 85251

RE: Board of Adjustment Case No. 6-BA-2021 – Scottsdale Recovery Center Interpretation for  
Property located at 7910 and 7920 E. Wilshire Drive

Dear Board Members:

My name is David Larson and I am writing this letter in support of the Scottsdale Recovery Center interpretation referenced above.

Sober living housing made it possible for me to safely transition from rehabilitation back to the real world by greatly reducing the likelihood of a relapse. SRC provided me with an unmatched level of healing and completely changed my outlook on life. I have been continuously sober since December 8th, 2019. I attended treatment at SRC for a total of 4.5 months, a combination of inpatient, outpatient and sober living. The experience I had at SRC was life changing. I wouldn't be sober today if not for SRC. I was briefly in the sober living at SRC while I searched for something more permanent. I had other options to live in for the transition but they were not good environments to be in for a newly sober person. I likely would have relapsed had I not chosen to utilize the sober living option at SRC. Being in a positive environment where I felt like part of a family was crucial to my success in sobriety. I still went as often as possible to the nearby outpatient center for treatment and follow up care while looking for a job and a safe place to live after I left.

As of today, I'm over 18 months sober. I am a very involved parent of 2 small beautiful children. I exercise regularly and eat right. I attend church weekly. I have a stable job. I'm in a committed relationship. In short, I have my life back, and a better life than I had before. None of this would have been possible without the SRC program and their sober living option.

Sincerely,

David Larson

CC: Jeff Barnes, Staff Coordinator (via email – JBarnes@Scottsdaleaz.gov)  
Bryan Cluff, Principal Planner (via email – Bcluff@Scottsdaleaz.gov)

8/12/21

Board of Adjustment  
CITY OF SCOTTSDALE  
7447 E. Indian School Road  
Scottsdale, Arizona 85251

RE: Board of Adjustment Case No. 6-BA-2021 – Scottsdale Recovery Center Interpretation for Property located at 7910 and 7920 E. Wilshire Drive

Dear Board Members:

My name is Grayson Daniels and I am writing this letter in support of the Scottsdale Recovery Center interpretation referenced above.

Over the course of my early adult life I have struggled to maintain the skills required in order to live a healthy, productive life. This being simple things like having structure and picking up after myself while being at home by myself. There was a time when tasks like these overwhelmed me to the point of impossibility, leaving me in a debilitated state. After learning the components that went into maintaining a healthy living environment things changed in my life.

Seeking treatment for my unhealthy living practices I found Scottsdale Recovery Center. My addiction to meth and depression that had been thrown under the rug for years finally caught up with me. The love that surrounded me after admitting to Scottsdale Recovery was like something I had never experienced. There were people just like me who struggled with drug addiction in their lives, always around to remind me that I wasn't in this alone.

At Scottsdale Recovery Center I learned about my addiction and was given tools to utilize in my life moving forward. The staff was impeccable and their dedication unmatched. My therapist worked with me to learn basic life skills such as doing laundry and helped me implement positive activities to dive into with my freetime. I had a place in Scottsdale Recovery's sober living facilities to practice these life skills before heading to be back on my own. Every step of the way there was a staff house manager there to help as well as hold me accountable to practice the newly learned life skills that I obtained previously while in treatment.

The first time after treatment at SRC I returned home and did not continue to practice the productive habits I had learned in treatment. Sadly, I returned back to my old ways and was not able to remain sober during this time. Shortly after I ended back in treatment and decided to give sober living a chance this time around. I have been sober since I made that decision on September 19, 2019.

While being in sober living, I learned how to cook and properly take care of myself all while being surrounded by others in similar circumstances. We were like family and held close bonds with one another and it provided much needed structure in my life that I had not had for a long time. Now my life and relationship with my parents have changed drastically. I have since started to provide and take care of myself as an adult and me and my family's lives have improved since then.

August 122, 2021

Board of Adjustment  
CITY OF SCOTTSDALE  
7447 E. Indian School Road  
Scottsdale, Arizona 85251

RE: Board of Adjustment Case No. 6-BA-2021 – Scottsdale Recovery Center Interpretation for  
Property located at 7910 and 7920 E. Wilshire Drive

Dear Board Members:

My name is Carey Patton and I am writing this letter in support of the Scottsdale Recovery Center interpretation referenced above.

The types of services provided by SRC are a crucial tool for people who are either struggling to manage their day-to-day life through addiction or feel like they are alone with this disease. By allowing clients to share life experiences through their open floor platform rather than just read through a clinical book, I feel this allowed not only myself but other clients to get further in our recovery process in a more productive and efficient way. My date of sobriety is November 15<sup>th</sup>, 2020 and I was in the sober living program for SRC from October 2020 to December 2020. This was a life changing experience for me in many ways. Not only because I was able to find and understand the root cause of my addiction and ways to safely manage it, but it was also the relationships and rapport I built with clients and staff. I still speak with several clients whom we all support when we need it and just to see how they are in general as I did make several friendships during my time in the sober living program. There was structure created around the sober living facility to allow me the means to learn daily living skills.

Sincerely,  
Carey Patton

CC: Jeff Barnes, Staff Coordinator (via email – JBarnes@Scottsdaleaz.gov)  
Bryan Cluff, Principal Planner (via email – Bcluff@Scottsdaleaz.gov)



August 11, 2021

Board of Adjustment  
CITY OF SCOTTSDALE  
7447 E. Indian School Road  
Scottsdale, Arizona 85251

RE: Board of Adjustment Case No. 6-BA-2021 – Scottsdale Recovery Center Interpretation for Property located at 7910 and 7920 E. Wilshire Drive

Dear Board Members:

My name is Jill Bollinger and I am writing this letter in support of the Scottsdale Recovery Center interpretation referenced above. As addicts and alcoholics our brains do not know how to handle life stressors in a typical rational fashion. Treatment is the initial stepping stone in learning how to manage our lives soberly. However, being thrown out into the world immediately afterwards can be a recipe for disaster. In sober living there is structure and routine, but it is created by someone else, there is not much personal decision making in that regard. Structure and routine are keys to staying sober and living a healthy productive life. Left on our own we are terrible at this; a lack of routine is one of the quickest ways to relapse. Sober living is important to teach addicts and alcoholics how to keep a routine while building the foundation to a good life. The first few months of sobriety is one of the most challenging things a person can go through. Having structure with a strong support community of like-minded people are vital to success.

Scottsdale Recovery Center and their sober living program provided me with all the tools I needed to succeed in my recovery. My date of sobriety is January 5, 2020. I attended SRC and their sober living program from 120 days. Scottsdale Recovery Center saved my life. I truly believe everyone could benefit from this program, even non addicts. I started drinking when I was 17 and got sober at 30. I had no idea how to function as an adult. While there was a focus on sobriety there was also a strong focus on how to communicate, how to break down my emotional walls, mindfulness, setting healthy boundaries, and that there is so much joy to be had in sobriety. The most important thing I learned while I was there was how to identify my goals and achieve them. I moved to Pittsburgh after 9 months of sobriety and am now pursuing an electrical engineering degree. I don't know if I would have found my inner strength to do what I am doing without the guidance I received at SRC.

I was very lucky to have someone supporting me financially, I could not have a full-time job while dedicating that much time to my sobriety. Which is why sober living is so important because people are able to get the support they need while getting back into the workforce. SRC was my first time in treatment, and I am forever grateful for their program. I have talked to many people that went to other treatment centers. I have never heard anyone have the kind of exceptional, caring experience which was provided for me at SRC. I 100% think sober living is important to recovery. Getting sober takes everything, you have in you, the structure and support is necessary. I have known many people from SRC and AA that would not be sober today if it were not for sober living.

Scottsdale Recovery is a family, both clients and staff. It is hard to explain the strong bond that is formed when getting sober with someone else. Even the people that did not always get along had each other's

backs at the end of the day because we all had the same common goal. Stay sober. When a person decides to get sober, they are truly at the bottom, and they are climbing themselves out of huge holes. They must climb and climb every day, sometimes only to make an inch or just get knocked down. Bridges have been burned, guilt and resentments have to be dealt with, all while trying to navigate a new life without using. It is a full physical and mental mountain to climb for an alcoholic not to go drink during this time. One of the things that saves people the most is a community to talk to, to help you make the right decisions. I would not have made it without my family at SRC.

I do not know where I would be without all 120 days at SRC. I am not certain I would still be sober without my time there. I needed that extra 60 days to take baby steps into adjusting to my new sober life. I needed the structure and the community. People I could go talk to about what was going on in my outside life and the best ways to approach all the obstacles I was facing. Please understand it takes every fiber of willpower to make the decision to get sober and stay sober. These people want to better their lives more than anything else in the world. My life today is better than anything I imagined while I was at Scottsdale Recovery Center. Not because of the things I have, due to the behaviors I learned. I do things every day to better my life and I am always hungry for more. There has never been a point in my life before where I haven't given up, been lazy, taken the easy way out. My entire outlook on life has changed, I have learned to love myself, how to grow in positivity, and how to tackle challenges head on. Scottsdale Recovery Center sober living program gave me mental strength and showed me I could create a life I did not know I was capable of. I am eternally grateful to this program.

Sincerely,  
Jill Bollinger

CC: Jeff Barnes, Staff Coordinator (via email – JBarnes@Scottsdaleaz.gov)  
Bryan Cluff, Principal Planner (via email – Bcluff@Scottsdaleaz.gov)

[8/12/2021]

Board of Adjustment  
CITY OF SCOTTSDALE  
7447 E. Indian School Road  
Scottsdale, Arizona 85251

RE: Board of Adjustment Case No. 6-BA-2021 – Scottsdale Recovery Center Interpretation for  
Property located at 7910 and 7920 E. Wilshire Drive

Dear Board Members:

My name is Florence "Nicky" Ayala" and I am writing this letter in support of the Scottsdale Recovery Center interpretation referenced above.

Sober living was important for me in order to experience life without the distractions of others that were not on the same path I was seeking. SRC provided me with the necessary tools to live a successful sober lifestyle outside of the sober living environment and this is what I took away most. My sobriety date is 01/28/2020 and I attended treatment at SRC. I found the staff to be like a family. Always there for any need or concern I faced. I was in sober living during my time there and for it being my first time in treatment it exceeded my expectations. Sober living was important to my recovery because I needed this environment and the individuals that were with me in order to share experiences and have the support to remain sober. Living in the sober living environment helped me focus on my sobriety without outside distractions. It was a full day with breakfast, exercise, treatment in form of classes and we ended the day with dinner and reflections about we had learned together as a house and a family. I do not think I would be sober without sober living. I had tried sobriety on my own and I didn't have the structure to remain sober. I needed to be held accountable for my actions and needed to do something big in order to feel like I was taking the necessary steps. Since being in sober living at SRC, I have remained sober now for 18 months and still maintain my job as a flight attendant. I have also started two small businesses and have transformed my spirituality.

Sincerely,

Florence "Nicky" Ayala

CC: Jeff Barnes, Staff Coordinator (via email – JBarnes@Scottsdaleaz.gov)  
Bryan Cluff, Principal Planner (via email – Bcluff@Scottsdaleaz.gov)

[8/12/21]

Board of Adjustment  
CITY OF SCOTTSDALE  
7447 E. Indian School Road  
Scottsdale, Arizona 85251

RE: Board of Adjustment Case No. 6-BA-2021 – Scottsdale Recovery Center Interpretation for  
Property located at 7910 and 7920 E. Wilshire Drive

Dear Board Members:

My name is Debbie Hernandez and I am writing this letter in support of the Scottsdale Recovery Center interpretation referenced above.

I struggled with daily tasks and everyday life due to my addiction. After sober living I have been held accountable for my actions and have learned to cope better with the things life throws at me. When I first came to Scottsdale Recovery Center I was not in my right frame of mind but after I started to participate in groups I realized I was getting something great out of it.

I was only supposed to be in sober living for 30 days but after being around others in similar circumstances I had decided to stay for 70 days. This place saved my life and my goal is to do peer support and help others struggling with alcohol/drug addiction.

I am grateful for the second chance on life and intend to take advantage of my sobriety, spending all the time I can with family & loved ones. I came all the way from Lake Havasu because SRC was highly recommended and was worth being so far from home.

[Debbie Hernandez]

CC: Jeff Barnes, Staff Coordinator (via email – JBarnes@Scottsdaleaz.gov)  
Bryan Cluff, Principal Planner (via email – Bcluff@Scottsdaleaz.gov)



August 11, 2021

Board of Adjustment  
CITY OF SCOTTSDALE  
7447 E. Indian School Road  
Scottsdale, Arizona 85251

RE: Board of Adjustment Case No. 6-BA-2021 – Scottsdale Recovery Center Interpretation for  
Property located at 7910 and 7920 E. Wilshire Drive

Dear Board Members:

My name is Samantha Boone, and I am writing this letter in support of the Scottsdale Recovery Center interpretation referenced above.

When I came back into treatment in January of 2020 the availability of sober living housing was important to me because I need to be in an atmosphere dedicated to my focus on recovery and to be surrounded by peers who were battling addiction. Scottsdale Recovery Center was vital in my recovery and providing me with the tools I needed to not only maintain sobriety but to thrive in it. The support I received from the staff while in the sober living atmosphere kept me accountable, helped me with daily living skills and offered a place where I felt safe to be open and honest about my addiction. My date of sobriety is December 30, 2019. I attended treatment at Scottsdale Recovery center from January 2020 until June 2020. Once I had completed their PHP program, the pandemic happened, and they provided support through Zoom meetings which helped during quarantine to keep my recovery at the forefront when outside AA meetings were not available. When I first walked into Scottsdale Recovery Center I was greeted with warm smiles and welcoming statements from the staff as I took my first steps towards getting sober again. It was here I learned how to build myself back up and was surrounded with people who not only cared about me but understood that what I was going through was not easy. Group therapy allowed me to be open and honest with the therapists and my fellow peers and take away tools I am still using today to help me rise above my addiction. The staff was always available to assist, talk and teach when I needed it because all I had to do was ask. It didn't matter what their job title was because they were there for us the client and we were the priority.

The sober living environment where I was, was comfortable, well maintained and made me feel like I was in a home instead of being just a person in a bed. Being able to have access to a kitchen to cook, shopping twice a week for personal items and food I needed or going outside to sit and could exercise were freedoms which helped to mend me. It was our responsibility to maintain the cleanliness of the home because it was meant to feel like our home. There was no medical staff or services in the sober living environment and instead it was a family of recovering addicts and alcoholics looking for a way to change. This was my sanctuary to rebuild, and I will forever be grateful for every single person who worked there and helped me get my life back. The sober living environment molded me into the grateful recovering alcoholic addict I am today, and I don't believe I would have been able to maintain my sobriety without this unique perspective and sober living environment here at SRC. This was a place I was looking for to help my struggles and push me to define my recovery and make it my own.

Since leaving Scottsdale Recovery and sober living I have not only survived with a pandemic on top of it to stay sober, I thrived. I left a career I had been in for over 10 years and went to become an Amazon delivery driver. Within in a month I applied tools and worked hard and become a manager there. I completed a 6-month life coaching certification at Southwest Institute of Healing and Arts from May till December. I re-enrolled in college and will finish my Bachelors in December 2021. I bought a used car and a house because instead of being afraid I made moves to give myself stability in my life. I have a boyfriend who is in recovery, two step-children, three cats and dog. Then on February 22, 2021 I was offered a job at Scottsdale Recovery Center and am finally able to give back what was given to me to clients who are coming into treatment. My life is more then what I could have dreamed it would be and if not for start of my journey being here in sober living at Scottsdale Recovery Center, I do not believe my life would have been this blessed.

Warm Regards,

Samantha L Boone

CC: Jeff Barnes, Staff Coordinator (via email – JBarnes@Scottsdaleaz.gov)  
Bryan Cluff, Principal Planner (via email – Bcluff@Scottsdaleaz.gov)

August 11, 2021

Board of Adjustment  
CITY OF SCOTTSDALE  
7447 E. Indian School Road  
Scottsdale, Arizona 85251

RE: Board of Adjustment Case No. 6-BA-2021 – Scottsdale Recovery Center Interpretation for  
Property located at 7910 and 7920 E. Wilshire Drive

Dear Board Members:

My name is Amy Hadley, and I am writing this letter in support of the Scottsdale Recovery Center interpretation referenced above.

Sober Living is very important in recovery especially for people who cannot go back to their previous living environments. Scottsdale Recovery is the main reason why I am sober today. It is where I started my life of being sober by attending their programs.

I attended treatment with Scottsdale Recovery and my sobriety date is November 3, 2018. I had a wonderful experience at Scottsdale Recovery Center, and it has changed my life. I feel like my life started over the day I got sober. The relationships with my family were completely broken and because of sobriety I have been able to mend those relationships.

I keep in contact with alumni from the program and we meet on a monthly basis. I made lifelong friends that share the Scottsdale Recovery experience and for that I am grateful. My experience at Scottsdale Recovery Center was excellent and it has changed my life forever.

Sincerely,

A handwritten signature in black ink that reads "Amy Hadley". The signature is written in a cursive, flowing style.

CC: Jeff Barnes, Staff Coordinator (via email – JBarnes@Scottsdaleaz.gov)  
Bryan Cluff, Principal Planner (via email – Bcluff@Scottsdaleaz.gov)

August 12 2021

Board of Adjustment  
CITY OF SCOTTSDALE  
7447 E. Indian School Road  
Scottsdale, Arizona 85251

RE: Board of Adjustment Case No. 6-BA-2021 – Scottsdale Recovery Center Interpretation for  
Property located at 7910 and 7920 E. Wilshire Drive

Dear Board Members:

My name is Judi Greer and I am writing this letter in support of the Scottsdale Recovery Center interpretation referenced above.

I attended treatment at SRC and their sober living program twice. I went back there because of the environment they created for their clients and how they the right structure and it was me who did not take full advantage of all they had to offer the first time around. It is a place that I would send or recommend to anyone who was looking for help in their addiction. Being in sober living was so important to my recovery because I was able to focus on yourself in a safe environment and that is so important in early recovery. I do not think that I would even be alive today to write this letter if it wasn't for SRC and the sober living environment they provided. I was able to learn daily living skills and start small and build myself back up to be an adult and human being which was something I was not able to do while I was in my addiction. My life has changed for the better because I have an amazing new job, more trust each day from my family and living the life I was meant to live, happy, free and sober. Most importantly I get to show up for myself and my kid every day because I know what life is like when I am sober and how wonderful it can be.

Sincerely,  
Judi Greer

CC: Jeff Barnes, Staff Coordinator (via email – JBarnes@Scottsdaleaz.gov)  
Bryan Cluff, Principal Planner (via email – Bcluff@Scottsdaleaz.gov)



08/11/2021

Board of Adjustment  
CITY OF SCOTTSDALE  
7447 E. Indian School Road  
Scottsdale, Arizona 85251

RE: Board of Adjustment Case No. 6-BA-2021 – Scottsdale Recovery Center Interpretation for  
Property located at 7910 and 7920 E. Wilshire Drive

Dear Board Members:

My name is Sanober Tahir and I am writing this letter in support of the Scottsdale Recovery Center interpretation referenced above.

Sober living was imperative in my sobriety. I exited detox on 08/17/2020 at 11A.M. by 11:30A.M. I had already relapsed. I knew there was no way I could stay sober without help. My date of sobriety is 08/19/2020. I attended SRC in December of 2019. My experience there was positive. I had never been in a controlled environment besides jail, and I wasn't using during that time, but I was not sober. SRC provided me with tools and gave me the courage to be able to ask for help from my family after my relapse in 04/2020. I was in the sober living program during my time at SRC. Being that is was my first and only experience when it came to sober living, it really set the bar high and gave me the necessary tools to be able to open up to other addicts. Sober living was important to my sobriety because it kept me accountable and gave me a group of people that I could lean on and that they could lean on me. Also, because of the meeting requirements I was able to find my fellowship. During my time there we woke up together, we went to group together at the center and became very vulnerable around each other. We cooked dinner together in the evening as a family and supported each other. All the treatment and care services were provided offsite at the treatment center and there were no nurses or doctors present, the sober living home was just a home. I would not be where I am today without sober living. From this experience my life has changed to where I have a new career, started school, my family and friends trust in me and I am great at everything I put my mind to and most importantly, I am able to help others.

Sincerely,

Sanober Tahir

CC: Jeff Barnes, Staff Coordinator (via email – JBarnes@Scottsdaleaz.gov)  
Bryan Cluff, Principal Planner (via email – Bcluff@Scottsdaleaz.gov)



## REVIEWS

**Scottsdale Recovery**

4.9 ★★★★★☆

Based on 49 reviews

powered by Google

**Jamathon Nelson**

9 days ago

★★★★★ Taking my wife to SRC was not an easy thing to do. I searched reviews online for about a month and when my wife expressed she was ready, and needed help. I was ready and knew where I was taking her, SRC. The staff reassured me when I dropped her off that they would care for her. I cannot tell you how true to word they were. This was life changing and I can't thank SRC enough! The staff at SRC kept me in the informed and worked with me and my insurance coverage. They found a way to completely cover the cost. I can't tell you how it felt to know that the treatment was covered. I would have paid, and was prepared to pay any amount. Life has no price tag and the results they gave us are priceless. I now have my wife back, and she is the healthiest I've ever seen her. The program at SRC works. I highly recommend SRC and would give it a 10 star rating if possible. Thank you to every single person at SRC for giving me my wife back. Respectfully Jamey Nelson

**Michele Bushell**

a month ago

★★★★★ Src gave me my life back. The staff is amazing! My first day was scary but everyone made me feel right at home. I knew I was in the right place. The house was so comfortable and everyone in the house were so helpful. The group facilitators were very knowledgeable. I can't thank them enough for giving me my life back!!

**Kylie O'Brien**

2 months ago

★★★★★ Scottsdale Recovery is the place to go! I went to a previous recovery center and did not have the success that I've had at SRC. The staff goes above and beyond to make you feel welcomed. They assist with additional outside resources and I have nothing but positive things to say about SRC. I wouldn't have had the success of 5 months sobriety, without the love and support from SRC. Scottsdale Recovery center also offers family workshop and Alumni groups after you graduate. Andrea and Courtney are my number one supporters and thank you SRC for leading me into the path of recovery! 😊

**Jada Webb**

2 months ago

★★★★★ I came from New York and was welcomed with open arms by each and every staff member. My entire stay was very comforting and each day helped my growth immensely. I attended group and individual therapy sessions and was given proper curriculum to help guide me on my journey of recovery. Scottsdale Recovery was a very safe, accepting and fun environment, I could not have asked for a better experience. Truly changed my life!

**tanner murphy**

3 months ago

★★★★★ For the many of you searching for a life change you have come to the right place!! SRC is the best thing that has ever happened to me in my life. They literally saved my life! From the moment I called to the moment you walk through the doors you feel nothing but love and support the staff and I mean every member of SRC is there to help you in any way that works for you and will be by your side no matter what! Please if you are searching to have your life saved stop here make a call and they will guide you to the life you want with them with you ever step of the way! They not only saved my life but saved my marriage! I have never been around so many amazing and understanding people in my life! Thank you SRC for changing/saving my life!

**Luke Sheehan**

6 months ago

★★★★★ Nice facilities, most all the staff were great!! It really is up to the individual. That being said if you want to get clean I did here. They have the tools if you want to use them. Thank y'all for being a big step in the right direction!! Right at 2 years clean with my first 60 days @ SRC!!

**Jared B**

VERIFY INSURANCE

CALL 866.893.8742

networking, and a well developed post action plan. The staff was incredible and truly cared about my well being and were willing to go above and beyond their jobs for sincere support. It was so obvious that they cared about me as a person. Every one of the therapists was understanding and patient in understanding my needs and helped me set obtainable goals and benchmarks. Through hard work and effort, I have restored trust in all my relationships in my life and built a strong sober network with genuine and caring people. My family and friends completely trust me again! I still have so many life-long friends that I went through the program with. I owe my life to all of the staff and therapists at Scottsdale Recovery. I have been to and visited a couple of treatment centers throughout the country and none compare to Scottsdale Recover. I HIGHLY recommend this treatment center to anyone battling this disease!!



**Chris Whirley**

6 months ago

★★★★★ SRC did more for me than save my life, they gave me a life. A life that I didn't know or think I could have. Go in with an open mind and ready to heal and they will open the door for your journey. The entire staff is amazing. They care about each and every person there. They aren't just locked into one type of program, they help you how you need help. It's not just their job it's their life to help us actually live.



**Jenna Gubler**

7 months ago

★★★★★ Scottsdale recovery was the first recovery center I attended and I'm so grateful this place was my first experience. The staff and programs are great, they truly provided an environment for me to heal in, the staff are all very involved, passionate and genuine. I could feel how much they cared and how much I was being listened to. I had a hard time leaving because it felt like a home away from home. I would refer these guys to anyone I knew struggling with addiction. They helped me find myself again and come to love and understand the person I am today. I will forever be grateful for them



**Ben Duffy**

7 months ago

★★★★★ Scottsdale Recovery Center changed my life for the better forever. The staff are so incredible because they reminded me that I was loved by their gentle and caring nature. I never would of thought going into rehab that the staff would be so humanizing and I was very scared to go at first but after about 4 days I was home and at peace in my heart. I thank SRC for helping me to love myself again.

[See All Reviews](#)

## ARE YOU READY FOR A LASTING APPROACH TO ADDICTION TREATMENT?

CALL 866.893.8742

(24/7 INFORMATION & INTAKE)

## WE ARE THE GOLD STANDARD IN CARE WITH THE JOINT COMMISSION ACCREDITATION!



The Joint Commission



## SRC'S MISSION STATEMENT

Scottsdale Recovery Center aspires to set a whole new standard for long-term success within a demographic that is all too familiar with the horrors of addiction and relapse. In helping adults to identify their skills, rebuild their hopes, re-create their lives and rejuvenate their perceived values of their life's journey, we WILL make progress...one addict at a time, one alcoholic at a time, one

[VERIFY INSURANCE](#)

[CALL 866.893.8742](#)

LEARN MORE ABOUT SRC

ADDITIONAL RESOURCES



ADDICTION INFO



SPECIALIZED PROGRAMS



TELEHEATH FORMS



SCOTTSDALE RECOVERY CENTER  
RECONNECT • REBUILD • RECOVER

10446 N. 74th St. #150  
Scottsdale, AZ 85258

Phone 866.893.8742

Email [info@scottsdalerecovery.com](mailto:info@scottsdalerecovery.com)



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CALL 866.893.8742





## Reconnect. Rebuild. Recover.

Michelle Siwek focuses on comfort and care.

**M**ichelle Siwek, owner of Scottsdale Recovery Center, brings compassion and understanding to inpatient and outpatient addiction treatment. The organization represents top tier medical, psychiatric, and clinical services in Scottsdale and their unique programs are supported by holistic recovery components including yoga, guided meditation, and cultural music and sound healing.

"The centers provide evidence-based treatment with therapeutic interventions that set a new standard in clinical care," Siwek says. The team at Scottsdale Recovery base their treatment model on a collaborative approach with clinically licensed professionals to treat clients struggling with substance abuse. While addiction impacts people from every socioeconomic class, gender, race, and sexual orientation, Siwek points out, "Every patient is embraced as an individual and their treatment plans reflect this personalized care."

As their treatment programs have grown, they continue to meticulously follow

their mission statement through residential and outpatient programming, partial hospitalization and intensive outpatient programming, medication assisted treatment, evening intensive programming for professionals, and sober living. New in 2021 is Scottsdale Recovery's Detox and Campus Model which will be available in the third quarter of this year.

Siwek points to her own addiction when discussing the path that led her to her work at Scottsdale Recovery. "I struggled with alcohol and drug addiction for years until March 27, 2007 when I started an amazing journey of recovery through long term treatment and therapy," she shares. From reaching the moment of feeling that she had lost everything, to her recovery journey, and now supporting others on their path to recovery, she has used her experiences for growth. Siwek is continually inspired by those closest to her using the lessons they have taught her to live and grow.

"Having been through my own experience with addiction, I understand

that fear and shame that comes with accepting the need for help," she says. "Our organization prides itself on creating an atmosphere of care, compassion, and love and we strive to walk alongside you on this journey to recovery and show you that you are capable of more than you can see in this moment."

Scottsdale Recovery Center not only provides treatment to their patients, but also provides support for the families of those in their programs via workshops. These workshops educate family members on addiction, boundaries, communication skills, and the recovery process.

Currently, Siwek serves as a board member for notMYkid a nonprofit organization that provides children and families struggling with addiction by providing lifesaving programs, support, resources, and education.

**Contact 602.346.9142 or  
www.scottsdalerecovery.com.  
10446 N. 74th Street, Suite #150,  
Scottsdale, AZ 85258.**





SCOTTSDALE RECOVERY

Applicant's Exhibit 17

# Coffee at Trallies



## Meet & Greet!

Date: Saturday, July 24<sup>th</sup>

Time: 9:00-10:00am

Address: 7910 E Wilshire Dr. Scottsdale, AZ 85257

RSVP Contact: Andrea – [andrea@scottsdalerecovery.com](mailto:andrea@scottsdalerecovery.com)

**We are a sober living environment and  
are here to help the community.**

**Please come join us to meet the staff and see what we do!**

Parcel Number	Owner	Property Address	MAIL_ADDR1	MAIL_CITY	MAIL_STA	MAIL_ZIP
131-02-020	SMETANA TIMOTHY J/RACHEL M	2542 N 80TH PL SCOTTSDALE 85257	2542 N 80 PL	SCOTTSDALE	AZ	85257
131-02-021	CUTRUFO FRANK J/DADEY-CUTRUFO MARILYN	2536 N 80TH PL SCOTTSDALE 85257	2536 N 80TH PL	SCOTTSDALE	AZ	85257
131-02-022	COLLIER KIMBERLY	2530 N 80TH PL SCOTTSDALE 85257	2530 N 80TH PL	SCOTTSDALE	AZ	85257
131-02-023	ANDRADE NADINE TR	2524 N 80TH PL SCOTTSDALE 85257	7237 W EMILE ZOLA AVE	PEORIA	AZ	85381
131-02-110P	2501 N HAYDEN ROAD LLC	2501 N HAYDEN RD SCOTTSDALE 85257	3238 E SCOTTSDALE RD	SCOTTSDALE	AZ	85251
131-02-110Q	STEINER REAL ESTATE LLC	2445 N HAYDEN RD SCOTTSDALE 85257	2445 N HAYDEN RD	SCOTTSDALE	AZ	85255
131-02-110R	BREJEA JOHN/FLORICA	2401 N HAYDEN RD SCOTTSDALE 85257	14433 N INTERLACKEN DR	PHOENIX	AZ	85022
131-02-148	HAYDEN VIRGINIA LLC	2529 N HAYDEN RD 1001 SCOTTSDALE 85257	7520 E ANGUS DR	SCOTTSDALE	AZ	85251
131-03-080	LONGMIRE INVESTMENTS LLC	2614 N 80TH PL SCOTTSDALE 85257	340 LOOKOUT POINT DR	SELAH	WA	98942
131-03-081	SMITH PATRICIA B TR	2608 N 80TH PL SCOTTSDALE 85257	2608 N 80TH PL	SCOTTSDALE	AZ	85257
131-03-082	AFFINITY 2021 LLC	2602 N 80TH PL SCOTTSDALE 85257	7349 N VIA PASEO DEL SUR STE 515 PMB 167	SCOTTSDALE	AZ	85258
131-03-083	PARKHURST CHRIS R/APRIL M	2554 N 80TH PL SCOTTSDALE 85257	2708 QUAIL HOLLOW LN	CEDAR FALLS	IA	50613
131-03-096C	HULL BRYAN P/CAREN M	2607 N HAYDEN RD SCOTTSDALE 85257	2601 N HAYDEN RD	SCOTTSDALE	AZ	85257
131-03-098	FRINGE CAPITAL PARTNERS ACQUISITION CO 2 LLC	2635 N HAYDEN RD SCOTTSDALE 85257	1406 W FULTON MARKET SUITE A1	CHICAGO	IL	60607
131-03-278	BECKER LAURA A	2615 N HAYDEN RD 101 SCOTTSDALE 85257	2615 N HAYDEN RD UNIT 101	SCOTTSDALE	AZ	85257
131-03-279	JENNINGS CHRISTOPHER	2615 N HAYDEN RD 102 SCOTTSDALE 85257	2615 N HAYDEN RD UNIT 102	SCOTTSDALE	AZ	85257
131-03-280	COE BARRY M JR	2615 N HAYDEN RD 103 SCOTTSDALE 85257	8631 E MITCHELL DR	SCOTTSDALE	AZ	85251
131-03-281	ELLIS MYRIAH BRIGGS	2615 N HAYDEN RD 104 SCOTTSDALE 85257	2615 N HAYDEN RD UNIT 104	SCOTTSDALE	AZ	85257
131-03-282	WELLS JONATHAN RYAN	2615 N HAYDEN RD 105 SCOTTSDALE 85257	2615 N HAYDEN RD UNIT 105	SCOTTSDALE	AZ	85257
131-03-283	HERNANDEZ VALENTIN D II	2615 N HAYDEN RD 106 SCOTTSDALE 85257	2615 N HAYDEN RD UNIT 106	SCOTTSDALE	AZ	85257
131-03-284	MALLONEE RONALD	2615 N HAYDEN RD 107 SCOTTSDALE 85257	2615 N HAYDEN RD 107	SCOTTSDALE	AZ	85257
131-03-285	WEST FORK HOLDINGS LLC	2615 N HAYDEN RD 108 SCOTTSDALE 85257	7047 E GREENWAY PKWY UNIT 140	SCOTTSDALE	AZ	85254
131-03-286	SOWMA EMMA/BENJAMIN	2615 N HAYDEN RD 109 SCOTTSDALE 85257	2615 N HAYDEN ROAD APT 109	SCOTTSDALE	AZ	85257-2360
131-03-287	2615 N HAYDEN ROAD 110 LLC	2615 N HAYDEN RD 110 SCOTTSDALE 85257	4253 E 58TH ST	DAVENPORT	IA	52807
131-03-288	SHINSKY LEON BERNARD III/JULIE ANNE TR	2615 N HAYDEN RD 111 SCOTTSDALE 85257	PO BOX 11623	GLENDALE	IL	85318
131-03-289	LAROCO REYNA E/ARIEL	2615 N HAYDEN RD 112 SCOTTSDALE 85257	809 SIENNA DR	SCHAUMBURG	IL	60193
131-03-290	THIESSEN MINDY S	2615 N HAYDEN RD 113 SCOTTSDALE 85257	2615 N HAYDEN RD UNIT 113	SCOTTSDALE	AZ	85257
131-03-291	EDRIS AARON/MARGO	2615 N HAYDEN RD 114 SCOTTSDALE 85257	2615 N HAYDEN RD UNIT 114	SCOTTSDALE	AZ	85257
131-03-292	OLSON LANCE L	2615 N HAYDEN RD 115 SCOTTSDALE 85257	2141 HARBOR DR	BISMARCK	ND	58504
131-03-293	DEKEYSER EDWARD S/LORI S	2615 N HAYDEN RD 116 SCOTTSDALE 85257	3835 156 AVE SOUTHEAST	MAPLETON	ND	58059
131-03-294	LAROCO CONSTANCE	2615 N HAYDEN RD 117 SCOTTSDALE 85257	2615 N HAYDEN RD UNIT 117	SCOTTSDALE	AZ	85257
131-03-295	VISINTINE RICHARD C	2615 N HAYDEN RD 118 SCOTTSDALE 85257	3715 SURREY HILL PL	COLUMBUS	OH	43220
131-03-296	SCOTT MATTHEW ALLYN RUSSELL	2615 N HAYDEN RD 119 SCOTTSDALE 85257	2615 N HAYDEN RD APT 119	SCOTTSDALE	AZ	85257-2361
131-03-297	LIGHTMAN ARYEH	2615 N HAYDEN RD 120 SCOTTSDALE 85257	2615 N HAYDEN RD UNIT 120	SCOTTSDALE	AZ	85257
131-03-298	CYNTHIA S HOLDER REVOCABLE TRUST	2615 N HAYDEN RD 121 SCOTTSDALE 85257	3519 INGLENOOK LN	ROCKFORD	IL	61114
131-03-299	PIRELA ALEXANDER ROBERT	2615 N HAYDEN RD 122 SCOTTSDALE 85257	2615 N HAYDEN RD UNIT 122	SCOTTSDALE	AZ	85257-2361
131-03-300	PEREZ REBECCA ISABELLE COHEN	2615 N HAYDEN RD 123 SCOTTSDALE 85257	2615 N HAYDEN RD APT 123	SCOTTSDALE	AZ	85257
131-03-301	HURTADO BRODIE C/VANCE BARBARA ANN	2615 N HAYDEN RD 124 SCOTTSDALE 85257	2615 N HAYDEN RD UNIT 124	SCOTTSDALE	AZ	85257
131-03-302	LENGUA LILIANA/ROBERTA	2615 N HAYDEN RD 125 SCOTTSDALE 85257	466 N EARLHAM ST	ORANGE	CA	92669-2908
131-03-303	GOEDEKEN TARA ANN	2615 N HAYDEN RD 126 SCOTTSDALE 85257	2615 N HAYDEN RD UNIT 126	SCOTTSDALE	AZ	85257
131-03-304	MARTINEZ ANDREW D	2615 N HAYDEN RD 127 SCOTTSDALE 85257	2615 N HAYDEN ROAD APT 127	SCOTTSDALE	AZ	85257
131-03-305	ROBERTS ARIANNA A	2615 N HAYDEN RD 128 SCOTTSDALE 85257	2615 N HAYDEN RD UNIT 128	SCOTTSDALE	AZ	85257
131-03-306	THOMAS KATHLEEN R	2615 N HAYDEN RD 129 SCOTTSDALE 85257	2615 N HAYDEN RD UNIT 129	SCOTTSDALE	AZ	85257
131-22-154	HOOD MARVIN J JR	7813 E SHERIDAN ST SCOTTSDALE 85257	7813 E SHERIDAN ST	SCOTTSDALE	AZ	85257
131-22-155	CHRISTINE A JOHNSON REVOCABLE LIVING TRUST	7817 E SHERIDAN ST SCOTTSDALE 85257	4002 N 45TH PL	PHOENIX	AZ	85018
131-22-156	HADDAD TRACY	7821 E SHERIDAN ST SCOTTSDALE 85257	7821 E SHERIDAN ST	SCOTTSDALE	AZ	85257
131-22-157	GOLDSTEIN MICHAEL/WENDY	7825 E SHERIDAN ST SCOTTSDALE 85257	7825 E SHERIDAN ST	SCOTTSDALE	AZ	85257
131-22-158	JONES KEITH A/TOMI K	7826 E SHERIDAN ST SCOTTSDALE 85257	7826 E SHERIDAN ST	SCOTTSDALE	AZ	85257
131-22-159	WEBB BETTY J/PAUL D	7822 E SHERIDAN ST SCOTTSDALE 85257	7822 E SHERIDAN	SCOTTSDALE	AZ	85257
131-22-160	WILLINGER FAMILY TRUST	7818 E SHERIDAN ST SCOTTSDALE 85257	7818 E SHERIDAN	SCOTTSDALE	AZ	85257
131-22-161	GLATZER KEITH/ANDREA	7814 E SHERIDAN ST SCOTTSDALE 85257	233 WILLIAMSBURG CIR	BRENTWOOD	TN	37027
131-22-162	SMITH JERRY C/DIANE P	7810 E SHERIDAN ST SCOTTSDALE 85257	7810 E SHERIDAN	SCOTTSDALE	AZ	85257
131-22-163	ANDREA ESPLIN TRUST	7806 E SHERIDAN ST SCOTTSDALE 85257	8776 E SHEA BLVD STE 106 PMB 612	SCOTTSDALE	AZ	85260-6687
131-22-164	FOGARTY ERIN	7802 E SHERIDAN ST SCOTTSDALE 85257	7802 E SHERIDAN ST	SCOTTSDALE	AZ	85257
131-22-173	R K WALDVOGEL AND LISA WALDVOGEL LIVING TRUST	7723 E LEWIS AVE SCOTTSDALE 85257	PO BOX 5486	CAREFREE	AZ	85377
131-22-174	LOCKWOOD NICHOLAS A	7803 E LEWIS AVE SCOTTSDALE 85257	7803 EAST LEWIS AVE	SCOTTSDALE	AZ	85257

131-22-175	GOLDBERG FAMILY TRUST	7807 E LEWIS AVE SCOTTSDALE 85257	7807 E LEWIS AVE	SCOTTSDALE	AZ	85257
131-22-176	SPRENTALL DAVID/BECKVAR KAREN TR	7811 E LEWIS AVE SCOTTSDALE 85257	4614 E CALLE DEL MEDIO	PHOENIX	AZ	85018
131-22-177	BURBIDGE RICHARD GREIG/KATHLEEN ANNE BIENZ	7815 E LEWIS AVE SCOTTSDALE 85257	2115 MCCOY RD	CARROLLTON	TX	75006
131-22-178	GATEWOOD FAMILY REVOCABLE LIVING TRUST	7819 E LEWIS AVE SCOTTSDALE 85257	7819 E LEWIS AVE	SCOTTSDALE	AZ	85257
131-22-179	JONES KEITH A/TOMI KAY	7823 E LEWIS AVE SCOTTSDALE 85257	7826 E SHERIDAN ST	SCOTTSDALE	AZ	85257
131-22-180	SEBBA JON B/CHILDRESS SEBBA CHRIS TR	7827 E LEWIS AVE SCOTTSDALE 85257	6224 S RAINSBOROUGH CT	SALT LAKE CITY	UT	84121
131-22-181	CAMPBELL JULIANA MURPHY	7824 E LEWIS AVE SCOTTSDALE 85257	7824 E LEWIS AVE	SCOTTSDALE	AZ	85257
131-22-182	JOHNSON KRISTIN E	7820 E LEWIS AVE SCOTTSDALE 85257	8444 E INDIAN SCHOOL RD APT B2063	SCOTTSDALE	AZ	85251
131-22-183	MARTIN SANDRA K/MICHELLE	7816 E LEWIS AVE SCOTTSDALE 85257	7816 E LEWIS AVE	SCOTTSDALE	AZ	85257
131-22-184	DEGENNARO JOHN	7812 E LEWIS AVE SCOTTSDALE 85257	1717 E UNION HILLS 1072	PHOENIX	AZ	85024
131-22-185	BULKOWSKI VICKIE	7808 E LEWIS AVE SCOTTSDALE 85257	7808 E LEWIS AVE	SCOTTSDALE	AZ	85257
131-22-186	ARRIGO WILLIAM P/EDWARDS SARAH	7804 E LEWIS AVE SCOTTSDALE 85257	7804 E LEWIS AVE	SCOTTSDALE	AZ	85257
131-22-187	CARR NICHOLAS H/CLAUDINE A	7728 E LEWIS AVE SCOTTSDALE 85257	7728 E LEWIS ST	SCOTTSDALE	AZ	85257
131-22-188	RIEMER JEFFREY S	7724 E LEWIS AVE SCOTTSDALE 85257	7724 E LEWIS AVE	SCOTTSDALE	AZ	85257
131-22-189	RONDEAU CATHERINE MARIE	7720 E LEWIS AVE SCOTTSDALE 85257	7720 E LEWIS AVE	SCOTTSDALE	AZ	85257
131-22-197	CASEY THOMAS S/LINDA R TR	7713 E WILSHIRE DR SCOTTSDALE 85257	7713 E WILSHIRE DR	SCOTTSDALE	AZ	85257
131-22-198	DEE ANN DARKE TRUST	7717 E WILSHIRE DR SCOTTSDALE 85257	7717 E WILSHIRE DR	SCOTTSDALE	AZ	85257
131-22-199	SHAPIRO GARY	7721 E WILSHIRE DR SCOTTSDALE 85257	P O BOX 4804	SCOTTSDALE	AZ	85258-4410
131-22-200	RIETZ ERIKA A	7725 E WILSHIRE DR SCOTTSDALE 85257	7725 E WILSHIRE AVE	SCOTTSDALE	AZ	85257
131-22-201	BRADSHAW VINCENT R/ANGELA L	7801 E WILSHIRE DR SCOTTSDALE 85257	8206 E PALM LN	SCOTTSDALE	AZ	85257
131-22-202	BAILEY ERIC T	7805 E WILSHIRE DR SCOTTSDALE 85257	7805 E WILSHIRE DR	SCOTTSDALE	AZ	85257
131-22-203	MICHAEL K LIESKE REVOCABLE TRUST	7809 E WILSHIRE DR SCOTTSDALE 85257	7809 E WILSHIRE DR	SCOTTSDALE	AZ	85257
131-22-204	BAUM ELIZABETH SUSAN	7813 E WILSHIRE DR SCOTTSDALE 85257	7813 E WILSHIRE DR	SCOTTSDALE	AZ	85257
131-22-205	CARPENTER NOELLE	7817 E WILSHIRE DR SCOTTSDALE 85257	7817 E WILSHIRE DR	SCOTTSDALE	AZ	85257
131-22-206	CIRIBASSI DAVID J	7821 E WILSHIRE DR SCOTTSDALE 85257	7821 E WILSHIRE DR	SCOTTSDALE	AZ	85257
131-22-207	REICHER SHEILA /DAVID A	7818 E WILSHIRE DR SCOTTSDALE 85257	7818 E WILSHIRE DR	SCOTTSDALE	AZ	85257
131-22-208	CAROL SULIK TRUST	7814 E WILSHIRE DR SCOTTSDALE 85257	7814 E WILSHIRE DR	SCOTTSDALE	AZ	85257
131-22-209	NEWPORT PETER ANTHONY	7810 E WILSHIRE DR SCOTTSDALE 85257	7810 E WILSHIRE DR	SCOTTSDALE	AZ	85257
131-22-210	BROWN SHARON E	7806 E WILSHIRE DR SCOTTSDALE 85257	7806 E WILSHIRE DR	SCOTTSDALE	AZ	85257
131-22-211	CREED JORDAN M/VANDENBERG MATTHEW J	7802 E WILSHIRE DR SCOTTSDALE 85257	7802 E WILSHIRE DR	SCOTTSDALE	AZ	85257
131-22-212	DISHEROON SEAN THOMAS	7730 E WILSHIRE DR SCOTTSDALE 85257	7730 E WILSHIRE DR	SCOTTSDALE	AZ	85257
131-22-213	NEAL DANIEL RICHARD	7726 E WILSHIRE DR SCOTTSDALE 85257	W207N16227 ELLIOT DR	JACKSON	WI	53037
131-22-214	SONNTAG CHRIS/SONNTAG FAMILY TRUST	7722 E WILSHIRE DR SCOTTSDALE 85257	725 AVALON CT	SAN DIEGO	CA	92109
131-22-215	NYDAHL KIRK D	7718 E WILSHIRE DR SCOTTSDALE 85257	7718 E WILSHIRE DR	SCOTTSDALE	AZ	85257
131-22-216	BUSCH JOHN/MICHELLE	7714 E WILSHIRE DR SCOTTSDALE 85257	7714 E WILSHIRE DR	SCOTTSDALE	AZ	85257
131-22-217	P M BIRK TRUST	7710 E WILSHIRE DR SCOTTSDALE 85257	7710 E WILSHIRE	SCOTTSDALE	AZ	85257
131-22-272A	CONTINENTAL VILLAS EAST UNIT II ASSOC	7702 E SHERIDAN ST SCOTTSDALE 85257	PO BOX 62073	PHOENIX	AZ	85082
131-22-273	CONTINENTAL VILLAS EAST UNIT II ASSOC		PO BOX 62073	PHOENIX	AZ	85082
131-23-002B	CORTESE PHIL/CATERINA TR	7909 E WILSHIRE DR SCOTTSDALE 85257	7909 E WILSHIRE DR	SCOTTSDALE	AZ	85257
131-23-003C	NESCO WISHING WELL LLC	2420 N HAYDEN RD SCOTTSDALE 85257	PO BOX 1620	PAYSON	AZ	85547
131-23-004B	STEVEN W REED LIVING TRUST	7902 E WILSHIRE DR SCOTTSDALE 85257	7902 E WILSHIRE DR	SCOTTSDALE	AZ	85257
131-23-004C	REED LYNN M	7906 E WILSHIRE DR SCOTTSDALE 85257	7908 E WILSHIRE DR	SCOTTSDALE	AZ	85257
131-23-007C	LOCKER ROBERT A/TARA S	7905 E WILSHIRE DR SCOTTSDALE 85257	7905 E WILSHIRE DR	SCOTTSDALE	AZ	85257
131-23-007D	INTEMANN ROBERT A	7901 E WILSHIRE DR SCOTTSDALE 85257	7901E WILSHIRE DR	SCOTTSDALE	AZ	85257
131-23-008A	26 OAKS LLC		7600 E DOUBLE TREE RANCH RD STE 220	SCOTTSDALE	AZ	85258
131-23-008B	FIRST CHURCH OF THE NAZARENE		2340 N HAYDEN RD	SCOTTSDALE	AZ	85257
131-23-015	ALCORN CASEY C	2500 N HAYDEN RD 1 SCOTTSDALE 85257	2500 N HAYDEN RD UNIT 1	SCOTTSDALE	AZ	85257
131-23-016	MEYER KATELYN I	2500 N HAYDEN RD 2 SCOTTSDALE 85257	2500 N HAYDEN RD UNIT 2	SCOTTSDALE	AZ	85257
131-23-017	KOBRINSKY EUGENE	2500 N HAYDEN RD 3 SCOTTSDALE 85257	8100 E CAMELBACK RD UNIT 72	SCOTTSDALE	AZ	85251
131-23-018	MCFERREN EMILY J	2500 N HAYDEN RD 4 SCOTTSDALE 85257	7650 E SHERIDAN ST	SCOTTSDALE	AZ	85257
131-23-019	VOLL TODD/VALERIE FULLER	2500 N HAYDEN RD 5 SCOTTSDALE 85257	2500 N HAYDEN RD UNIT 5	SCOTTSDALE	AZ	85257
131-23-020	GERODIMOS GEORGE	2500 N HAYDEN RD 6 SCOTTSDALE 85257	2500 N HAYDEN RD 6	SCOTTSDALE	AZ	85257
131-23-021	MAXEY SEAN M	2500 N HAYDEN RD 7 SCOTTSDALE 85257	2500 N HAYDEN RD UNIT 7	SCOTTSDALE	AZ	85257
131-23-022	SPENCE ENTERPRISES LLC	2500 N HAYDEN RD 8 SCOTTSDALE 85257	20241 N 67TH AVE NO A1	GLENDALE	AZ	85308
131-23-023	MILLER KATHLEEN M/MULDER JOHN C	2500 N HAYDEN RD 9 SCOTTSDALE 85257	2500 N HAYDEN RD APT 9	SCOTTSDALE	AZ	85257
131-23-024	BENTON ELIZABETH R	2500 N HAYDEN RD 10 SCOTTSDALE 85257	2500 N HAYDEN RD	SCOTTSDALE	AZ	85257
131-23-025	BALL DARBY SHEA	2500 N HAYDEN RD 11 SCOTTSDALE 85257	2500 N HAYDEN RD UNIT 11	SCOTTSDALE	AZ	85257

131-23-026	CONRAD GRANT W/ELFRIEDE J	2500 N HAYDEN RD 12 SCOTTSDALE 85257	2500 N HAYDEN ROAD APT 12	SCOTTSDALE	AZ	85257
131-23-027	MCCALMONT KATHRYN	2500 N HAYDEN RD 13 SCOTTSDALE 85257	2500 N HAYDEN RD UNIT 13	SCOTTSDALE	AZ	85257
131-23-028	KOBRINSKY EUGENE	2500 N HAYDEN RD 14 SCOTTSDALE 85257	8100 E CAMELBACK ROAD UNIT 72	SCOTTSDALE	AZ	85251
131-23-029	TEMPLE SOLEL	2500 N HAYDEN RD 15 SCOTTSDALE 85257	2500 N HAYDEN RD UNIT 15	SCOTTSDALE	AZ	85257
131-23-030	GUSTAFSON SUSAN L	2500 N HAYDEN RD 16 SCOTTSDALE 85257	2500 N HAYDEN RD	SCOTTSDALE	AZ	85257
131-23-031	FURUMOTO GARY TR	2500 N HAYDEN RD 17 SCOTTSDALE 85257	1108 CHESTERFIELD CT	RENO	NV	89523
131-23-032	GOLDBERG H VANESSA TR	2500 N HAYDEN RD 18 SCOTTSDALE 85257	2500 N HAYDEN RD #18	SCOTTSDALE	AZ	85257
131-23-033	SFL LIVING TRUST	2500 N HAYDEN RD 19 SCOTTSDALE 85257	2500 NORTH HAYDEN ROAD NO 19	SCOTTSDALE	AZ	85257
131-23-034	RPK MANAGEMENT LLC	2500 N HAYDEN RD 20 SCOTTSDALE 85257	7904 E CHAPARRAL RD #A110-182	SCOTTSDALE	AZ	85250
131-23-035	VIDERMAN ALEX/KOBRINSKY EUGENE	2500 N HAYDEN RD 21 SCOTTSDALE 85257	8100 E CAMELBACK RD STE 72	SCOTTSDALE	AZ	85251
131-23-036	STRUGALA MARIE N	2500 N HAYDEN RD 22 SCOTTSDALE 85257	2500 N HAYDEN RD	SCOTTSDALE	AZ	85257
131-23-037	GARCIA PAULA	2500 N HAYDEN RD 23 SCOTTSDALE 85257	2500 N HAYDEN RD	SCOTTSDALE	AZ	85257
131-23-038	JEPSON JAN E	2500 N HAYDEN RD 24 SCOTTSDALE 85257	2500 N HAYDEN RD UNIT 24	SCOTTSDALE	AZ	85257
131-23-039	LEON EDWARD ALEXANDER/BAYHAM AMANDA	2500 N HAYDEN RD 25 SCOTTSDALE 85257	2500 N HAYDEN RD UNIT 25	SCOTTSDALE	AZ	85257
131-23-040	ROSS KRISTAL	2500 N HAYDEN RD 26 SCOTTSDALE 85257	2500 N HAYDEN RD UNIT 26	SCOTTSDALE	AZ	85257
131-23-041	SANDERSON STEFANI/CARISSA LYNN	2500 N HAYDEN RD 27 SCOTTSDALE 85257	2500 N HAYDEN RD UNIT 27	SCOTTSDALE	AZ	85257
131-23-042	RAND ALEC J/HOWARD	2500 N HAYDEN RD 28 SCOTTSDALE 85257	2500 N HAYDEN RD APT 28	SCOTTSDALE	AZ	85257-2365
131-23-043	BROWN ISHEA M	2500 N HAYDEN RD 29 SCOTTSDALE 85257	2500 N HAYDEN RD NO 29	SCOTTSDALE	AZ	85260
131-23-044	CALDWELL MICHELLE	2500 N HAYDEN RD 30 SCOTTSDALE 85257	2500 N HAYDEN ROAD APT 30	SCOTTSDALE	AZ	85257
131-23-045	MAHONEY ERIN ANGELA/BRYAN	2500 N HAYDEN RD 31 SCOTTSDALE 85257	2500 N HAYDEN RD UNIT 31	SCOTTSDALE	AZ	85257
131-23-046	SMITH COLLEEN A	2500 N HAYDEN RD 32 SCOTTSDALE 85257	2500 N HAYDEN RD UNIT 32	SCOTTSDALE	AZ	85257
131-23-047	ECONOMOPOULOS TASHIA I	2500 N HAYDEN RD 33 SCOTTSDALE 85257	2500 N HAYDEN RD NO 33	SCOTTSDALE	AZ	85257
131-23-048	CENTERED LIVING LLC	7910 E WILSHIRE DR 101 SCOTTSDALE 85257	8321 N CANTA REDONDO	PARADISE VALLEY	AZ	85253
131-23-058	FIORI RACHEL JEAN	7936 E WILSHIRE DR 101 SCOTTSDALE 85257	7936 E WILSHIRE DR UNIT 101	SCOTTSDALE	AZ	85257
131-23-059	GREENBECK HERBERT A/LORI H TR	7936 E WILSHIRE DR 102 SCOTTSDALE 85257	8307 E DAVENPORT DR	SCOTTSDALE	AZ	85260
131-23-060	BREWSTER TAYLOR	7936 E WILSHIRE DR 103 SCOTTSDALE 85257	7936 E WILSHIRE DR UNIT 103	SCOTTSDALE	AZ	85257
131-23-061	HAMMEL AMBRIA	7936 E WILSHIRE DR 104 SCOTTSDALE 85257	7936 E WILSHIRE DR UNIT 104	SCOTTSDALE	AZ	85257
131-23-062	BELL-CHEATHEAM DARLENE	7936 E WILSHIRE DR 105 SCOTTSDALE 85257	7936 E WILSHIRE DR 105	SCOTTSDALE	AZ	85251
131-23-063	VINOD K & USHA K MALHOTRA LIVING TRUST	7936 E WILSHIRE DR 106 SCOTTSDALE 85257	250 N SUNNYSIDE DR	CEDAR CITY	UT	84720
131-23-064	ARTH TERRENCE	7936 E WILSHIRE DR 107 SCOTTSDALE 85257	11011 N 92ND ST UNIT 1043	SCOTTSDALE	AZ	85260
131-23-065	WONG CHRISTINE	7936 E WILSHIRE DR 201 SCOTTSDALE 85257	514 NANTUCKET CT	ENCINITAS	CA	92024-1538
131-23-066	OSGOOD SHANNON M	7936 E WILSHIRE DR 202 SCOTTSDALE 85257	7936 E WILSHIRE DR UNIT 202	SCOTTSDALE	AZ	85257
131-23-067	FEILER DAVID	7936 E WILSHIRE DR 203 SCOTTSDALE 85257	16426 N 59TH ST	SCOTTSDALE	AZ	85254
131-23-068	GRIJALVA MIGUEL ANGEL TAPIA/INFANTE MIREYA GU	7936 E WILSHIRE DR 204 SCOTTSDALE 85257	7936 W WILSHIRE DR UNIT 204	SCOTTSDALE	AZ	85257
131-23-069	ALBERTINI BIANCA	7936 E WILSHIRE DR 205 SCOTTSDALE 85257	7840 FLINTSHIRE CT	PASADENA	MD	21122
131-23-070	RA AND RE LLC	7936 E WILSHIRE DR 206 SCOTTSDALE 85257	6325 E ASTER DR	SCOTTSDALE	AZ	85254
131-23-071	RAMIREZ ALBA L	7936 E WILSHIRE DR 207 SCOTTSDALE 85257	7936 E WILSHIRE DR NO 207	SCOTTSDALE	AZ	85251
131-23-091	GODLSTEIN INVESTMENT COMPANY	7979 E WILSHIRE DR SCOTTSDALE 85257	321 N LARCHMONT BLVD STE 525	LOS ANGELES	CA	90004-6401
131-24-002G	N/A SAN TROPEZ-82 LP	2700 N HAYDEN RD SCOTTSDALE 85257	920 GARDEN ST STE A	SANTA BARBARA	CA	93101
131-24-002S	INDIAN RIVER PLAZA L L C		6621 N SCOTTSDALE RD	SCOTTSDALE	AZ	85250





CACTUS  
2901 E GREENWAY RD  
PHOENIX, AZ 85032-9998  
(800)275-8777

07/19/2021

03:16 PM

Product	Qty	Unit Price	Price
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First-Class Mail® Letter	1		\$0.55
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Scottsdale, AZ 85257  
Weight: 0 lb 0.30 oz  
Estimated Delivery Date  
Thu 07/22/2021

First-Class Mail® Letter	1		\$0.55
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Peoria, AZ 85381  
Weight: 0 lb 0.40 oz  
Estimated Delivery Date  
Thu 07/22/2021

First-Class Mail® Letter	1		\$0.55
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Phoenix, AZ 85022  
Weight: 0 lb 0.40 oz  
Estimated Delivery Date  
Thu 07/22/2021

First-Class Mail® Letter	1		\$0.55
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Scottsdale, AZ 85257  
Weight: 0 lb 0.40 oz  
Estimated Delivery Date  
Thu 07/22/2021

First-Class Mail® Letter	1		\$0.55
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Scottsdale, AZ 85257  
Weight: 0 lb 0.40 oz  
Estimated Delivery Date  
Thu 07/22/2021

First-Class Mail® Letter	1		\$0.55
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Scottsdale, AZ 85257  
Weight: 0 lb 0.30 oz  
Estimated Delivery Date  
Thu 07/22/2021

First-Class Mail® Letter	1		\$0.55
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Scottsdale, AZ 85257  
Weight: 0 lb 0.40 oz  
Estimated Delivery Date  
Thu 07/22/2021

First-Class Mail® Letter	1		\$0.55
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Scottsdale, AZ 85254  
Weight: 0 lb 0.40 oz  
Estimated Delivery Date  
Thu 07/22/2021

First-Class Mail® Letter	1		\$0.55
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Glendale, AZ 85318  
Weight: 0 lb 0.40 oz  
Estimated Delivery Date  
Thu 07/22/2021

First-Class Mail® Letter	1		\$0.55
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Scottsdale, AZ 85257  
Weight: 0 lb 0.40 oz  
Estimated Delivery Date  
Thu 07/22/2021

First-Class Mail® Letter	1		\$0.55
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Scottsdale, AZ 85257  
Weight: 0 lb 0.40 oz  
Estimated Delivery Date  
Thu 07/22/2021

First-Class Mail® Letter	1		\$0.55
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Scottsdale, AZ 85251  
Weight: 0 lb 0.40 oz  
Estimated Delivery Date  
Thu 07/22/2021

First-Class Mail® Letter	1		\$0.55
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Scottsdale, AZ 85251  
Weight: 0 lb 0.40 oz  
Estimated Delivery Date  
Thu 07/22/2021

First-Class Mail® Letter	1		\$0.55
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Scottsdale, AZ 85258  
Weight: 0 lb 0.30 oz  
Estimated Delivery Date  
Thu 07/22/2021

First-Class Mail® Letter	1		\$0.55
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Chicago, IL 60607  
Weight: 0 lb 0.30 oz  
Estimated Delivery Date  
Fri 07/23/2021

First-Class Mail® Letter	1		\$0.55
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Scottsdale, AZ 85251  
Weight: 0 lb 0.30 oz  
Estimated Delivery Date  
Thu 07/22/2021

First-Class Mail® Letter	1		\$0.55
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Schaumburg, IL 60193  
Weight: 0 lb 0.30 oz  
Estimated Delivery Date  
Fri 07/23/2021

First-Class Mail® Letter	1		\$0.55
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Bismarck, ND 58504  
Weight: 0 lb 0.30 oz  
Estimated Delivery Date  
Fri 07/23/2021

First-Class Mail® Letter	1		\$0.55
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Scottsdale, AZ 85257  
Weight: 0 lb 0.30 oz  
Estimated Delivery Date  
Thu 07/22/2021

First-Class Mail® Letter	1		\$0.55
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Scottsdale, AZ 85255  
Weight: 0 lb 0.30 oz  
Estimated Delivery Date  
Thu 07/22/2021

First-Class Mail® 1 \$0.55  
Letter  
Selah, WA 98942  
Weight: 0 lb 0.30 oz  
Estimated Delivery Date  
Fri 07/23/2021

First-Class Mail® 1 \$0.55  
Letter  
Cedar Falls, IA 50613  
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Estimated Delivery Date  
Fri 07/23/2021

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Letter  
Scottsdale, AZ 85257  
Weight: 0 lb 0.30 oz  
Estimated Delivery Date  
Thu 07/22/2021

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Letter  
Mapleton, ND 58059  
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Estimated Delivery Date  
Fri 07/23/2021

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Estimated Delivery Date  
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Estimated Delivery Date  
Thu 07/22/2021

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Thu 07/22/2021

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Estimated Delivery Date  
Fri 07/23/2021

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Estimated Delivery Date  
Thu 07/22/2021

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Estimated Delivery Date  
Thu 07/22/2021

First-Class Mail® 1 \$0.55  
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Thu 07/22/2021

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Estimated Delivery Date  
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Estimated Delivery Date  
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Thu 07/22/2021

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Estimated Delivery Date  
Thu 07/22/2021

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Letter  
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Estimated Delivery Date

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First-Class Mail® 1 Letter Scottsdale, AZ 85257 Weight: 0 lb 0.30 oz Estimated Delivery Date Thu 07/22/2021	\$0.55	First-Class Mail® 1 Letter Phoenix, AZ 85082 Weight: 0 lb 0.30 oz Estimated Delivery Date Thu 07/22/2021	\$0.55
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First-Class Mail® 1 Letter Phoenix, AZ 85082 Weight: 0 lb 0.30 oz Estimated Delivery Date Thu 07/22/2021	\$0.55
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First-Class Mail® 1 Letter Scottsdale, AZ 85257 Weight: 0 lb 0.30 oz Estimated Delivery Date Thu 07/22/2021	\$0.55

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First-Class Mail® 1 Letter Phoenix, AZ 85018 Weight: 0 lb 0.30 oz Estimated Delivery Date Thu 07/22/2021	\$0.55	First-Class Mail® 1 Letter Scottsdale, AZ 85257 Weight: 0 lb 0.30 oz Estimated Delivery Date Thu 07/22/2021	\$0.55
First-Class Mail® 1 Letter Scottsdale, AZ 85257 Weight: 0 lb 0.30 oz Estimated Delivery Date Thu 07/22/2021	\$0.55	First-Class Mail® 1 Letter Scottsdale, AZ 85257 Weight: 0 lb 0.30 oz Estimated Delivery Date Thu 07/22/2021	\$0.55
First-Class Mail® 1 Letter Phoenix, AZ 85024 Weight: 0 lb 0.30 oz Estimated Delivery Date Thu 07/22/2021	\$0.55	First-Class Mail® 1 Letter Scottsdale, AZ 85257 Weight: 0 lb 0.30 oz Estimated Delivery Date Thu 07/22/2021	\$0.55
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First-Class Mail® 1 Letter Scottsdale, AZ 85257 Weight: 0 lb 0.30 oz Estimated Delivery Date Thu 07/22/2021	\$0.55	First-Class Mail® 1 Letter Salt Lake City, UT 84121 Weight: 0 lb 0.30 oz Estimated Delivery Date Fri 07/23/2021	\$0.55



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Estimated Delivery Date  
Thu 07/22/2021

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Estimated Delivery Date  
Thu 07/22/2021

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Estimated Delivery Date  
Fri 07/23/2021

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Estimated Delivery Date  
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Thu 07/22/2021

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Estimated Delivery Date  
Thu 07/22/2021

First-Class Mail® 1 \$0.55  
Letter  
Scottsdale, AZ 85260  
Weight: 0 lb 0.30 oz  
Estimated Delivery Date  
Thu 07/22/2021

Grand Total: \$84.15

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Account #: XXXXXXXXXX1148  
Approval #: 886273  
Transaction #: 569  
AID: A000000025010801 Chip  
AL: AMERICAN EXPRESS  
PIN: Not Required

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UFN: 036374-0082  
Receipt #: 840-58520017-1-5691584-2  
Clerk: 8

**From:** Megan Whitby  
**Sent:** Wednesday, August 18, 2021 9:19 AM  
**To:** hdukesesq@gmail.com  
**Cc:** Harmony Duport  
**Subject:** Re: Licensing For Sober Living Home

Applicant's Exhibit 18

Good morning Ms. Dukes,

A sober living home license is not a healthcare institution license. Below is the statutory definition of a sober living home. As you can see from subsection d, a sober living home cannot administer medication or provide any medical or clinical services onsite, other than conducting drug tests.

[A.R.S. §36-2061\(3\)](#) defines a sober living home as:

“...any premises, place or building that provides alcohol-free or drug-free housing and that:

- a) Promotes independent living and life skills development.
- b) May provide activities that are directed primarily toward recovery from substance use disorders.
- c) Provides a supervised setting to a group of unrelated individuals who are recovering from substance use disorders.
- d) Does not provide any medical or clinical services or medication administration on-site, except for verification of abstinence.”

I have copied Harmony Duport on this email, as she is the bureau chief for Residential Facilities Licensing, and can provide more information regarding what services homes licensed by her bureau can provide.

Thank you,

**Megan Whitby**  
Bureau Chief, Special Licensing  
Arizona Department of Health Services  
150 North 18th Avenue, Suite 410, Phoenix, AZ 85007  
Direct 602-364-3052  
Bureau 602-364-2079  
Email [megan.whitby@azdhs.gov](mailto:megan.whitby@azdhs.gov)  
*Health and Wellness for all Arizonans*

On Tue, Aug 17, 2021 at 4:39 PM Amber Norman <[amber.norman@azdhs.gov](mailto:amber.norman@azdhs.gov)> wrote:

Other than Mayne the last question about providing services I'm not sure of the answers. We have been playing phone tag.

----- Forwarded message -----

From: **Heather Dukes** <[hdukesesq@gmail.com](mailto:hdukesesq@gmail.com)>  
Date: Tue, Aug 17, 2021, 4:36 PM

Subject: Licensing For Sober Living Home

To: [amber.norman@azdhs.gov](mailto:amber.norman@azdhs.gov) <[amber.norman@azdhs.gov](mailto:amber.norman@azdhs.gov)>

Amber:

We have traded a few phone calls and have not been able to connect, so I figured an email would most likely be best. I represent existing sober living home operators in the state of Arizona, as well as a few clients who are looking to establish new sober living home uses. I need to confirm a few items on behalf of my clients so that they have some direction moving forward.

1. What type of license is issued to a sober living home by ADHS? Is it considered a health care institution license?
2. Can you provide examples of some of the uses/characteristics of residential facilities that would require a health care institution license as opposed to a sober living home license? My clients are trying to understand the distinction between a sober living home license and some of the health care institution licenses?
3. With a sober living home license, would the sober living home be allowed to provide supervisory care services or other care services?

Is there any chance that you would be able to respond either this afternoon (8/17) or first thing tomorrow morning (8/18)? I have a deadline by which to provide this information to my clients. Thank you!

Sincerely,

Heather Dukes

602.320.8866

Sent from [Mail](#) for Windows

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October 20, 2021

Scottsdale Recovery II, LLC  
10446 N. 74th Street, Suite 150  
Scottsdale, AZ 85258

Attn: Michelle Siwek

**RE: TRAFFIC AND PARKING STATEMENT FOR THE PROPOSED SOBER LIVING USE OF THE TRULLIES PROPERTY  
LOCATED AT 7910 AND 7920 E WILLSHIRE DRIVE, SCOTTSDALE, ARIZONA 85257**

Dear Ms. Siwek:

Thank you for retaining CivTech to provide a professional opinion (or, "Statement") of the vehicular trip generation potential and parking demand likely to be generated by the current and proposed to be continued "Sober Living" use of an existing two-building (10-unit) multi-family residential condominium complex, commonly referred to as the "Trullies Property" located at 7910 and 7920 East Wilshire Drive in Scottsdale, Arizona. It is CivTech's understanding this statement will be submitted to the City of Scottsdale as a supporting document to both an appeal of a Zoning Interpretation finding sober living dwelling to be a "Care Home", a use which is not permitted under the subject property's Medium Density Residential (R-3) zoning designation, and to a request for a disability accommodation under the Fair Housing Act (FHA). The purpose of the appeal and disability accommodation application is to allow the proposed Sober Living Use to operate at the Property within the R-3 zoning district.

A vicinity map with the site under consideration, commonly referred to as the "Trullies Property" identified is included herewith as **Attachment A**. The ALTA survey drawing provided to CivTech for use in preparing this statement is included herewith as **Attachment B**.

The statement begins with a trip generation and parking requirement-focused description of the prior use of the Trullies Property as a mix of multi-family residential and lodging (i.e., "Vacation Rental") units and proceeds with a more detailed description, in similar terms, of the current (and proposed to be continued) use of the Trullies Property as a sober living community. The land use alternatives descriptions are followed by a trip generation comparison summary, and the statement ends with a bullet point list of salient conclusions.

**PRIOR USES OF THE PROPERTY**

*Trip Generation*

The prior/historical uses of the Trullies Property include owner-occupied residential units, long term rental residential units and as short-term (vacation) rentals". Per City of Scottsdale's definition, a "Vacation Rental" is a short-term rental that is also a transient public lodging establishment. Daily and peak hour trip generation has been estimated for the historical land use scenarios utilizing the Institute of Transportation Engineers (ITE) *Trip Generation Manual, 10<sup>th</sup> Edition*. The Trip Generation Manual contains data collected by various transportation professionals for a wide range of land uses,

along with trip rates and equations for each recognized land use that have been established based on a determined correlation between an independent variable that describes the quantity of the use and the number of trips that land use will generate over a specified period of time, generally a single peak hour or a total 24-hour day. Results of the trip generation estimate for using the Trullies Property as 10 two-bedroom multi-family residential units, based on average rates indicated by ITE For Land Use Code (LUC) 220, Multi-Family Dwelling Unit, Low-Rise indicate a total daily trip generation potential of approximately 63 trips, an AM peak hour trip generation potential of 4 trips (1 in/3 out) and a PM peak hour trip generation potential of 5 trips (4 in/1 out). Results of the trip generation estimate for using the Trullies Property as 10 two-bedroom vacation rental units, based on average rates indicated by ITE for LUC 265, Time-Share Unit, determined to be the most closely comparable ITE Trip Generation Manual recognized land use, indicate a total daily trip generation potential of approximately 97 trips (50% in/50% out), an AM peak hour trip generation potential of 5 trips (3 in/2 out) and a PM peak hour trip generation potential of 7 trips (3 in/4 out).

Relevant pages from the *Trip Generation Manual* are included herewith as **Attachment C**.

#### Parking Requirements

Parking requirements for the Trullies Property to be used as it has historically been used are specified in Article IX, Section 9.103, Table 9.103 of the City of Scottsdale Code of Ordinances. CivTech has interpreted the information in Table 9.103 as indicating that a two-bedroom multi-family dwelling unit, regardless of whether it is owner-occupied, a long-term rental or a shorter-term rental and transient public lodging establishment), is 1.7 spaces per unit and that in turn, a 10-unit complex of two-bedroom owner- or renter-occupied multi-family dwelling units is required to provide a total of 17 parking spaces. A total of 20 parking spaces are provided on the Trullies Property, more than enough to meet code requirements for vehicular parking spaces under either of the above-described historical land use scenarios, subject to concurrent compliance with applicable design, mobility-impaired and other related underlying standards not specifically considered for the purposes of this statement. Referenced excerpts from the City's Code of Ordinances are provided in **Attachment D**.

### **CURRENT/PROPOSED USE OF THE PROPERTY**

#### Trip Generation

Scottsdale Recovery Center is requesting the City of Scottsdale's approval, by way of a favorable zoning interpretation and/or a disability accommodation under the FHA, to allow the Trullies Property can continue to be used as a sober living community. The trip generation potentials and anticipated parking requirements have been determined for this statement based on CivTech's understanding of the proposed use of the Trullies Property:

- Each of the 10 condominium units can accommodate 2-4 sober adults recovering from substance use, all of whom have completed several stages of recovery from substance use disorders prior to living on-site. For the purposes of this analysis, we have assumed that each unit can be occupied by 4 residents.
- The typical duration of a sober living resident is 30 to 90 days.

- The individuals in each unit will live as a family. They will have access to a kitchen to cook their meals and a washer and dryer to perform their own laundry. Any and all items necessary for the residents to perform these tasks will either be delivered to the residents while they are at Scottsdale Recovery Center or purchased by on-site staff (generally on the way to or from Scottsdale Recovery Center after dropping off, or before picking up residents, as further described below) and brought back to the Trullies Property as part of the on-site staff's daily tasks.
- No care services or supervisory care services will be provided to the residents on-site.
- **The residents are not permitted to have their personal vehicles at the Trullies Property. There will be a minimum of three (3) Scottsdale Recovery Center vans, each having a passenger capacity of 12-15, to transport residents to and from Scottsdale Recovery Center.** For the purposes of this analysis, it has been assumed that three (3) of these vans have adequate capacity, collectively to transport all residents back and forth between the Trullies Property and Scottsdale Recovery Center.
- Except when transporting residents or, as otherwise noted above or below, the Scottsdale Recovery Center vans assigned to the Trullies Property will generally remain parked on-site, in an area that has historically been designated for vehicle parking.
- Each day, all of the sober living residents are transported from the Trullies Property to Scottsdale Recovery Center early in the morning for classes, therapy, employment assistance, and other activities and they are transported back to the Trullies Property later in the afternoon. Scottsdale Recovery Center is located at 10446 N. 74<sup>th</sup> Street, Suite 150, Scottsdale, AZ 85258, approximately 8.3 miles (driving distance) from the Trullies Property. In other words, the residents of the Trullies dwelling units spend the majority of the daylight hours off-site.
- Upon returning to the Trullies Property in the afternoon, residents prepare dinner and to go to sleep.
- There are strict curfew hours by which residents must abide, effectively precluding any event other than those described elsewhere in these understanding points that would generate a vehicular trip to or from the site, between mid-evening and early morning.
- The Sober Living use of the Trullies Property will be staffed by Scottsdale Recovery Center employees, 24 hours a day, seven (7) days a week.
- There will always be at least two (2) staff members on-site. For the purposes of this analysis, it has been assumed that during the day there will generally be 3-4 staff members on-site or transporting residents back and forth between the Trullies Property and Scottsdale Recovery Center or for the occasional work-related off-site purpose, and 2-3 staff members on-site in the late afternoon, evening, and overnight for a maximum total of nine (9) staff members split between three (3) slightly overlapping staff shifts per 24-hour day.
- Staff members generally self-drive their personal vehicles to and from work each day and their vehicles generally remain on-site during their workday.
- Generally, all vehicular trips made to or from the site by staff members are made on their return to the Trullies Property in an empty resident transport van following a drop-off at the Scottsdale Recovery Center or on the way to the Scottsdale Recovery center in an empty resident transport van to pick residents up and bring them back to the Trullies Property.

- Any and all visits to the Trullies Property on behalf of a prospective future resident are scheduled in advance and generally no more than two (2) such visits are scheduled on any given day.
- The access control gates will remain closed 24 hours a day except as necessary for on-site staff members to permit authorized persons to enter and exit the Trullies Property.
- Property maintenance related visits to the site by outside vendors/contractors are generally scheduled in advance and there are generally no more than three (3) of these visits occurring on any given day.
- Residents are not permitted to receive personal deliveries at the site except those brought to the site by on-site staff, such as food for meal preparation and other items necessary to maintain a household. All deliveries to residents by other persons are made at the Scottsdale Recovery Center. Any deliveries of mail or other items to the site are received by on-site staff and are generally limited to no more than three (3) on any given day.

The above-described understanding has been gained through a combination of communication with Scottsdale Recovery Center representatives, review of zoning interpretation related written communication between Scottsdale Recovery Center representatives and the City of Scottsdale, on-line research and personal observations of vehicular trip generation and on-site parking demand made from points external to the Trullies Property in October, 2021.

Based on the above-described understanding, CivTech has determined that typical maximum daily trip generation under a full occupancy sober living community scenario is comprised of the following components: **18** trips (9 in/9 out) made by staff in their own personal vehicles, **12** trips (6 in/6 out) made by staff and residents in Scottsdale Recovery Center vans, **4** trips (2 in/2 out) made by pre-scheduled prospective resident-related visitors, **6** trips (3 in/3 out) made by property maintenance-related visitors, **4** trips (2 in/2 out) made by mail/delivery related visitors and **4** other owner/operator/staff vehicle trips (2 in/2 out), for a total of **58** daily trips (29 in/29 out) with 9 of these trips occurring during an AM peak hour of adjacent street traffic (4 in/5 out) and 6 of these trips occurring during a PM peak hour of adjacent street traffic (3 in/3 out).

#### Parking Requirements

Based on the above-described understanding, the maximum number of parking spaces that will be required to accommodate the demand generated by the Trullies Property operated as a sober living community under the proposed conditions that have been described herein is 15 spaces, 3 of which should be sized and positioned to accommodate the 12-15 passenger capacity resident transport vans, clear of the internal drive aisles.

**[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]**

## TRIP GENERATION COMPARISON

A comparison of daily and peak hour trip generation potentials for each of the three land use alternatives under consideration is presented in **Table 1**.

**TABLE 1 - TRIP GENERATION COMPARISON**

Land Use Scenario	ITE Land Use Code	Quantity	Trips Generated						
			Daily Total	AM Peak Hour			PM Peak Hour		
				In	Out	Total	In	Out	Total
Short-Term (Vacation) Lodging Units	265	10 DU	97	3	2	5	3	4	7
Traditional Living (Personal Auto Permitted) Residential Units	220	10 DU	63	1	3	4	4	1	5
Sober Living (Personal Auto Prohibited) Residential Units	NA	10 DU	58	4	5	9	3	3	6

Abbreviations:

*ITE = Institute of Transportation Engineers*

*DU = Dwelling Units (all 2-Bedroom)*

## CONCLUSIONS

From the above, the following can be concluded:

- The currently proposed use of the existing 10- unit multi-family residential complex located at 7910 and 7920 East Wilshire Drive as a ten-household, adults-only sober living community with an average per unit occupancy of three (3) persons, none of whom may have either a personal vehicle or any personal visitors on the Trullies Property, is likely to generate a few more vehicular trips during typical weekday AM peak hours of adjacent street traffic, approximately the same number of vehicular trips during weekday PM peak hours of adjacent street traffic, and between 5 and 39 fewer trips over the course of an entire 24-hour day than the same sized, located and amenitized multi-family residential complex used as either owner-occupied or long term rental units or short-term rental or transient lodging units.
- The maximum number of parking spaces that will be required to accommodate the demand generated by the Trullies Property operated as a sober living community under the proposed conditions that have been described herein is 15 spaces, 3 of which should be sized and positioned to accommodate the 12-15 passenger capacity resident transport vans, clear of the internal drive aisles. The existing on-site parking supply of 20 standard parking spaces will adequately accommodate peak parking demands with a buffer of spaces left over.



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Thank you for allowing CivTech to continue to assist you on this project. Please call me if you have any questions about the assumptions, methodology or conclusions represented in this letter or any of its attachments.

Sincerely,

**CivTech Inc.**



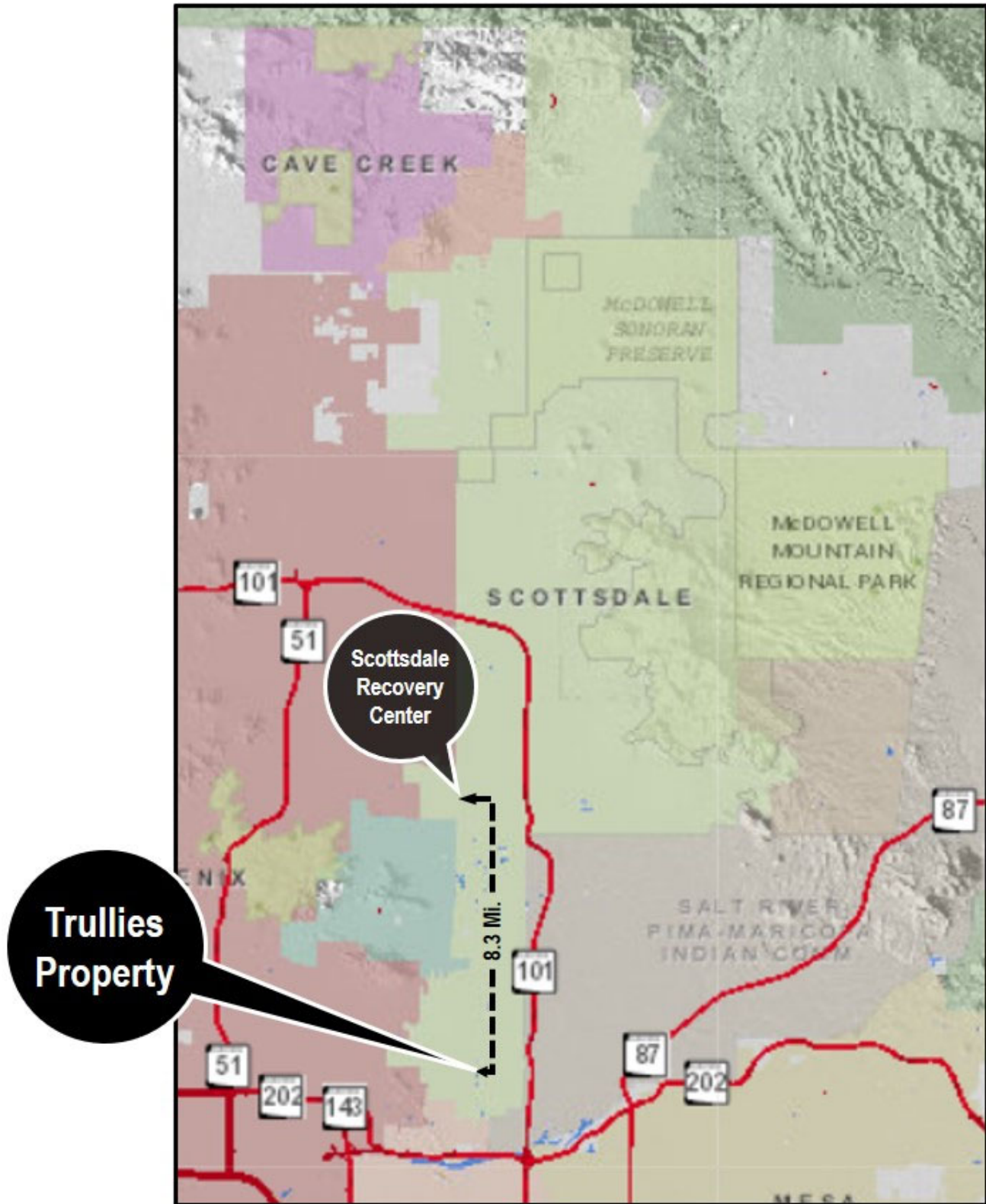
Tove C. White, P.E., PTOE  
Project Manager/ Senior Traffic Engineer

Attachments

- A - Vicinity Map
- B - ALTA Survey Drawing
- C - ITE Trip Generation Manual Excerpts
- D - City of Scottsdale Code of Ordinances (Parking Requirements-related) Except

## **ATTACHMENT A**

## **VICINITY MAP**



## **ATTACHMENT B**

### **ALTA SURVEY DRAWING**



SURVEY NOTES

1. This survey and the description used are based on a Commitment for Title Insurance issued by Thomas Title and Escrow Agency, issuing agent for First American Title Insurance Company, File Number 8388TAZ, dated April 8, 2021.
2. BASIS OF BEARING: The monument line of Hayden Road, also being the East line of the Northeast quarter of Section 35, using a bearing of South 00 degrees 15 minutes 32 seconds East, per the Plat of MACALLISTER SCOTTSDALE, recorded in Book 1242, Page 41, M.C.R.
3. The bearings and distances depicted indicate actual field or computed measurements performed during the course of this survey. This information may vary from documents of record used for this survey.
4. The building square footage shown is based on exterior measurements of the building footprint at ground level and is not intended to reflect the interior or leaseable area of any building. The building footprint and dimensions depict the general configuration of the building(s).
5. The utility information shown is limited to visible above ground evidence. This survey makes no attempt to depict any underground utilities and there is no guarantee or warranty to the exact location or presence of any underground utilities that may actually exist adjacent to or within the boundaries of the subject property. Prior to any excavation please call an underground utility locator or "BLUE STAKE" at (602)659-7500 for the precise location and extent of all utilities in the area.
6. This Survey has been prepared exclusively for the parties stated in the certification for use in conjunction with the escrow referenced in Survey Note No. 1. Reproduction or use of this survey by any other party for any other transaction or purpose is unauthorized without written authorization from Alliance Land Surveying, LLC. The use of the word "certify" or "certification" by a person or firm that is registered or certified by the board is an expression of professional opinion regarding facts or findings that are the subject of the certification and does not constitute an express or implied warranty or guarantee (A.R.S. 32-151).

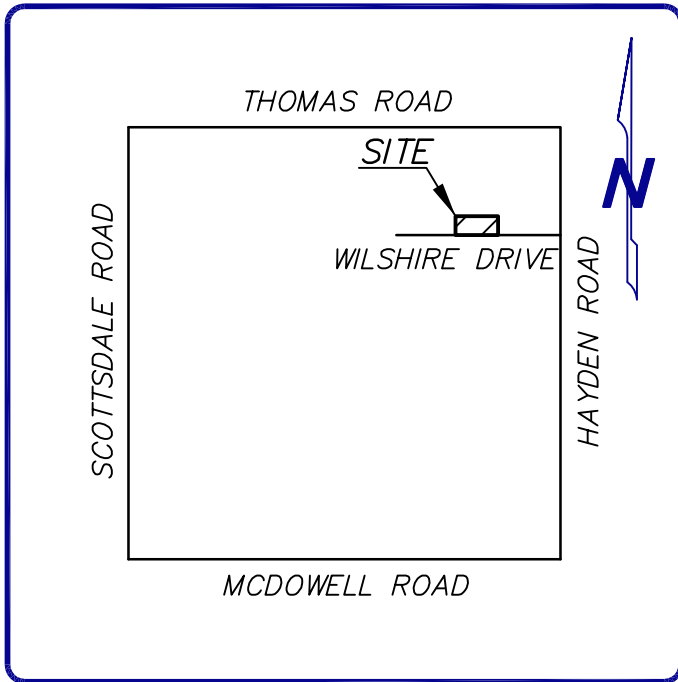
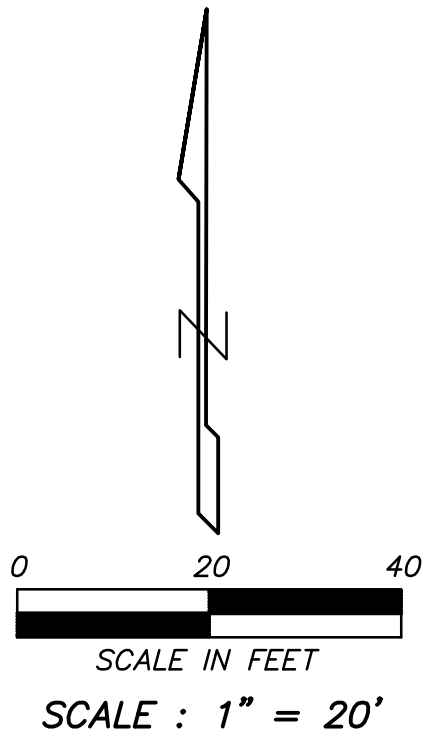
SCHEDULE "B" ITEMS

- 12 Easements, restrictions, reservations, conditions and set-back lines as set forth on the plat recorded as Book 266 of Maps, Page 50, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c). (PLOTTABLE MATTERS SHOWN HEREON)
- 13 Covenants, conditions, restrictions, liabilities and obligations in the document recorded as 84-198657, Official Records and thereafter By Laws recorded as 84-209116, of Official Records, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, to the extent such covenants, conditions or restrictions violate Title 42, Section 3604(c), of the United States Codes. (AFFECTS SUBJECT PROPERTY - NOT PLOTTABLE - BLANKET EASEMENT OVER THE COMMON AREA FOR DRIVEWAY PURPOSES, DRAINAGE & ENCROACHMENT PURPOSES, & INGRESS & EGRESS.)
- 14 An easement for electrical transmission line and incidental purposes recorded as Docket 2396, Page 97. (EASEMENT FOR ELECTRIC LINES IS DEFINED AS IMMEDIATELY SOUTH OF THE NORTH PROPERTY LINE - NO DEFINED WIDTH OR LOCATION)
- 15 An easement for right of way and incidental purposes recorded as 84-023255, of Official Records. (AFFECTS THE R/W OF WILSHIRE DRIVE)
- 16 An easement for underground public utilities and incidental purposes recorded as 84-023257, of Official Records. (PLOTTABLE MATTERS SHOWN HEREON)
- 17 An easement for underground public utilities and incidental purposes recorded as 84-023258, of Official Records. (PLOTTABLE MATTERS SHOWN HEREON)

ALTA / N.S.P.S. LAND TITLE SURVEY

A PORTION OF THE NORTHEAST QUARTER OF SECTION 35, TOWNSHIP 2 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA

MONUMENT TABLE		
①	NE. COR. SEC. 35 - FND ALUMINUM CAP FLUSH - ALSO FND BRASS CAP IN HANDHOLE, WEST 4.94'	
②	E. 1/4 COR. SEC. 35 - FND BRASS CAP IN HANDHOLE	
③	CEN. OF SEC. 35 - CALC'D POSITION PER (R2)	
④	N. 1/4 COR. SEC. 35 - CALC'D POSITION PER (R2)	
⑤	FND PK NAIL & WASHER L.S. 35113 - ACCEPTED AS THE NE. COR. S. 1/2, NE. 1/4, SEC. 35	
⑥	FND 1/2" REBAR NO I.D. - SET CAP L.S. 31020	
⑦	SET 1/2" REBAR W/CAP L.S. 31020	



VICINITY MAP  
NOT TO SCALE

PARCEL DESCRIPTION

UNITS 1 THROUGH 10, OF CORTESE CONDOMINIUM, ACCORDING TO DECLARATION OF HORIZONTAL PROPERTY REGIME RECORDED IN 84-198657, OF OFFICIAL RECORDS PER MAP RECORDED IN BOOK 266 OF MAPS, PAGE 50, IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA. TOGETHER WITH EACH UNITS UNDIVIDED INTEREST IN AND TO THE COMMON AREAS, AS SET FORTH IN SAID DECLARATION OF HORIZONTAL PROPERTY REGIME AND AS SHOWN ON SAID PLAT.

SITE INFORMATION

ADDRESS: 7910 & 7920 E. WILSHIRE DRIVE, SCOTTSDALE, ARIZONA

A.P.N.: 131-23-048, 131-23-049, 131-23-050, 131-23-051, 131-23-052, 131-23-053, 131-23-054, 131-23-055, 131-23-056, 131-23-057

SUBDIVISION LAND AREA:  
0.687 ACRES - 29,907 SQ. FT.

STRIPED PARKING SPACE TABULATION:  
Regular: 20  
Disabled: 0  
Total: 20

REFERENCE DOCUMENTS

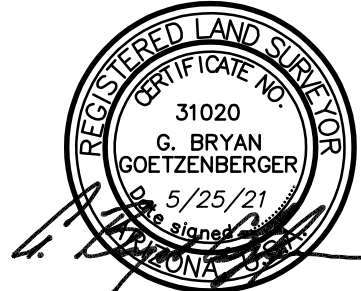
- (R) PLAT PER BOOK 266, PAGE 50, M.C.R.  
(R1) PLAT PER BOOK 408, PAGE 38, M.C.R.  
(R2) PLAT PER BOOK 1242, PAGE 41, M.C.R.  
(R3) R.O.S. PER BOOK 1539, PAGE 16, M.C.R.

CERTIFICATION

TO:  
THE TRULLIES, LLC, an Arizona limited liability company; Michelle Siwek; Thomas Title and Escrow Agency, and First American Title Insurance Company.

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1, 2, 4, 7(a), 7(b)(1), 7(c), 8, 9, 13, and 14 of Table A thereof. The fieldwork was completed on May 11, 2021.

May 25, 2021  
G. Bryan Goetzenberger  
R.L.S. 31020



THE TRULLIES  
7910 & 7920 E. WILSHIRE DRIVE, SCOTTSDALE, ARIZONA



SHEET: 1 of 1 DATE: 5-25-21 JOB NO: 210501

REV.  
REV.  
REV.



## **ATTACHMENT D**

### **CITY OF SCOTTSDALE CODE OF ORDINANCES PARKING REQUIREMENTS EXCERPT**

# Land Use: 220

## Multifamily Housing (Low-Rise)

### Description

Low-rise multifamily housing includes apartments, townhouses, and condominiums located within the same building with at least three other dwelling units and that have one or two levels (floors). Multifamily housing (mid-rise) (Land Use 221), multifamily housing (high-rise) (Land Use 222), and off-campus student apartment (Land Use 225) are related land uses.

### Additional Data

In prior editions of *Trip Generation Manual*, the low-rise multifamily housing sites were further divided into rental and condominium categories. An investigation of vehicle trip data found no clear differences in trip making patterns between the rental and condominium sites within the ITE database. As more data are compiled for future editions, this land use classification can be reinvestigated.

For the three sites for which both the number of residents and the number of occupied dwelling units were available, there were an average of 2.72 residents per occupied dwelling unit.

For the two sites for which the numbers of both total dwelling units and occupied dwelling units were available, an average of 96.2 percent of the total dwelling units were occupied.

This land use included data from a wide variety of units with different sizes, price ranges, locations, and ages. Consequently, there was a wide variation in trips generated within this category. Other factors, such as geographic location and type of adjacent and nearby development, may also have had an effect on the site trip generation.

Time-of-day distribution data for this land use are presented in Appendix A. For the 10 general urban/suburban sites with data, the overall highest vehicle volumes during the AM and PM on a weekday were counted between 7:15 and 8:15 a.m. and 4:45 and 5:45 p.m., respectively. For the one site with Saturday data, the overall highest vehicle volume was counted between 9:45 and 10:45 a.m. For the one site with Sunday data, the overall highest vehicle volume was counted between 11:45 a.m. and 12:45 p.m.

For the one dense multi-use urban site with 24-hour count data, the overall highest vehicle volumes during the AM and PM on a weekday were counted between 7:00 and 8:00 a.m. and 6:15 and 7:15 p.m., respectively.

For the three sites for which data were provided for both occupied dwelling units and residents, there was an average of 2.72 residents per occupied dwelling unit.

The average numbers of person trips per vehicle trip at the five general urban/suburban sites at which both person trip and vehicle trip data were collected were as follows:

- 1.13 during Weekday, Peak Hour of Adjacent Street Traffic, one hour between 7 and 9 a.m.
- 1.21 during Weekday, Peak Hour of Adjacent Street Traffic, one hour between 4 and 6 p.m.

The sites were surveyed in the 1980s, the 1990s, the 2000s, and the 2010s in British Columbia (CAN), California, District of Columbia, Florida, Georgia, Illinois, Indiana, Maine, Maryland, Minnesota, New Jersey, New York, Ontario, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Virginia, and Washington.

***It is expected that the number of bedrooms and number of residents are likely correlated to the number of trips generated by a residential site. Many of the studies included in this land use did not indicate the total number of bedrooms. To assist in the future analysis of this land use, it is important that this information be collected and included in trip generation data submissions.***

### **Source Numbers**

168, 187, 188, 204, 211, 300, 305, 306, 319, 320, 321, 357, 390, 412, 418, 525, 530, 571, 579, 583, 864, 868, 869, 870, 896, 903, 918, 946, 947, 948, 951

# Multifamily Housing (Low-Rise) (220)

Vehicle Trip Ends vs: Occupied Dwelling Units  
On a: Weekday

Setting/Location: General Urban/Suburban

Number of Studies: 11

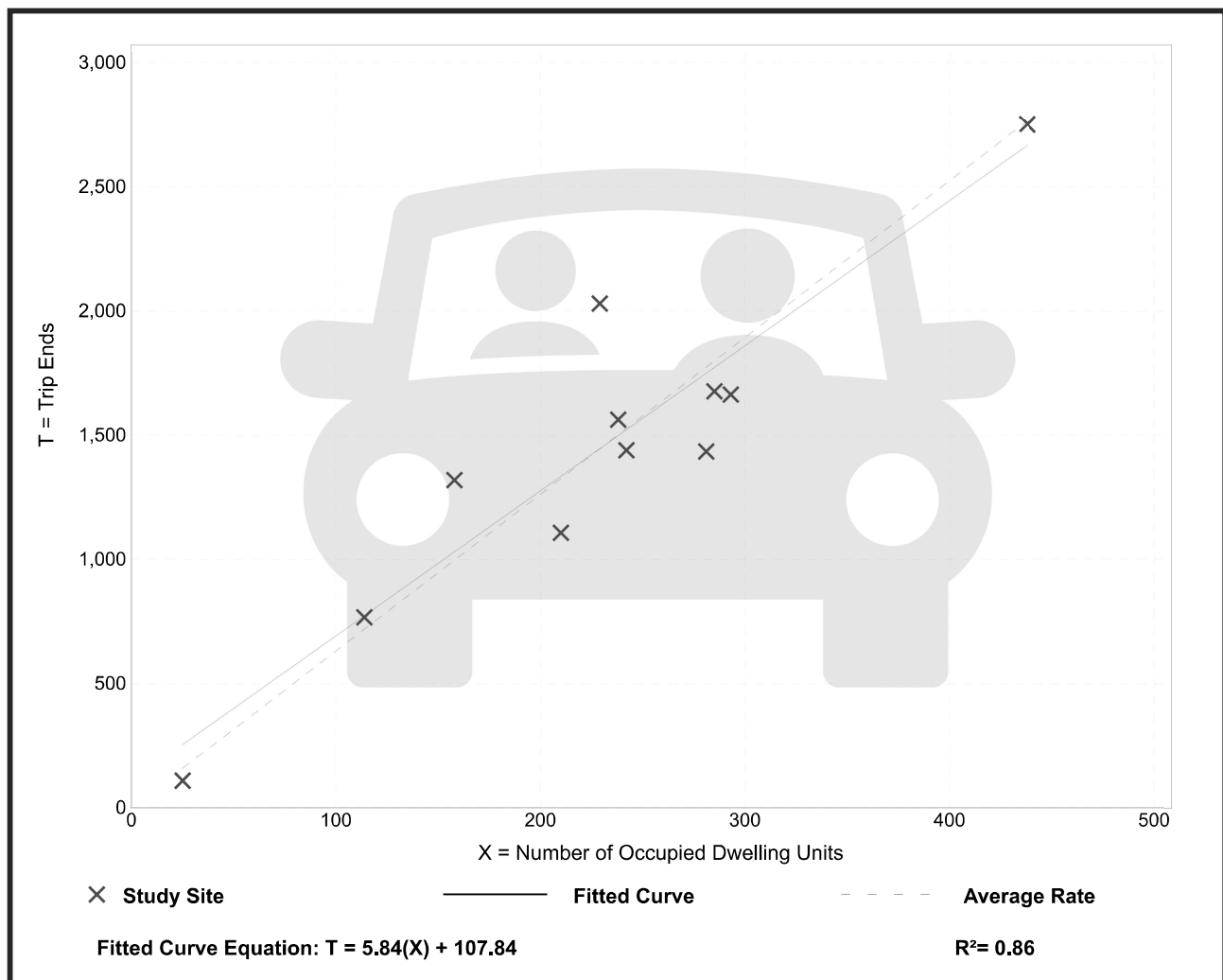
Avg. Num. of Occupied Dwelling Units: 228

Directional Distribution: 50% entering, 50% exiting

## Vehicle Trip Generation per Occupied Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
6.31	4.36 - 8.86	1.17

## Data Plot and Equation



# Multifamily Housing (Low-Rise) (220)

Vehicle Trip Ends vs: Occupied Dwelling Units

On a: Weekday,  
Peak Hour of Adjacent Street Traffic,  
One Hour Between 7 and 9 a.m.

Setting/Location: General Urban/Suburban

Number of Studies: 21

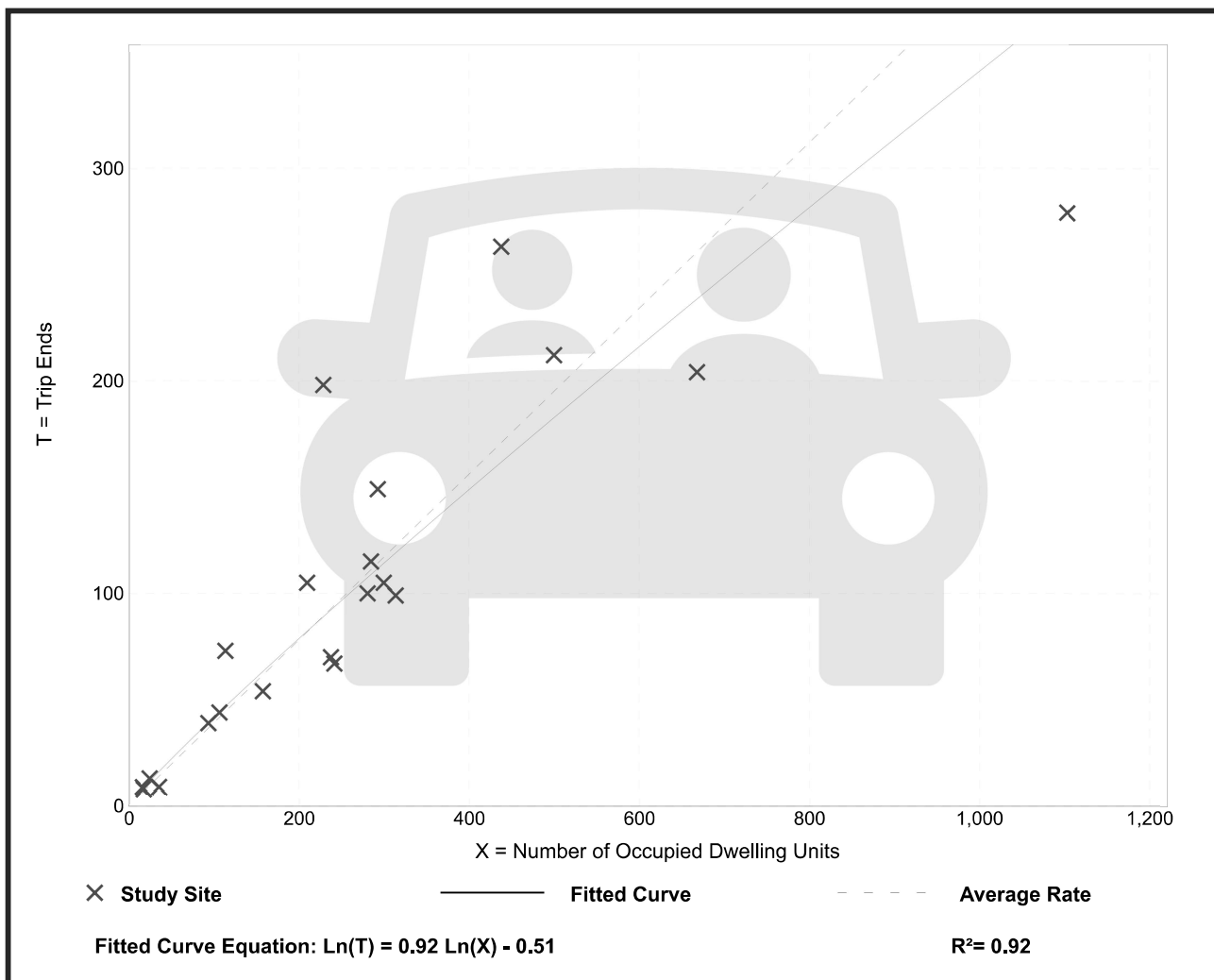
Avg. Num. of Occupied Dwelling Units: 270

Directional Distribution: 20% entering, 80% exiting

## Vehicle Trip Generation per Occupied Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
0.39	0.25 - 0.86	0.15

## Data Plot and Equation





# Multifamily Housing (Low-Rise) (220)

Vehicle Trip Ends vs: Occupied Dwelling Units

On a: Weekday,  
Peak Hour of Adjacent Street Traffic,  
One Hour Between 4 and 6 p.m.

Setting/Location: General Urban/Suburban

Number of Studies: 21

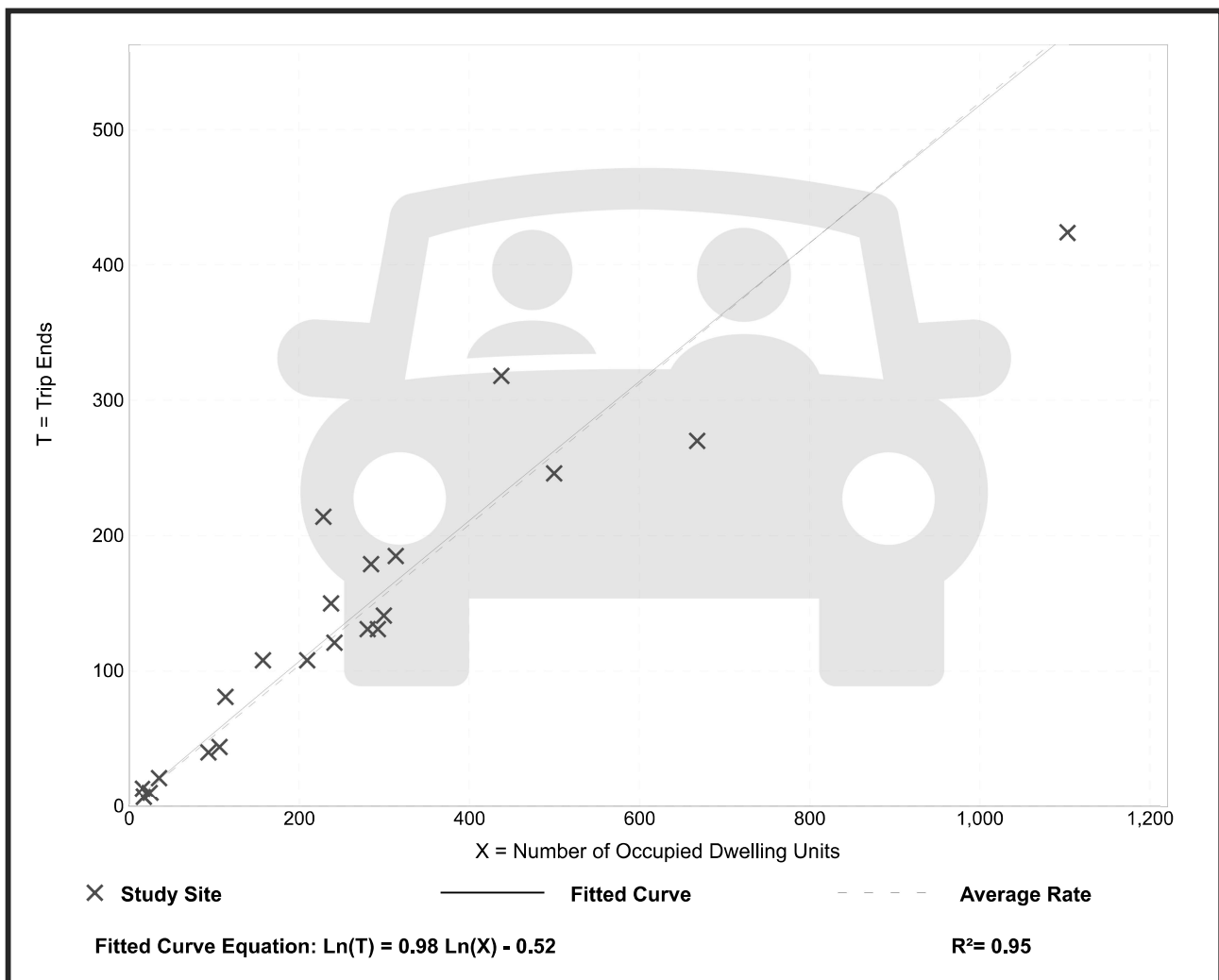
Avg. Num. of Occupied Dwelling Units: 270

Directional Distribution: 65% entering, 35% exiting

## Vehicle Trip Generation per Occupied Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
0.52	0.38 - 0.93	0.14

## Data Plot and Equation



# Land Use: 265

## Timeshare

### Description

A timeshare is a development where multiple purchasers buy interests in the same property and each purchaser receives the right to use the facility for a period of time each year. The shared property is commonly a vacation or recreational condominium. Recreational homes (Land Use 260) is a related land use.

### Additional Data

The percentage of one-bedroom, two-bedroom, and three-bedroom units varied at the sites surveyed. However, no statistically significant correlation was found between the average number of bedrooms in a development and the resultant amount of trips generated.

The sites were surveyed in the 1980s and the 2000s in California and South Carolina.

### Source Numbers

277, 627

# Timeshare (265)

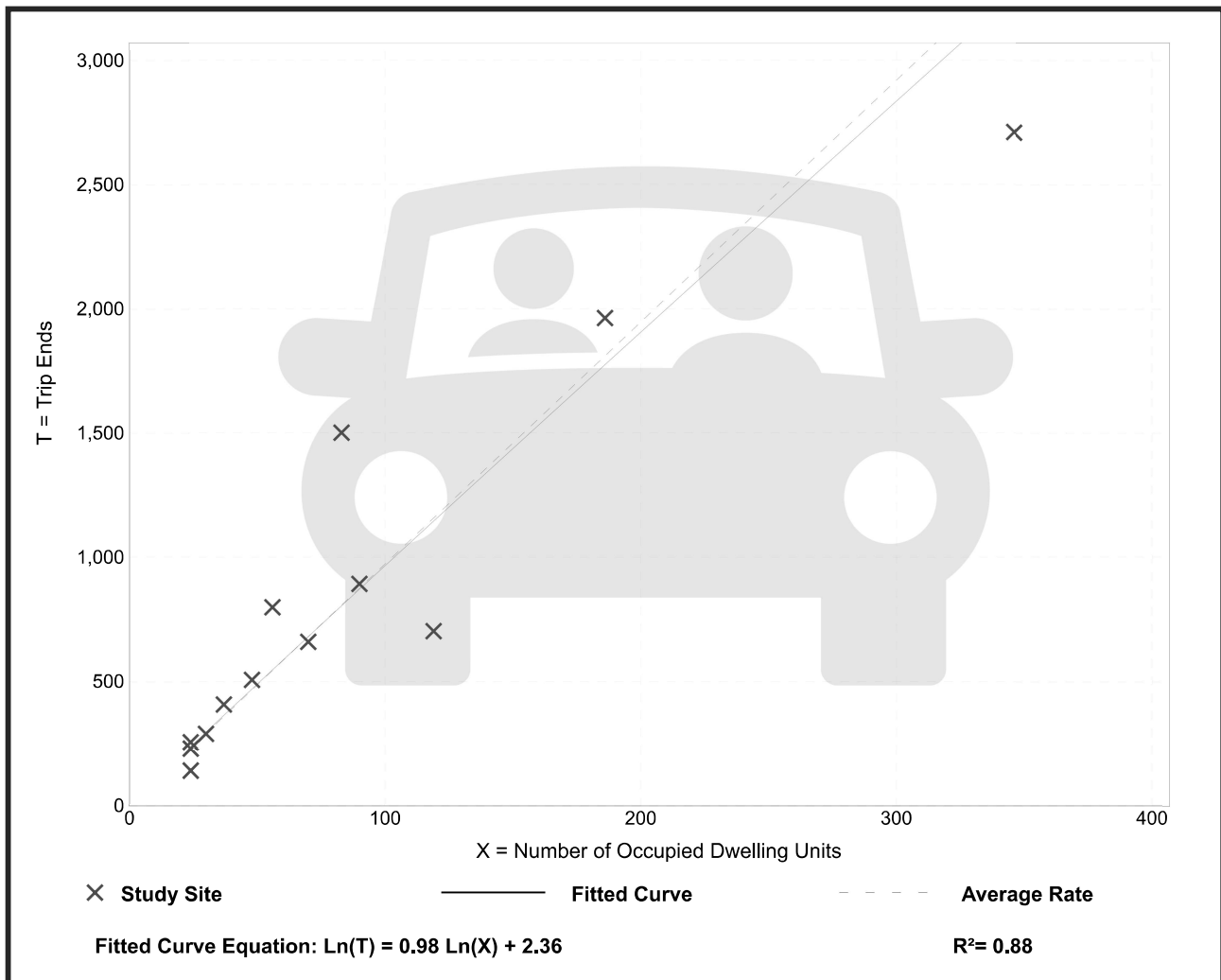
**Vehicle Trip Ends vs: Occupied Dwelling Units**  
**On a: Weekday**

**Setting/Location: General Urban/Suburban**  
Number of Studies: 13  
Avg. Num. of Occupied Dwelling Units: 87  
Directional Distribution: 50% entering, 50% exiting

## Vehicle Trip Generation per Occupied Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
9.73	5.91 - 18.08	3.17

## Data Plot and Equation



# Timeshare (265)

**Vehicle Trip Ends vs: Occupied Dwelling Units**

**On a: Weekday,  
Peak Hour of Adjacent Street Traffic,  
One Hour Between 7 and 9 a.m.**

**Setting/Location: General Urban/Suburban**

Number of Studies: 13

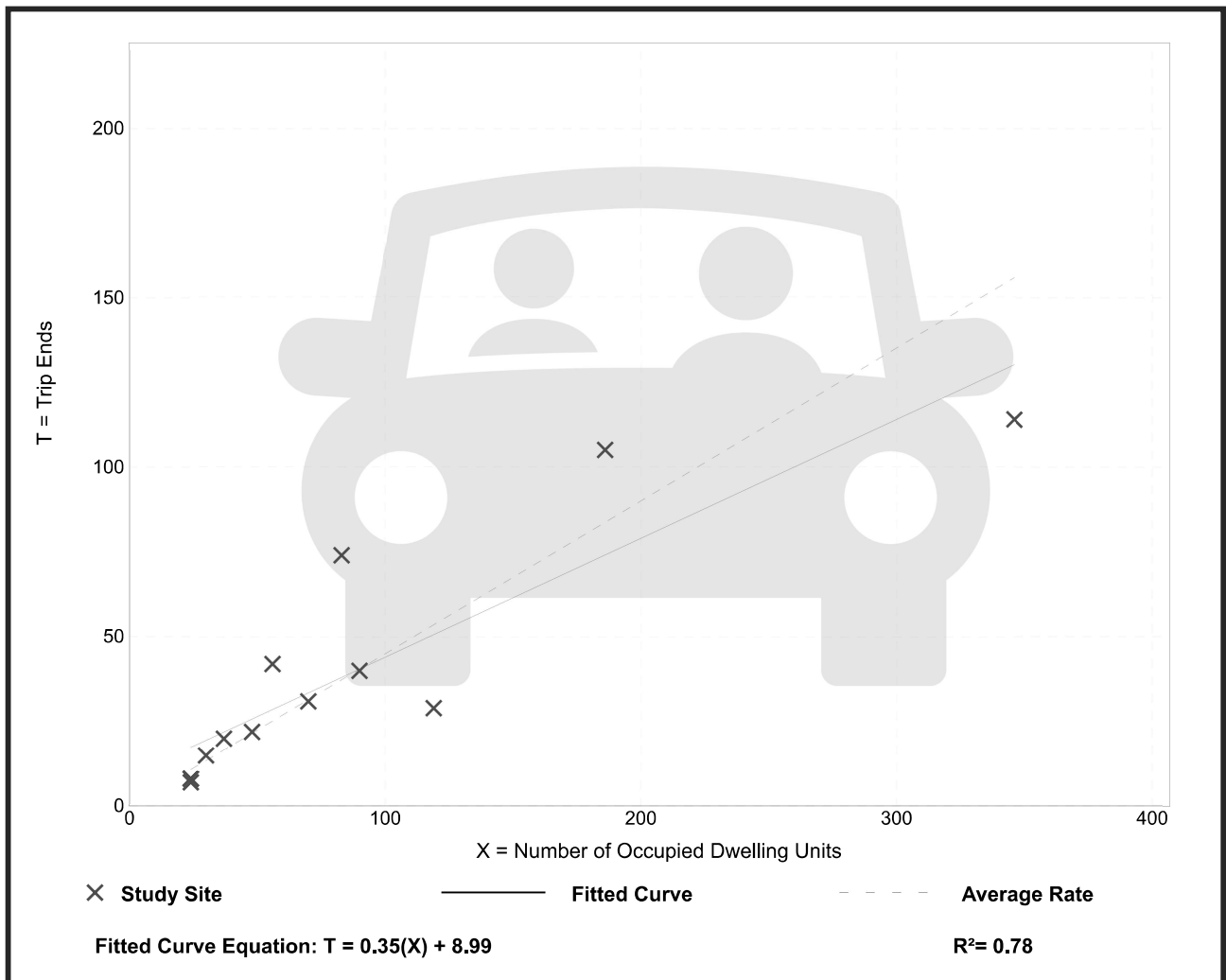
Avg. Num. of Occupied Dwelling Units: 87

Directional Distribution: 60% entering, 40% exiting

## Vehicle Trip Generation per Occupied Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
0.45	0.24 - 0.89	0.18

## Data Plot and Equation



# Timeshare (265)

**Vehicle Trip Ends vs: Occupied Dwelling Units**

**On a: Weekday,  
Peak Hour of Adjacent Street Traffic,  
One Hour Between 4 and 6 p.m.**

**Setting/Location: General Urban/Suburban**

Number of Studies: 13

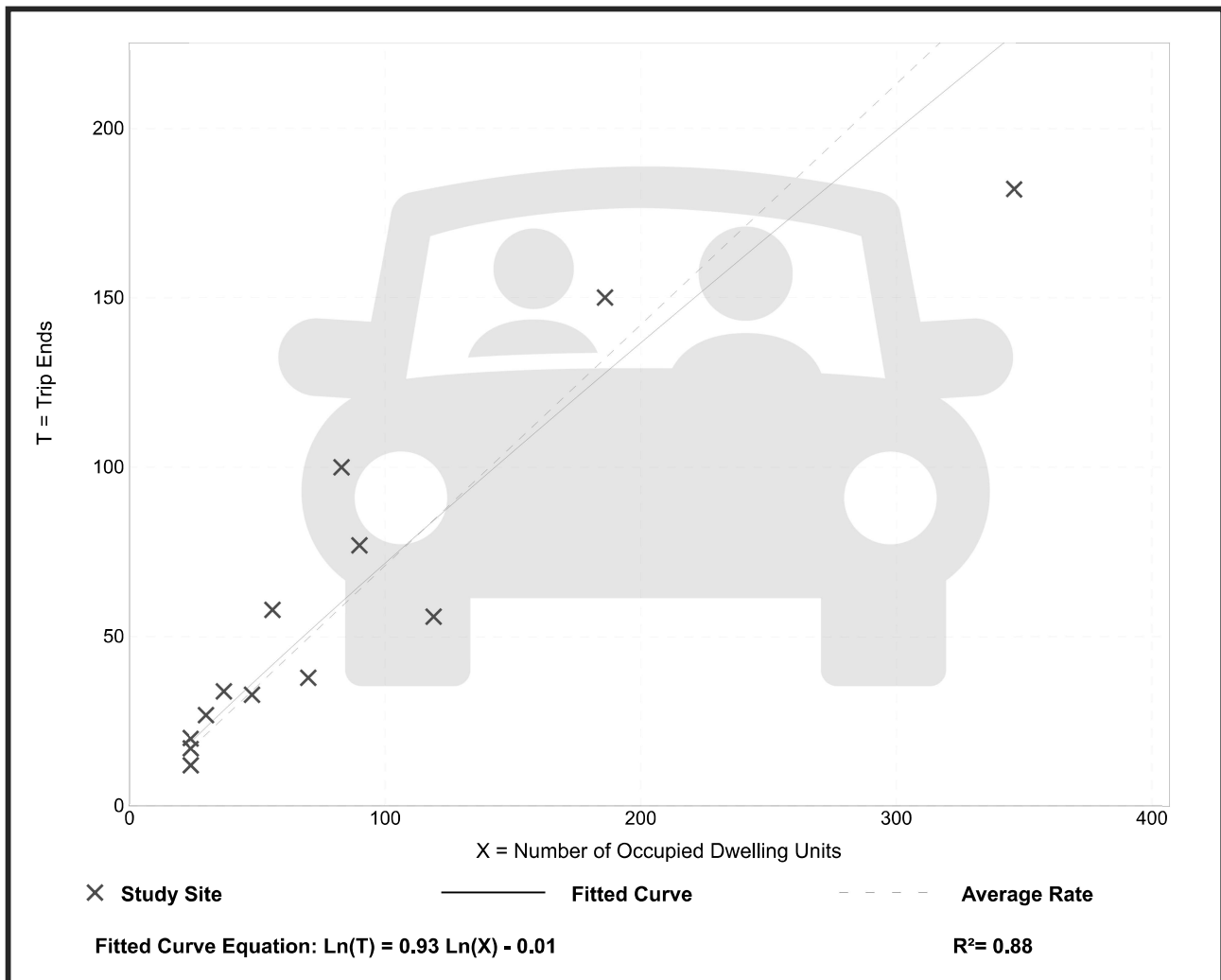
Avg. Num. of Occupied Dwelling Units: 87

Directional Distribution: 40% entering, 60% exiting

## Vehicle Trip Generation per Occupied Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
0.71	0.47 - 1.20	0.23

## Data Plot and Equation





## **ATTACHMENT C**

### **ITE TRIP GENERATION MANUAL EXCERPTS**

Sec. 9.100. - Parking.

Sec. 9.102. - Applications of and exemptions from parking.

- A. *Additions and change of occupancy.* The standards for providing on-site parking shall apply at the time of the erection of any main building or when on-site parking is established. These standards shall also be complied with when an existing building is altered or enlarged by the addition of dwelling units or guest rooms or where the use is intensified by a change of occupancy or by the addition of floor area, seating capacity, or seats.
- B. *Required parking must be maintained.* Required on-site parking spaces shall be maintained so long as the main building or use remains.
- C. *Nonconforming parking.* Where vehicle parking space is provided and maintained in connection with a main building or use at the time this ordinance became effective and is insufficient to meet the requirements for the use with which it is associated, or where no such parking has been provided, then said building or structure may be enlarged or extended only if vehicle parking spaces are provided for said enlargement, extension or addition, to the standards set forth in the district regulations. No existing parking may be counted as meeting this requirement unless it exceeds the requirements for the original building and then only that excess portion may be counted.

Any commercial property which provides sufficient parking spaces to supply at least fifty (50) percent of the requirement for the property and which is destroyed by fire, hurricane, flood, or other act of God, may be restored to its original use and building outline, provided the floor area is not increased, without conforming to the parking requirements of this ordinance.

- D. *Building permits.* No building permit shall be issued until parking requirements have been satisfied. Off-street parking required by this Zoning Ordinance shall not be located within the right-of-way of a street or alley.
- E. *Counting flexible units.* Whenever a residential building is designed so that it can be used for separate apartments or guest rooms under the City of Scottsdale Building Code, the vehicle parking requirements shall be based upon the highest possible number of dwelling units or guest rooms obtainable from any such arrangement.
- F. *Application to multiple tenant developments.* Where there is a combination of uses, the minimum required number of on-site parking spaces shall be the sum of the requirements of the individual uses, unless otherwise considered a mixed use development, mixed use commercial center, or as provided per Section 9.104.E. and F. If, in the opinion of the Zoning Administrator, the uses would not be operated simultaneously, the number of vehicle parking spaces shall be determined by the use with the highest parking demand.
- G. *Free parking in the Downtown Area.* Required parking for developments within the Downtown Area shall be provided at no cost to the patrons, employees, residents, or their guests of the development. If the required parking of a development, which the required parking is on the same site as the development, is only available through the use of a valet services, the valet service shall be provided at no cost to the user.
- H. *Prohibited uses of parking areas.*
  - 1.

Parking of more than 5 vehicles on any unimproved lot is prohibited, except when used for special events parking pursuant to Section 7.900. An improved lot shall mean 1 that fulfills the requirements of Section 9.103.

2. Parking or display of vehicles other than in designated and improved areas shall be prohibited.

3. Required parking spaces shall not be used for product display or advertising.

(Ord. No. 2736, § 1, 3-7-95; Ord. No. 3896, § 1(Exh. § 6), 6-8-10; Ord. No. 3920, § 1(Exh. § 103), 11-9-10; Ord. No. 3980, § 1(Res. 8895, § 1, Exh. A, § 45), 12-6-11; Ord. No. 4117, § 1(Res. No. 9563, Exh. A, § 95), 11-19-13; Ord. No. 4143, § 1(Res. No. 9678, Exh. A, § 245), 5-6-14)

Sec. 9.103. - Parking requirements.

- A. *General requirement.* Except as provided in Sections 9.103.B, 9.104, 9.107, and 9.108, and subsections therein, each use of land shall provide the number of parking spaces indicated for that use in Table 9.103.A. and Section 9.105.
- B. *Requirement in the Downtown Area.* Except as provided in Sections 9.104, 9.107, and 9.108, and subsections therein each use of land in the Downtown Area shall provide the number of parking spaces indicated for that use in Table 9.103.b. and Section 9.105. Those uses that are not specifically listed in Table 9.103.B. shall provide the number of parking spaces indicated for that use in Table 9.103.A.
- C. *Required bicycle parking.* Every principal and accessory use of land which is required to provide at least forty (40) vehicular parking spaces shall be required to provide bicycle parking spaces at a rate of one (1) bicycle parking space per every ten (10) required vehicular parking spaces; and after July 9, 2010, new development shall provide, at a minimum, two (2) bicycle parking spaces. No use shall be required to provide more than one hundred (100) bicycle parking spaces.
1. Subject to the approval of the Zoning Administrator, in the Downtown Area, bicycle parking spaces may be provided within a common location that is obvious and convenient for the bicyclist, does not encroach into adjacent pedestrian pathways or landscape areas, and the location shall be open to view for natural surveillance by pedestrians. Such common bicycle parking areas shall be subject to the approval of the Zoning Administrator.
- D. *Bicycle parking facilities design.* Required bicycle parking facilities shall, at a minimum, provide a stationary object to which the bicyclist can lock the bicycle frame and both wheels with a user provided U-shaped lock or cable and lock. The stationary object shall generally conform to the Design Standards & Policies Manual. The Zoning Administrator may approve alternative designs. Bicycle lockers and other high security bicycle parking facilities, if provided, may be granted parking credits pursuant to Section 9.104.C., Credit for bicycle parking facilities.
- E. *Calculating required parking for transportation facilities.* Required parking for park and ride lots and major transfer centers shall be determined by the Zoning Administrator. Subject to the Design Standards & Policies Manual and the following criteria:
1. Goals of the City with regard to transit ridership along the route on which the transportation facility is located.
2. Distance from other transportation facilities with parking.
- F. *Fractions shall be rounded.*
1. When any calculation for the required parking results in a fraction of a parking space, the fraction shall be rounded up to the next greater whole number.

2. When any calculation for the provided parking results in a fraction of a parking space, the fraction shall be rounded down to the next greater whole number.
  3. When any calculation of a Parking P-3 District credit, improvement district credit, or in-lieu parking credit results in a fraction of a credit, the fraction shall not be rounded.
- G. *Interpreting requirements for analogous uses.* The Zoning Administrator shall determine the number of spaces required for analogous uses. In making this determination, the Zoning Administrator shall consider the following:
1. The number of parking spaces required for a use listed in Table 9.103.A., or Table 9.103.B., that is similar to the proposed use;
  2. An appropriate variable by which to calculate parking for the proposed use; for example, building square footage or number of employees;
  3. Parking data from the same use on a different site or from a similar use on a similar site;
  4. Parking data from professional publications such as those published by the Institute of Transportation Engineers (ITE) or the Urban Land Institute (ULI);
- H. *Additional requirements for company vehicles.* When parking spaces are used for the storage of vehicles or equipment used for delivery, service and repair, or other such use, such parking spaces shall be provided in addition to those otherwise required by this Zoning Ordinance. Before a building permit is issued the number of spaces to be used for vehicle storage shall be shown on the plans. Unless additional spaces are provided in excess of the required number of spaces, no vehicles in addition to that number shall be stored on the site.
- I. *Special events parking.* Parking for special events shall be provided as per Section 7.900.

**Table 9.103.A. Schedule of Parking Requirements**

Amusement parks	Three (3) spaces per hole for any miniature golf course, plus one (1) space per three thousand (3,000) square feet of outdoor active recreation space, plus any additional spaces required for ancillary uses such as but not limited to game centers and pool halls.
Arts festivals, seasonal	<p>A. One (1) space for each two hundred (200) square feet of indoor public floor area, other than public restaurant space.</p> <p>B. Restaurant at seasonal arts festivals shall be provided parking in accordance with table 9.103.a.</p>
Banks/financial institutions	One (1) space per two hundred fifty (250) square feet gross floor area.

Bars, cocktail lounges, taverns, afterhours or micro-brewery/distillery with live entertainment	<p>A. One (1) space per sixty (60) square feet of gross floor area; and</p> <p>B. One (1) space per two hundred (200) gross square feet of outdoor patio area, excluding the first two hundred (200) gross square feet.</p>
Bars, cocktail lounges, taverns, afterhours or micro-brewery/distillery	<p>A. One (1) space per eighty (80) square feet of gross floor area; and</p> <p>B. One (1) space per two hundred (200) gross square feet of outdoor patio area, excluding the first two hundred (200) gross square feet.</p>
Boardinghouses, lodging houses, and other such uses	One (1) parking space for each one (1) guest room or dwelling unit.
Bowling alleys	Four (4) parking spaces for each lane, plus two (2) parking spaces for any pool table, plus one (1) parking space for every five (5) audience seats.
Carwash	Four (4) spaces per bay or stall plus one (1) space per employee plus ten (10) stacking spaces.
Churches and places of worship	<p>A. With fixed seating. One (1) space per four (4) seats in main sanctuary, or auditorium, and c below; or</p> <p>B. Without fixed seating. One (1) space for each thirty (30) square feet of gross floor area in main sanctuary and c below.</p> <p>C. One (1) space per each three hundred (300) square feet gross floor area of classrooms and other meeting areas.</p>
Club/lodge, civic and social organizations	One (1) space per two hundred fifty (250) square feet gross floor area.



College/university	One (1) space per two (2) employees plus one (1) space per four (4) students, based on projected maximum enrollment.
Community or recreation buildings	One (1) parking space for each two hundred (200) square feet of gross floor area.
Conference and meeting facilities, or similar facilities	A. One (1) parking space for every five (5) seats, if seats are fixed, and/or B. One (1) parking space for fifty (50) square feet of gross floor area of conference/meeting area.
Cultural institutions and museums	One (1) space per three hundred (300) square feet gross floor area.
Dance halls, skating rinks, and similar indoor recreational uses	One (1) parking space for each three hundred (300) square feet of gross floor area in the building.
Dance/music/and professional schools	One (1) space per two hundred (200) square feet of gross floor area classroom area.
Day care center	One (1) parking space for each employee; plus one (1) space for every fifteen (15) students, plus one (1) space for each company vehicle as per Section 9.103.H., additional requirements for company vehicles.
Dry cleaners	One (1) space per two hundred fifty (250) square feet gross floor area.
Dwellings, multiple-family	Parking spaces per dwelling unit at the rate of: efficiency units 1.25 one-bedroom 1.3 two-bedrooms 1.7 three (3) or more bedrooms 1.9

Dwellings, single- and two-family and townhouses	Two (2) spaces per unit.
Elementary schools	One (1) parking space for each classroom plus one (1) parking space for each two hundred (200) square feet of gross floor area in office areas.
Funeral homes and funeral services	<p>A. One (1) parking space for every two (2) permanent seats provided in the main auditorium; and</p> <p>B. One (1) parking space for every thirty (30) square feet of gross floor area public assembly area.</p>
Furniture, home improvement, and appliance stores	<p>A. Uses up to fifteen thousand (15,000) square feet of gross floor area. One (1) space per five hundred (500) square feet gross floor area; or</p> <p>B. Uses over fifteen thousand (15,000) square feet of gross floor area. One (1) space per five hundred (500) square feet for the first fifteen thousand (15,000) square feet of gross floor area, and one (1) space per eight hundred (800) square feet area over the first fifteen thousand (15,000) square feet of gross floor area</p>
Galleries	One (1) space per five hundred (500) square feet of gross floor area.
Game centers	One (1) space per one hundred (100) square feet gross floor area.
Gas station	Three (3) spaces per service bay and one (1) space per 250 square feet of accessory retail sales gross floor area. Each service bay counts for one (1) of the required parking spaces.

Golf course	One (1) parking space for each two hundred (200) square feet of gross floor area in any main building plus one (1) space for every two (2) practice tees in the driving range, plus four (4) parking spaces for each green in the playing area.
Grocery or supermarket	One (1) space per three hundred (300) square feet gross floor area.
Health or fitness studio, and indoor recreational uses	<p>A. Building area less than, or equal to, 3,000 square feet of gross floor area: one space per 250 square feet of gross floor area.</p> <p>B. Building area greater than 3,000 square feet of gross floor area, and less than 10,000 square feet of gross floor area: one space per 150 square feet of gross floor area.</p> <p>C. Building areas equal to, or greater than, 10,000 square feet of gross floor area, and less than 20,000 square feet of gross floor area: one space per 200 square feet of gross floor area.</p> <p>D. Building areas equal to, or greater than, 20,000 square feet of gross floor area: one space per 250 square feet of gross floor area.</p>
High schools	One (1) parking space for each employee plus one (1) space for every six (6) students, based on projected maximum enrollment.
Hospitals	One and one half (1.5) parking spaces for each one (1) bed.
Internalized community storage	One (1) parking space for each two thousand five hundred (2,500) square feet of gross floor area.

Library	One (1) space per three hundred (300) square feet gross floor area.
Live entertainment (not including bars, restaurants, and performing arts theaters)	A. With fixed seating. One (1) parking space for two and one-half (2.5) seats. B. Without fixed seating. One (1) parking space for every sixty (60) square feet of gross floor area of an establishment that does not contain fixed seating.
Manufactured home park	One and one-half parking spaces per manufactured home space.
Manufacturing and industrial uses	One (1) parking space for each five hundred (500) square feet of gross floor area.
Mixed-use commercial centers In mixed-use commercial centers with less than 20,000 square feet of gross floor area, land uses (with parking requirements of one space per 250 square feet or fewer spaces) shall occupy at least 60 percent of gross floor area.	One (1) space per three hundred (300) square feet of gross floor area.
Mixed-use developments	A. One (1) space per three hundred twenty-five (325) square feet of gross floor area of nonresidential area; B. Multiple-family residential uses shall be parked at the ratios of the dwellings, multiple-family in other districts requirements, herein.
Office, all other	One (1) space per three hundred (300) square feet gross floor area.
Offices (government, medical/dental and clinics)	One (1) space per two hundred fifty (250) square feet of gross floor area.
Parks	Three (3) parking spaces for each acre of park area.

Personal care services	One (1) space per two hundred fifty (250) square feet gross floor area.
Plant nurseries, building materials yards, equipment rental or sales yards and similar uses	One (1) parking space for each three hundred (300) square feet gross site area of sales and display area.
Pool hall	Two (2) spaces per pool table.
Postal station(s)	One (1) parking space for each two hundred (200) square feet of gross floor area.
Radio/TV/studio	One (1) space per five hundred (500) square feet gross floor area, plus one (1) space per company vehicle, as per Section 9.103.H., additional requirements for company vehicles.
Ranches	One (1) space per every two (2) horse stalls.
Residential health care facilities	<p>A. Specialized care facilities—0.7 parking space for each bed.</p> <p>B. Minimal care facilities—1.25 parking spaces for each dwelling unit.</p>



Restaurants with live entertainment	<p>A. When live entertainment limited to the hours that a full menu is available, and the area of live entertainment is less than fifteen (15) percent of the gross floor area, one (1) parking space per one hundred twenty (120) square feet of gross floor area; and</p> <p>B. One (1) parking space for each three hundred fifty (350) gross square feet of outdoor public floor area, excluding the first three hundred fifty (350) gross square feet of outdoor patio area, unless the space is located next to and oriented toward a publicly owned walkway or street, in which case the first five hundred (500) gross square feet of outdoor patio area is excluded.</p> <p>C. When live entertainment is not limited to the hours that a full menu is available, and/or the area of live entertainment is less than fifteen (15) percent of the gross floor area, one (1) parking space per sixty (60) square feet of gross floor area, plus patio requirements above.</p>
Restaurants	<p>A. One (1) parking space per one hundred twenty (120) square feet of gross floor area; and</p> <p>B. One (1) parking space for each three hundred fifty (350) gross square feet of outdoor patio area, excluding the first three hundred fifty (350) gross square feet of outdoor patio area, unless the space is located next to and oriented toward a publicly owned walkway or street, in which case the first five hundred (500) square gross feet of outdoor patio area is excluded.</p>

Retail	One (1) space per two hundred fifty (250) square feet of gross floor area.
Retail, in a PCoC zoning district without arterial street frontage	One (1) space per three hundred (300) square feet gross floor area.
Stables, commercial	Adequate parking for daily activities shall be provided as determined by the Zoning Administrator. Additional parking, improved as determined by the Zoning Administrator, shall be provided for shows or other special events pursuant to <u>Section 7.900</u> , Special Events.
Swimming pool or natatorium	One (1) space per one thousand (1,000) square feet gross floor area.
Tennis clubs	One (1) parking space per each two hundred (200) square feet of gross floor area, excluding court area, plus three (3) parking spaces per each court. The property owner shall provide additional parking spaces as necessary for tournaments, shows or special events.
Theaters, cinemas, auditoriums, gymnasiums and similar places of public assembly in PNC, PCC, PCP, PRC, or PUD zoning districts	One (1) space per ten (10) seats.
Theaters, cinemas, auditoriums, gymnasiums and similar places of public assembly in other districts	One (1) parking space per four (4) seats.
Trailhead - gateway	Five hundred (500) to six hundred (600) spaces, including those for tour buses and horse trailers.
Trailhead - local	None required.

Trailhead - major community	Two hundred (200) to three hundred (300) spaces, including those for horse trailers.
Trailhead - minor community	Fifty (50) to one hundred (100) spaces.
Transportation facilities	Required parking shall be determined by the Zoning Administrator per Section 9.103.E., Calculating required parking for transportation facilities.
Transportation uses	Parking spaces required shall be determined by the Zoning Administrator.
Travel accommodations	One (1.25) parking spaces for each one (1) guest room or dwelling unit.
Travel accommodations with conference and meeting facilities, or similar facilities	<p>The travel accommodation requirements above.</p> <p>A. Travel accommodations with auxiliary commercial uses (free standing buildings) requirements above.</p> <p>B. One (1) parking space for every five (5) seats, if seats are fixed, and/or</p> <p>C. One (1) parking space for fifty (50) square feet of gross floor area of conference/meeting area.</p>
Travel accommodations, with auxiliary commercial uses (free standing buildings)	<p>A. The travel accommodation requirements above.</p> <p>B. Bar, cocktail lounge, tavern, after hours, restaurants, and live entertainment uses shall provide parking in accordance uses parking requirements herein this table.</p> <p>C. All other free standing commercial uses. One (1) parking space for every four hundred (400) square feet of gross floor area.</p>

Vehicle leasing, rental, or sales (parking plans submitted for vehicle sales shall illustrate the parking spaces allocated for each of A, B, and C.)	<p>A. One employee parking space per 200 square feet of gross floor area,</p> <p>B. One employee parking space per 20 outdoor vehicular display spaces, and</p> <p>C. One patron parking space per 20 outdoor vehicular display spaces.</p>
Veterinary services	One (1) space per three hundred (300) square feet gross floor area.
Warehouses, mini	One (1) space per three hundred (300) square feet of gross floor area of administrative office space, plus one (1) space per each fifty (50) storage spaces.
Warehousing, wholesaling establishments, or separate storage buildings.	One (1) parking space for each eight hundred (800) square feet of gross floor area.
Western theme park	Total of all spaces required for the various uses of the theme park, may apply for a reduction in required parking per <u>Section 9.104</u> , Programs and incentives to reduce parking requirements.

**Table 9.103.B. Schedule of Parking Requirements in the Downtown Area**

Bars, cocktail lounges, taverns, afterhours or micro-brewery/distillery with live entertainment	<p>A. One (1) space per eighty (80) square feet of gross floor area; and</p> <p>B. One (1) space per two hundred (200) gross square feet of outdoor patio area, excluding the first two hundred (200) gross square feet.</p>
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Bars, cocktail lounges, taverns, afterhours or micro-brewery/distillery	<p>A. One (1) space per one-hundred twenty (120) square feet of gross floor area; and</p> <p>B. One (1) space per two hundred (200) gross square feet of outdoor patio area, excluding the first two hundred (200) gross square feet.</p>
Dwellings, multi-family	<p>A. One parking space per dwelling unit for units with one bedroom or less.</p> <p>B. Two parking spaces per dwelling unit, for units with more than one bedroom.</p>
Financial intuitions	<p>A. In a Type 1 area, one (1) space per five hundred (500) square feet of gross floor area; or</p> <p>B. In a Type 2 area, all other lot widths, one (1) space per three hundred (300) square feet of gross floor area.</p>
Fitness studio (no larger than 3,000 gross square feet)	<p>A. One (1) space per three hundred (300) square feet of gross floor area.</p> <p>B. A fitness studio larger than 3,000 gross square feet shall comply with Table 9.103.a.</p>
Galleries	One (1) space per three hundred (500) square feet of gross floor area.
Live entertainment (not including bars, restaurants, and performing arts theaters)	<p>A. With fixed seating. One (1) parking space for two and one-half (2.5) seats.</p> <p>B. Without fixed seating. One (1) parking space for every eighty (80) square feet of gross floor area of an establishment that does not contain fixed seating.</p>
Medical and diagnostic laboratories	One (1) space per three hundred (300) square feet of gross floor area.



<p>Mixed-use commercial centers</p> <p>In mixed-use commercial centers with less than 20,000 square feet of gross floor area, land uses (with parking requirements of one space per 300 square feet or fewer spaces) shall occupy at least 60 percent of gross floor area.</p>	<p>One (1) space per three hundred fifty (350) square feet of gross floor area.</p>
<p>Mixed-use developments</p>	<p>A. One space per 350 square feet of gross floor area of nonresidential area; plus</p> <p>B. Parking spaces required for multiple-family dwellings as shown in this table, except as provided in Section 9.104.H.3.d.</p>
<p>Office, including government and medical/dental offices and clinics</p>	<p>A. In a Type 1 area, one (1) space per five hundred (500) square feet of gross floor area; or</p> <p>B. In a Type 2 area, all other lot widths, one (1) space per three hundred (300) square feet of gross floor area.</p>
<p>Performing arts theaters</p>	<p>One (1) parking space per ten (10) seats.</p>
<p>Restaurants that serve breakfast and/or lunch only, or the primary business is desserts, bakeries, and/or coffee/tea or non-alcoholic beverage</p>	<p>A. One (1) parking space for each four hundred (400) square feet of gross floor area; and</p> <p>B. One (1) space for each three hundred fifty (350) gross square feet of outdoor public floor area. Excluding the first three hundred fifty (350) gross square feet of outdoor public floor area, unless the space is located next to and oriented toward a publicly owned walkway or street, in which case the first five hundred (500) gross square feet of outdoor public floor area is excluded.</p>

<p>Restaurants, including restaurants with a micro-brewery/distillery as an accessory use.</p>	<p>A. One (1) parking space per three hundred (300) square feet of gross floor area; and</p> <p>B. One (1) parking space for each three hundred fifty (350) gross square feet of outdoor patio area. Excluding the first three hundred fifty (350) gross square feet of outdoor patio area, unless the space is located next to and oriented toward a publicly owned walkway or street, in which case the first five hundred (500) gross square feet of outdoor public floor area is excluded.</p>
<p>Restaurants, including restaurants with a micro-brewery/distillery as an accessory use, and with live entertainment</p>	<p>A. When live entertainment limited to the hours that a full menu is available, and the area of live entertainment is less than fifteen (15) percent of the gross floor area, one (1) parking space per three hundred (300) square feet of gross floor area; and</p> <p>B. One (1) parking space for each three hundred fifty (350) gross square feet of outdoor public floor area. Excluding the first three hundred fifty (350) gross square feet of outdoor patio, unless the space is located next to and oriented toward a publicly owned walkway or street, in which case the first five hundred (500) gross square feet of outdoor patio area is excluded.</p> <p>C. When live entertainment is not limited to the hours that a full menu is available, and/or the area of live entertainment is greater than fifteen (15) percent of the gross floor area, one (1) parking space per one hundred twenty (120) square feet of gross floor area, plus patio requirements above at all times.</p>

Retail, personal care services, dry cleaners, and tattoo parlors	<p>A. In a Type 1 area, one (1) space per five hundred (500) square feet of gross floor area; or</p> <p>B. In a Type 2 area, all other lot widths, one (1) space per three hundred (300) square feet of gross floor area.</p>
Work/live	<p>A. The required parking shall be based on the area of commercial uses, per Table 9.103.B and when applicable, Table 9.103.A.</p> <p>B. In addition to the parking requirement for the commercial area, parking shall be provide in accordance with the dwellings, multi-family and co-housing parking requirement for developments containing more than one (1) dwelling unit, excluding the first unit (except as provided in Section 9.104.H.3.d).</p>
All other uses	As specified Table 9.103.A.

Note: 1. Type 1 and Type 2 Areas are locations of the Downtown Area described by the Downtown Plan.

(Ord. No. 2736, § 1, 3-7-95; Ord. No. 3048, § 2, 10-7-97; Ord. No. 3225, § 1, 5-4-99; Ord. No. 3879, § 1 (Exh. § 26), 3-2-10; Ord. No. 3896, § 1(Exh. § 6), 6-8-10; Ord. No. 3899, § 1(Res. No. 8342, Exh. A, §§ 18, 19), 8-30-10; Ord. No. 3920, § 1(Exh. §§ 104—109), 11-9-10; Ord. No. 3926, § 1(Exh. § 13), 2-15-11; Ord. No. 3980, § 1(Res. 8895, § 1, Exh. A, § 46), 12-6-11; Ord. No. 3992, § 1(Res. No. 8922, Exh. A, § 17), 1-24-12; Ord. No. 4099, § 1(Res. No. 9439, Exh. A, §§ 17—23), 6-18-13; Ord. No. 4117, § 1(Res. No. 9563, Exh. A, §§ 96—98), 11-19-13; Ord. No. 4143, § 1(Res. No. 9678, Exh. A, §§ 246—249), 5-6-14)

Sec. 9.104. - Programs and incentives to reduce parking requirements.

The following programs and incentives are provided to permit reduced parking requirements in the locations and situations outlined herein where the basic parking requirements of this Zoning Ordinance would be excessive or detrimental to goals and policies of the city relating to mass transit and other alternative modes of transportation.

- A. *Administration of parking reductions.* Programs and incentives which reduce parking requirements may be applied individually or jointly to properties and developments. Where reductions are allowed, the number of required parking spaces which are eliminated shall be

accounted for both in total and by the program, incentive or credit which is applied. The record of such reductions shall be kept on the site plan within the project review file. Additionally, the reductions and manner in which they were applied shall be transmitted in writing to the property owner.

- B. *Credit for on-street parking.* Wherever on-street angle parking is provided in the improvement of a street, credit toward on-site parking requirements shall be granted at the rate of one (1) on-site space per every twenty-five (25) feet of frontage, excluding the following:
1. Frontage on an arterial, major arterial or expressway as designated in the Transportation Master Plan.
  2. Frontage on a street that is planned to be less than fifty-five (55) feet wide curb-to-curb.
  3. Frontage within twenty (20) feet of a corner.
  4. Frontage within ten (10) feet of each side of a driveway or alley.
  5. Frontage within a fire hydrant zone or other emergency access zone.
  6. Locations within the Downtown Area.
- C. *Credit for bicycle parking facilities.*
1. *Purpose.* The City of Scottsdale, in keeping with the federal and Maricopa County Clean Air Acts, wishes to encourage the use of alternative transportation modes such as the bicycle instead of the private vehicle. Reducing the number of vehicular parking spaces in favor of bicycle parking spaces helps to attain the standards of the Clean Air Act, to reduce impervious surfaces, and to save on land and development costs.
  2. *Performance standards.* The Zoning Administrator may authorize credit towards on-site parking requirements for all uses except residential uses, for the provision of bicycle facilities beyond those required by this Zoning Ordinance, subject to the following guidelines:
    - a. Wherever bicycle parking is provided beyond the amount required per Section 9.103.C., required bicycle parking, credit toward required on-site vehicular parking may be granted pursuant to the following:
      - i. Downtown Area: one (1) vehicular space per eight (8) bicycle spaces.
      - ii. All other zoning districts: one (1) vehicular space per ten (10) bicycle spaces.
    - b. Wherever bicycle parking facilities exceed the minimum security level required per Section 9.103.D., required bicycle parking, credit towards required onsite vehicular parking may be granted at a rate of one (1) vehicular space per every four (4) high-security bicycle spaces.

High-security bicycle spaces shall include those which protect against the theft of the entire bicycle and of its components and accessories by enclosure through the use of bicycle lockers, check-in facilities, monitored parking areas, or other means which provide the above level of security as approved by the Zoning Administrator.
    - c. Wherever shower and changing facilities for bicyclists are provided, credit towards required on-site vehicular parking may be granted at the rate of two (2) vehicular spaces per one (1) shower.
    - d.

The number of vehicular spaces required Table 9.103.A., or when applicable Table 9.103.B., shall not be reduced by more than five (5) percent or ten (10) spaces, whichever is less.

- D. *Credit for participation in a joint parking improvement project.* After April 7, 1995, no new joint parking improvement projects shall be designated in the City of Scottsdale. Existing joint parking improvement projects may continue to exist, subject to the standards under which they were established.

The joint parking improvement project was a program through which a group of property owners with mixed land uses including an area of more than three (3) blocks and at least six (6) separate ownerships could join together on a voluntary basis to form a parking improvement district, providing parking spaces equal to a minimum of thirty (30) percent of their combined requirements according to the ordinance under which they were established. Each participant property could have received credit for one and one-half (1½) times his proportioned share of the parking spaces provided. The project required that a statement be filed with the superintendent of buildings stating the number of spaces assigned to each participating property. No adjustments were to be permitted subsequent to the filing of this statement.

- E. *Mixed-use shared parking programs.*

1. Purpose. A mixed-use shared parking program is an option to reduce the total required parking in large mixed-use commercial centers and mixed-use developments in which the uses operate at different times throughout the day. The city recognizes that strict application of the required parking ratios may result in excessive parking spaces. This results in excessive pavement and impermeable surfaces and discourages the use of alternate transportation modes.
2. Applicability. A mixed-use shared parking program is an alternative to a parking master plan.
3. Procedure.
  - a. A mixed-use shared parking program may be proposed at the time a parking plan is required.
  - b. The mixed-use shared parking program may also be requested exclusive of any other site plan review or permitting procedure.
  - c. Mixed-use shared parking plans shall be reviewed by, and are subject to the approval of, the Zoning Administrator.
  - d. Alternatively, the applicant may elect to have the shared parking plan reviewed by, and subject to the approval of, the City Council in a public hearing.
  - e. For changes of use in mixed-use projects, the parking necessary for the new mix of uses shall not exceed the parking required by the previous mix of uses.
4. Limitations on mixed-use shared parking.
  - a. The total number parking spaces required by Table 9.103.B. and the total number of parking spaces required for a mixed-use commercial center and mixed-use development indicated in Table 9.103.A. shall not be used to reduce the required parking in the Downtown Area or a development that is defined as mixed-use development or mixed-use commercial center not in the Downtown Area.



- b. The total number of parking spaces required by Table 9.103.A. shall not be reduced by more than twenty (20) percent.
- 5. Performance standards. The Zoning Administrator may authorize a reduction in the total number of required parking spaces for two (2) or more uses jointly providing on-site parking subject to the following criteria:
  - a. The respective hours of operation of the uses do not overlap, as demonstrated by the application on Table 9.104.A., Schedule of Shared Parking Calculations. If one (1) or all of the land uses proposing to use joint parking facilities do not conform to one (1) of the general land use classifications in Table 9.104.A., Schedule of Shared Parking Calculations, data shall indicate there is not substantial conflict in the principal operating hours of the uses. Such data may include information from a professional publication such as those published by the Institute of Transportation Engineers (ITE) or the Urban Land Institute (ULI), or by a professionally prepared parking study.
  - b. A parking plan shall be submitted for approval which shall show the layout of proposed parking.
  - c. The property owners involved in the joint use of on-site parking facilities shall submit a written agreement subject to City approval requiring that the parking spaces shall be maintained as long as the uses requiring parking exist or unless the required parking is provided elsewhere in accordance with the provisions of this Article. Such written agreement shall be recorded by the property owner with the Maricopa County Recorder's Office prior to the issuance of a building permit, and a copy filed in the project review file.

**Table 9.104.A Schedule of Shared Parking Calculations**

General Land Use Classification	Weekdays			Weekends		
	12:00 a.m.— 7:00 a.m.	7:00 a.m.— 6:00 p.m.	6:00 p.m.— 12:00 a.m.	12:00 a.m.— 7:00 a.m.	7:00 a.m.— 6:00 p.m.	6:00 p.m.— 12:00 a.m.
Office and industrial	5%	100%	5%	0%	60%	10%
Retail	0%	100%	80%	0%	100%	60%
Residential	100%	55%	85%	100%	65%	75%
Restaurant and bars	50%	70%	100%	45%	70%	100%
Hotel	100%	65%	90%	100%	65%	80%

Churches and places of worship	0%	10%	30%	0%	100%	30%
Cinema/theater, and live entertainment	0%	70%	100%	5%	70%	100%

*How to use the schedule of shared parking.* Calculate the number of parking spaces required by Table 9.103.A. for each use as if that use were free-standing (the total number of parking spaces required by Table 9.103.B. and the total number of parking spaces required for a mixed-use commercial center and mixed-use development indicated in Table 9.103.A. shall not be used to reduce the required parking in the Downtown Area, or a development that is defined as mixed-use development or mixed-use commercial center not in Downtown Area.)

Applying the applicable general land use category to each proposed use, use the percentages to calculate the number of spaces required for each time period, (six (6) time periods per use). Add the number of spaces required for all applicable land uses to obtain a total parking requirement for each time period. Select the time period with the highest total parking requirement and use that total as your shared parking requirement.

F. *Parking master plan.*

1. *Purpose.* A parking master plan is presented as an option to promote the safe and efficient design of parking facilities for sites larger than two (2) acres or those sites in the Downtown Type 1 Area as designated by the Downtown Plan larger than sixty thousand (60,000) square feet. The city recognizes that strict application of the required parking standards or ratios may result in the provision of parking facilities of excessive size or numbers of parking spaces. This results in excessive pavement and impermeable surfaces and may discourage the use of alternate transportation modes. A parking master plan provides more efficient parking through the following requirements.
2. *Applicability.* The parking master plan is appropriate to alleviate problems of reuse and is also applicable as an alternative to the above mixed-use shared parking programs.
3. *Procedure.*
  - a. A parking master plan may be proposed at the time a parking plan is required.
  - b. The parking master plan may also be requested exclusive of any other site plan review or permitting procedure.
  - c. Parking master plans shall be reviewed by, and are subject to the approval of, the

Zoning Administrator.

- d. For changes of use in mixed-use projects, the parking necessary for the new mix of uses shall not exceed the parking required by the previous mix of uses.
4. Limitations on parking master plans.
  - a. The total number parking spaces required by Table 9.103.B. and the total number of parking spaces required for a mixed-use commercial center and mixed-use development indicated in Table 9.103.A. shall not be used to reduce the required parking in the Downtown Area or a development that is defined as mixed-use development or mixed-use commercial center not in the Downtown Area.
  - b. The Zoning Administrator shall only permit reductions of up to twenty (20) percent of the total parking required per Table 9.103.A.
  - c. Reductions of more than twenty (20) percent of required parking shall be subject to approval by the City Council.
5. Elements of a parking master plan. The contents of the parking master plan shall include:
  - a. A plan, which graphically depicts where the spaces and parking structures are to be located.
  - b. A report, which demonstrates how everything shown on the plan complies with or varies from applicable standards and procedures of the City.
  - c. The plan shall show all entrances and exits for any structured parking and the relationship between parking lots or structures and the circulation master plan.
  - d. The plan, supported by the report, shall show the use, number, location, and typical dimensions of parking for various vehicle types including passenger vehicles, trucks, vehicles for mobility impaired persons, buses, other transit vehicles and bicycles.
  - e. The plan, supported by the report, shall include phasing plans for the construction of parking facilities and any interim facilities planned.
  - f. Whenever a reduction in the number of required parking spaces is requested, the required report shall be prepared by a registered civil engineer licensed to practice in the State of Arizona and shall document how any reductions were calculated and upon what assumptions such calculations were based.
  - g. Parking ratios used within the report shall be based upon uses or categories of uses already listed within Table 9.103.A., Schedule Of Parking Requirements (the total number of parking spaces required by Table 9.103.B. and the total number of parking spaces required for a mixed-use commercial center and mixed-use development indicated in Table 9.103.A. shall not be used to reduce the required parking in the Downtown Area or a development that is defined as mixed-use development or mixed-use commercial center not in the Downtown Area.)
  - h. Such other information as is determined by the reviewing authority to be necessary to process the parking master plan.
6. *Performance standards.* Parking shall comply with the requirements of the Zoning Ordinance as amended except where application of the following criteria can show that a modification of the standards is warranted. This shall be determined by the Zoning Administrator pending review of the materials described in Subsection 5. above.
  - a. The parking master plan shall provide sufficient number and types of spaces to serve

- the uses identified on the site.
- b. Adequate provisions shall be made for the safety of all parking facility users, including motorists, bicyclists and pedestrians.
  - c. Parking master plans shall be designed to minimize or alleviate traffic problems.
  - d. Parking spaces shall be located near the uses they are intended to serve.
  - e. Adequate on-site parking shall be provided during each phase of development of the district.
  - f. The plan shall provide opportunities for shared parking or for other reductions in trip generation through the adoption of Transportation Demand Management (TDM) techniques to reduce trip generation, such as car pools, van pools, bicycles, employer transit subsidies, compressed work hours, and High Occupancy Vehicle (HOV) parking preference.
  - g. Surfacing of the lot shall be dust-proof, as provided by Section 9.106.C.1.
  - h. The parking master plan shall attempt to reduce environmental problems and to further the City's compliance with the federal Clean Air Act amendments of 1990 through appropriate site planning techniques, such as but not limited to reduced impervious surfaces and pedestrian connections.
  - i. Compliance with the federal Clean Air Act amendments of 1990 shall be considered.
  - j. Reductions in the number of parking spaces should be related to significant factors such as, but not limited to:
    - i. Shared parking opportunities;
    - ii. Hours of operation;
    - iii. The availability and incorporation of transit services and facilities;
    - iv. Opportunities for reduced trip generation through pedestrian circulation between mixed-uses;
    - v. Off-site traffic mitigation measures;
    - vi. Recognized variations in standards due to the scale of the facilities;
    - vii. Parking demand for a specified use; and
    - viii. The provisions of accessible parking spaces beyond those required per Section 9.105.
  - k. Reductions in the number of parking spaces for neighborhood-oriented uses may be granted at a rate of one (1) space for every existing or planned residential unit located within two (2) blocks of the proposed use, and one-half (0.5) space for every existing or planned residential unit located within four (4) blocks of the proposed use.
7. *Approval.* The property owner involved in the parking master plan shall submit a written agreement, subject to City approval, requiring that the parking facility and any associated Transportation Demand Management (TDM) techniques shall be maintained without alteration unless such alteration is authorized by the Zoning Administrator. Such written agreement shall be recorded by the property owner with the Maricopa County Recorder's Office prior to the issuance of a building permit, and a copy filed in the project review file.
- G. *Reserved.*
- H. *Downtown Overlay District Program.*

1. *Purpose.* This parking program will ease the process of calculating parking supply for new buildings, remodels, or for buildings with new tenants or new building area.  
This parking program consists of two (2) elements: Parking required and parking waiver.
2. *Parking required.* The amount of parking required shall be:
  - a. *If there is no change of parking intensity.*
    - i. If there is no change of parking intensity of the land use on any lot that has a legal land use existing as of July 31, 2003, no additional parking shall be required.
  - b. *Parking credits.*
    - i. Parking credits under this program shall be only for: parking improvement districts, permanent parking in-lieu credits, approved zoning variances for on-site parking requirements - unless the Zoning Administrator finds that the justification for the parking variance no-longer exists, and Parking P-3 District, except as provided in Section 9.104.H.2.b.i.(1). Only these parking credits shall carry forward with any lot that has parking credits as of July 31, 2003.  
(1) Parking credits associated with the Parking P-3 District shall continue to apply, unless the Parking P-3 District is removed from the property.
    - ii. The Downtown Overlay District does not void public agreements for parking payments of any type of parking program.
    - iii. Any parking improvement district credit(s) or permanent parking in-lieu credit(s) that the lot has that are in excess of the current parking demand shall remain with the lot.
    - iv. Property owners are still required to pay for any program that allowed them to meet the parking requirements.
  - c. *Increase in parking.*
    - i. When a property's parking requirements increase above the parking requirements on July 31, 2003, the new parking requirement is calculated as follows:  

$$(N - O) + T = \text{number of parking spaces required}$$

N = new (increased) parking requirement

O = old parking requirement (on July 31, 2003)

T = total of on-site and any remote parking spaces, plus any parking credits required on July 31, 2003 to meet the old parking requirement (excluding excess on-site and remote parking spaces and any excess parking credits).
    - ii. As applicable, Table 9.103.A. Table 9.103.B. shall be used to calculate N and O.
    - iii. A waiver to this requirement is in Section 9.104.H.3.
3. *Parking waiver within the Downtown Overlay District.*
  - a. *Purpose.* This parking waiver is designed to act as an incentive for new buildings, and for building area expansions of downtown businesses, which the expansion will have a minimal impact on parking demand.
  - b. *Applicability.* Upon application, property owners may have parking requirements

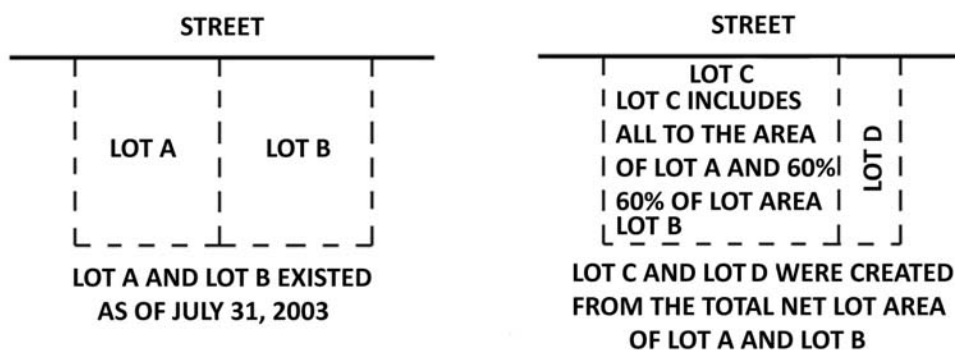


waived if they meet both the following criteria:

- i. Are within the Downtown Overlay District, and/or the Downtown District; and
  - ii. The new building or the new area of a building expansion is used for retail, office, restaurant or personal care services uses allowed in the underlying district.
- c. *Limitations on this parking waiver.*
- i. Can be used only once per lot existing as of July 31, 2003.
  - ii. Can be used for retail, office, restaurant or personal care services uses allowed in the underlying district at a ratio of one (1) space per three hundred (300) gross square feet.
  - iii. Is limited to a maximum of two thousand (2,000) gross square feet of new building, or building area expansion. The two thousand (2,000) gross square feet per lot of new building, or building area expansion may be used incrementally, but shall not exceed two thousand (2,000) gross square feet of the building size of each lot existing as of July 31, 2003.
- (1) Except as provided in Section 9.104.H.3.c.iii.(1), a lot that is created after July 31, 2003 from more than one (1) lot that existed as of July 31, 2003 shall be allowed to utilize parking waiver as cumulative total of all lots that were incorporated into one (1) lot.
  - (2) A lot(s) that is created after July 31, 2003 from a portion of a lot(s) that existed as of July 31, 2003 shall be entitled to a waiver of area, as described in section 9.104.H.3.c.iii., based on the pro-rata portion of the net lot that was split from the existing lot(s) and incorporated into the new lot(s). For example:

As shown in Figure 9.104.A., Lot A and Lot B are reconfigured into two (2) new lot configurations, Lot C and Lot D. Lot C now includes all of the net lot area of Lot A and sixty (60) percent of the net lot area of Lot B. Lot C is entitled to the all of the waiver of Lot A and sixty (60) percent of the waiver of Lot B. Lot D is entitled only to forty (40) percent of the waiver of Lot B.

**FIGURE 9.104.A.**

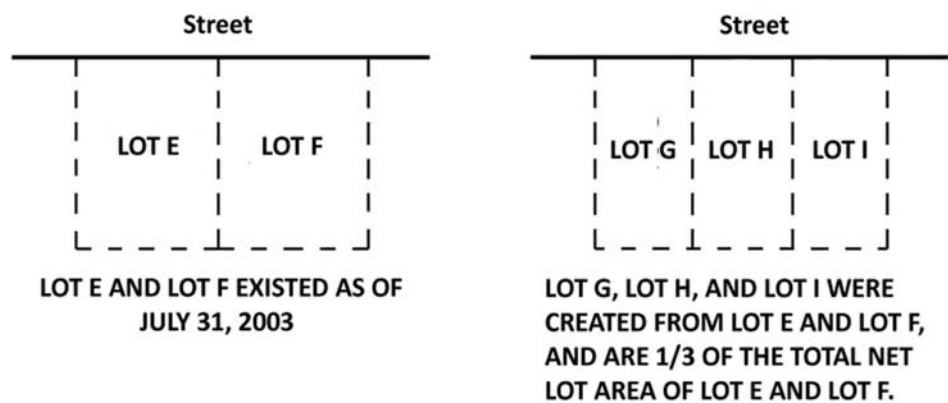


Therefore, Lot C's waiver would be three thousand two hundred (3,200) square feet of new building, or building area expansion; and Lot D's waiver would be eight hundred (800) square feet of new building, or building area expansion.

Another example may be:

As shown in Figure 9.104.B., Lot E and Lot F are reconfigured into three (3) new lots, Lot G, Lot H, and Lots I. Lot G, Lot H, and Lots I are each equal to one-third ( $1/3$ ) of the total net lot area of Lot E and Lot F. therefore, Lot G, Lot H, AND Lots I each are entitled to one-third ( $1/3$ ) of the total waiver that is allowed for Lot E and Lot F.

**FIGURE 9.104.B.**



Therefore, Lot G's, Lot H's, and Lot I's waiver each would be one thousand three hundred thirty-three and one-third ( $1,333.33$ ) square feet of new building, or building area expansion.

- 
- iv. Cannot be used on land that issued to meet a property's current parking requirement unless the same number of physical parking spaces are replaced elsewhere on site, or through the purchase of permanent in-lieu parking credits.
  - d. *Residential addition parking waiver.* No additional parking is required for up to four new dwelling units that are added to a development as part of a 2,000 square foot (or smaller) nonresidential gross floor area expansion.

(Ord. No. 2736, § 1, 3-7-95; Ord. No. 3520, § 1, 7-1-03; Ord. No. 3543, § 1(Exh. 1), 12-9-03; Ord. No. 3774, § 2, 3-18-08; Ord. No. 3896, § 1(Exh. § 6), 6-8-10; Ord. No. 3920, § 1(Exh. §§ 110—114), 11-9-10; Ord. No. 3980, § 1(Res. 8895, § 1, Exh. A, § 47), 12-6-11; Ord. No. 4005, § 1(Res. No. 8947, Exh. A, § 199, 200), 4-3-12; Ord. No. 4099, § 1(Res. No. 9439, Exh. A, §§ 24, 25), 6-18-13; Ord. No. 4143, § 1(Res. No. 9678, Exh. A, §§ 250—261), 5-6-14)

Sec. 9.108. - Special parking requirements in districts.

A. *Planned Regional Center (PRC).* The provisions of Article IX shall apply with the following exceptions:

1.

There shall be no parking required for courtyards or other open spaces, except that those portions thereof used for sales or service activities shall provide parking as specified elsewhere by this Zoning Ordinance.

2. Parking for dwellings shall be covered.

B. *Theme Park District (WP)*. The provisions of Article IX shall apply with the following exceptions:

1. The number of spaces required in Table 9.103.A. may be proportionately reduced by the provision of bus parking. Bus parking provided in lieu of automobile parking spaces may account for a maximum reduction of fifty (50) percent of the spaces required in Table 9.103.A.
2. If any bus parking is provided in lieu of automobile parking spaces, one (1) overflow automobile parking space shall be provided for each twenty-five (25) persons for whom seating is provided as indicated on the approved development plan.

C. *Downtown*. In Type 1 Areas of the Downtown Area, all parking shall be accessed from an alley or a street adjacent to a side yard. Unless approved by the Development Review Board, there shall be no curb cuts on streets abutting a front yard within any Type 1 Area.

D. *In-lieu parking program in the Downtown Overlay District (DO) and the Downtown District (D)*.

1. *Purpose*. The purpose of the in-lieu parking program is to assist the property owners of small properties to reinvest, develop, and redevelop to the highest and best use of the property, and to accommodate different land uses throughout the life span of a development. In addition, the purpose of the in-lieu parking program is to foster a pedestrian-oriented environment with a sustainable urban design and character for all properties in the Downtown Area, by reducing the total number of physical parking spaces on a property. Also, as specified below, fees associated lieu parking program shall be utilized for the downtown parking program and downtown tram service.
2. *Parking requirements*. A property owner may satisfy a property's nonresidential parking requirement through the City's in-lieu parking program by an in-lieu parking payment(s) made to the City's downtown parking program enhancement account for in-lieu parking credits. The regulations of the in-lieu parking program shall not be eligible for a variance. The City shall not be obligated to approve a property owner's request to participate in the in-lieu parking program.
3. *Approvals required*.
  - a. The City Council shall determine whether or not to allow a property owner to participate in the in-lieu parking program based on the following considerations:
    - i. New development, reinvestment, or redevelopment of the property;
    - ii. The use of the property fosters a pedestrian-oriented environment with an urban design and character, and the use of public transit or the downtown tram service;
    - iii. Property size and configuration;
    - iv. The amount of public parking available to the area;
    - v. The future opportunity to provide public parking in the area; or
    - vi. Open space and public realm areas are maintained and/or parking lots convert into open space and public realm.
  - b.

The Zoning Administrator may administratively approve participation in the in-lieu parking program for up to, and including five (5) in-lieu parking credits, provided that the allowance is based on the City Council considerations of Section 9.108.D.3.a. The Zoning Administrator approval shall not exceed a total of five (5) in-lieu parking credits per lot.

- i. An appeal of the Zoning Administrator's, denial for participation in-lieu parking program shall be heard by City Council.
    - (1) Appeals must be filed with the City Clerk no later than thirty (30) days after the Zoning Administrator issues any written denial for participation in-lieu parking program.
  - ii. The City Council shall evaluate an appeal, and may approve or deny participation in-lieu parking program based on the considerations specified in Section 9.108.D.3.a.
4. *In-lieu parking credit fees.* The amount of the in-lieu parking credit fee(s) shall be established by the City Council, and may include penalty fees for late payment, legal fees, administrative fees, an interest rate to account for the time value of money for the in-lieu parking installment purchase option, and any other fee the City Council deems necessary to implement the in-lieu parking program.
5. *Use of in-lieu parking fees.* The use of the in-lieu parking fees paid to the City shall be used for the operation of a downtown parking program which may include, but is not limited to, the provision and maintenance of public parking spaces, the operation of tram shuttle services linking public parking facilities and downtown activity centers, and services related to the management and regulations of public parking.
6. *In-lieu parking payments.* Fractional parking requirements may be paid for on a pro-rata basis. The property owner may purchase, or the City Council may require in-lieu parking credits to be purchased, either as permanent parking credits or as term parking credits in accordance with the following:
  - a. *Permanent in-lieu parking credits.* Parking space credits purchased under this permanent in-lieu option shall be permanently credited to the property. These parking credits may be purchased either by installment payments to the City over a fixed period of time, or by payment of a lump sum fee.
    - i. Under the lump sum purchase option, purchase shall be made by the property owner through payment of the total fee, in accordance with the procedures adopted by the Zoning Administrator and a written agreement, satisfactory to the City, with the property owner.
    - ii. The installment purchase option shall require an initial cash deposit and a written agreement, satisfactory to the City, binding the property owner to make subsequent monthly installment payments. The installment purchase agreement shall not create a payment term longer than fifteen (15) years, and shall include, but not limited to, payment procedures approved by the Zoning Administrator. Payment of the lump sum in-lieu fee, or payment of the installment purchase deposit and execution by both parties of the installment purchase agreement, shall be completed prior to the issuance of a building permit if a building permit is required, or to the issuance of a certificate of occupancy.
  - b.

*Monthly term in-lieu parking credits:* Parking credits obtained by payment of a monthly in-lieu fee under this option are only for the term of the activity requiring the parking and are not permanently credited to the property. A monthly term in-lieu parking credit(s) requires a written agreement, satisfactory to the City, binding the property owner to make subsequent monthly payments. The agreement shall include, but not limited to payment procedures approved by the Zoning Administrator. The first monthly payment shall be made in accordance with the agreement.

- c. *Evening-use term in-lieu parking credits.* Parking credits obtained by payment of a monthly in-lieu fee under this option are only for the term of the activity requiring the parking, limited to uses only open for business between the hours of 5:00 p.m. and 3:00 a.m., and are not permanently credited to the property. An evening-use term in-lieu parking credit requires a written agreement satisfactory to the City binding the property owner to make monthly payments. The agreement shall include, but not limited to payment procedures approved by the Zoning Administrator. The first monthly payment shall be made in accordance with agreement.

(Ord. No. 2736, § 1, 3-7-95; Ord. No. 3225, § 1, 5-4-99; Ord. No. 3520, § 1, 7-1-03; Ord. No. 3543, § 1(Exh. 1), 12-9-03; Ord. No. 3662, § 2, 2-7-06; Ord. No. 3879, § 1(Exh. § 27), 3-2-10; Ord. No. 3896, § 1(Exh. § 6), 6-8-10; Ord. No. 3920, § 1(Exh. § 119), 11-9-10; Ord. No. 4099, § 1(Res. No. 9439, Exh. A, § 30), 6-18-13; Ord. No. 4143, § 1(Res. No. 9678, Exh. A, § 263), 5-6-14)

Sec. 9.109. - Evening-use parking.

- A. *Evening-use parking.* Evening-use parking is parking for establishments conducting business between 5:00 p.m. and 3:00 a.m.
- B. *Evening-use parking application.* The property owner of the served use shall file an application for proposed evening-use parking, including:
  - 1. A lighting plan for the parking in conformance with Article VII.
  - 2. An analysis of the location and availability of private parking spaces.
  - 3. A remote parking agreement in accordance with this article if the parking is not on the same property as the served use.
- C. *Zoning Administrator approval of evening-use parking.* The Zoning Administrator may approve an application for evening-use parking if the plans and analysis show the parking:
  - 1. Is within six hundred (600) feet of the property line of the served use.
  - 2. Is accessible to the served use by a direct, safe, continuous pedestrian way.
  - 3. Serves the purposes of this Zoning Ordinance.

(Ord. No. 4099, § 1(Res. No. 9439, Exh. A, § 31), 6-18-13; Ord. No. 4143, § 1(Res. No. 9678, Exh. A, § 264), 5-6-14)



October 20, 2021

Board of Adjustment  
CITY OF SCOTTSDALE  
3939 N. Drinkwater Boulevard  
Scottsdale, Arizona 85251

**RE: Analysis of Impact to Property Values Arising from Sober Living Home Use at 7910 and 7920 E. Wilshire Drive (the "Property" or the "Trullies Property")**

Dear Board of Adjustment:

My name is Radojka Lala Smith with eXp Realty. I have been a licensed Realtor for over 16 years primarily in Maricopa County, including the Scottsdale area and surrounding cities. My team and I sell close to 200 homes a year. Last year, I personally(solely) sold over 112 homes. For several years in a row, I have been a #1 transaction volume RE/MAX sales agent in the entire State of AZ. Approximately one-third of my portfolio includes investors who buy income properties for long-term rentals and short-term Airbnb style homes.

It is my understanding that the owner and operator of the above-referenced Property is seeking an interpretation and a reasonable accommodation under the FHA to allow approximately two-to-four sober, disabled adults to live in each condominium unit within the R-3 zoning district. I have been asked to provide an opinion regarding the character of the Property in relation to its surroundings and to provide an analysis of potential impacts to surrounding property values arising from the proposed sober living use. Given my experience described above, I am qualified to give this opinion.

**Description of Property and Its Surroundings**

The areas of Old Town Scottsdale and South Scottsdale, especially in the one-to-three-mile radius from the subject Property, are heavily populated by single-family homes and apartment/ condo buildings. Many of these residences are occupied by long term rentals as well as short term Airbnb and VRBO homes, and second homeowners (such as snowbirds). The following 2020 Census data for zip code 85257 supports this conclusion:

<b>For Rent</b>	496	30%
<b>Rented &amp; Unoccupied</b>	19	1%
<b>For Sale and Pendings</b>	195	21%
<b>Sold &amp; Unoccupied</b>	49	3%

<b>For Season Recreational Or Occasional Use</b>	465	28%
<b>For Migrant Workers</b>	0	0%
<b>Vacant For Other Reasons</b>	292	17%

## Housing Occupancy

<b>Owned Households With A Mortgage</b>	5,171	37%
<b>Owned Households Free &amp; Clear</b>	2,771	20%
<b>Renter Occupied Households</b>	4,278	31%
<b>Households Vacant</b>	1,676	12%

### **Prior Short Term Rental Use of the Property**

Prior to Centered Living, LLC acquiring the building in June of 2021, the premises was used for an STR (short term rental). Generally, in real estate, any area that is populated by STRs do not enrich the values of the neighborhood, due to high traffic and turnover of occupants. For example, an STR is operated like a hotel, with new groups of people coming in and out on a daily and weekly basis. While occupying the STR, the individuals typically visit Scottsdale to relax and have a good time. The STRs have been known to be the frequent locations of loud parties with many visitors involving alcohol and loud music. These impacts often cause immediate neighbors to eventually move to the suburbs or HOA communities to escape the STR lifestyle.

### **Purchase of Property on June 23, 2021 for Sober Living Use**

As a professional Realtor, I would consider the proposed sober living use to be a more stable and beneficial use in this area due to the quiet and structured lifestyle it provides. Traffic along Wilshire Drive will not be negatively impacted because the sober residents do not have individual cars at the Property. Noise can be monitored and supervised more readily with the help of staff on-site. The residents' schedules are also consistent and very typical of standard working hours. They are required to attend classes and participate in activities offsite 6 days a week, being typically gone from 7:30 am to 4:30 pm. It is my understanding that, in the evening hours, they cook dinner in their units, clean their units, prepare for their next day of classes and schedules, and go to sleep by 10 pm on weeknights, similar to any typical family in the area. Occupants residing at this Property are there to better their life and apply discipline and life skills to further their recovery. It's a great mission for any community!

### **Analysis of Property Values Surrounding Trullies from January 1, 2021 to the Present**

In the current real estate market, due to shortage in inventory and high demand for South Scottsdale homes, Sober Living will not have any negative impact on current nor future sales.

For example, since January 2021, in the subject area (zip code 85257) there has been over 594 closed sales for all residential class properties. Within only a half a mile (.05%) from the subject Property, there has been 74 closed sales since January 2021. Back in January 2021, single family homes within less than a one-mile radius were selling for \$295 per sq.ft. on average. Since Centered Living purchased the property in June 2021, the price per square foot on closed homes from July until the present is averaging around \$378 per sq.ft., which demonstrates a significant increase in values. On average, the homes are selling in 33 days, and most sell at or above list price.

### **Analysis of Property Values Surrounding the Sober Living Apartments from January 1, 2021 to the Present**

If we analyze the existing Sober Living Apartments located at 6825 E. 4th Street, Scottsdale AZ 85251 as a comparable analysis, we will note that this apartment complex offers sober living to adults and is not licensed by ADHS. Despite the apartments choosing not to obtain a sober living license from ADHS, their operations are very similar/nearly identical to the Trullies condos operation (where sober adults live as a family). The apartment's surrounding uses are also very similar to the uses surrounding Trullies (a mix of MFR and SFR uses). The values of the homes and condos recently sold in the area of the Sober Living Apartments have not been negatively impacted by the sober living use. For example, in January 2021, 272 residences sold within less than a one-mile radius of the Sober Living Apartments at an average price of \$331 per sq.ft. Just last month, the average price was approximately \$410 per sq.ft.

### **Conclusion**

Based upon my experience, the Property's former use as a short-term rental likely impacted surrounding neighbors and property owners more so than sober adults living at the Property in family units. Occupants residing at these sober living premises are there voluntarily to better their life and apply discipline in furtherance of their recovery. Based on the above-referenced statistics and current market trends, since the property was acquired for sober living, there has been no negative impact on housing values. In fact, the price per square foot has increased by almost 22%. All numbers point to a stable, healthy and positive future outcome for the surrounding area.

Sincerely,

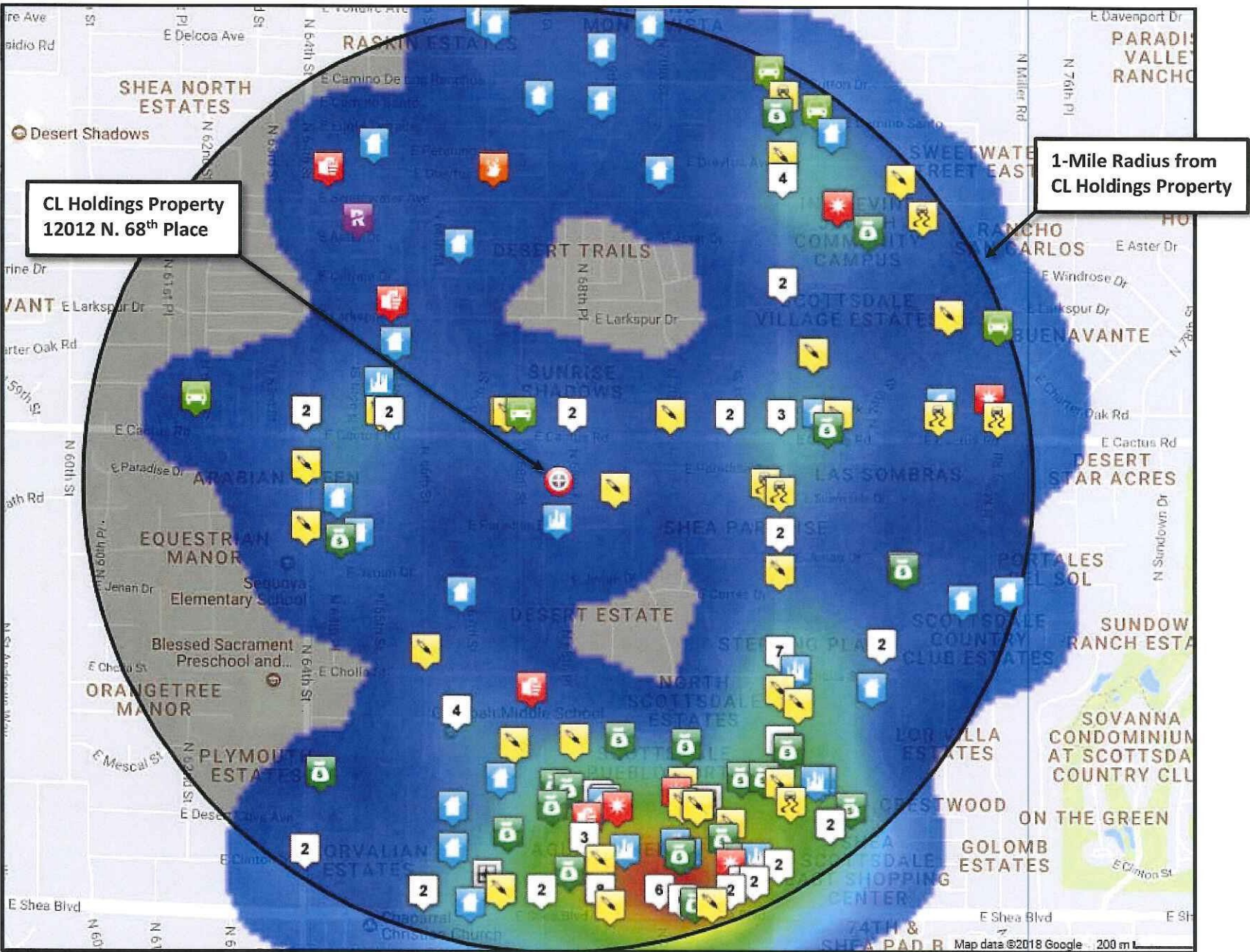
*Lala Smith*

Professional Realtor , CDPE, SFR, B.S. Business Admin.  
eXp Realty

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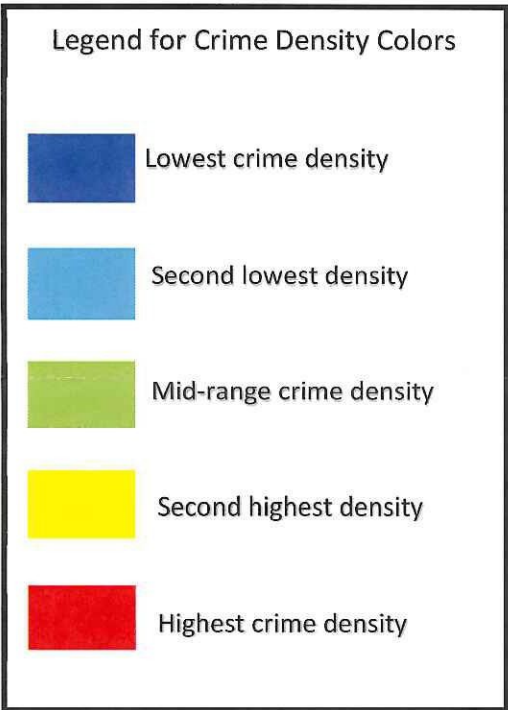
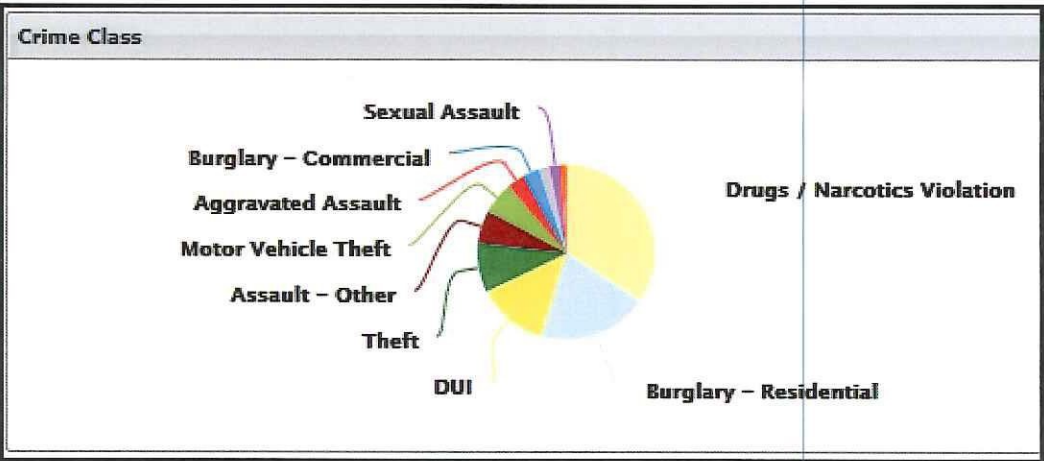


LEXIS NEXIS COMMUNITY CRIME MAP FOR AREA WITHIN 1-MILE RADIUS OF CL HOLDINGS' PROPERTY  
From April 1, 2017 through April 1, 2018



**Event**

- ☒ Homicide
- ☒ Attempted Homicide
- ☐ Death Investigation
- ☒ Sexual Assault
- ☐ Sexual Offense - Other
- ☒ Robbery - Commercial
- ☒ Robbery - Individual
- ☒ Aggravated Assault
- ☒ Assault - Other
- ☒ Burglary - Commercial
- ☒ Burglary - Residential
- ☒ Theft
- ☐ Fraud
- ☐ Shoplifting
- ☐ Theft - Other
- ☒ Motor Vehicle Theft
- ☐ Burglary from Motor Vehicle
- ☒ Arson
- ☒ DUI
- ☒ Alcohol Violation
- ☒ Drugs / Narcotics Violation
- ☒ Disorderly Conduct
- ☐ Traffic Incident
- ☐ Vandalism
- ☐ Weapons Violation
- ☐ All Other - Non-Criminal
- ☐ All Other - Criminal



**Search Address**

ADDRESS  
 12012 N 68th place, Scottsdale, AZ  
1600 Pennsylvania Ave, Washington, DC 20500

**JUMP TO CITY**  
Start typing or click the arrow...

**BUFFER**  
☒ On   
☒ Only display events within buffer

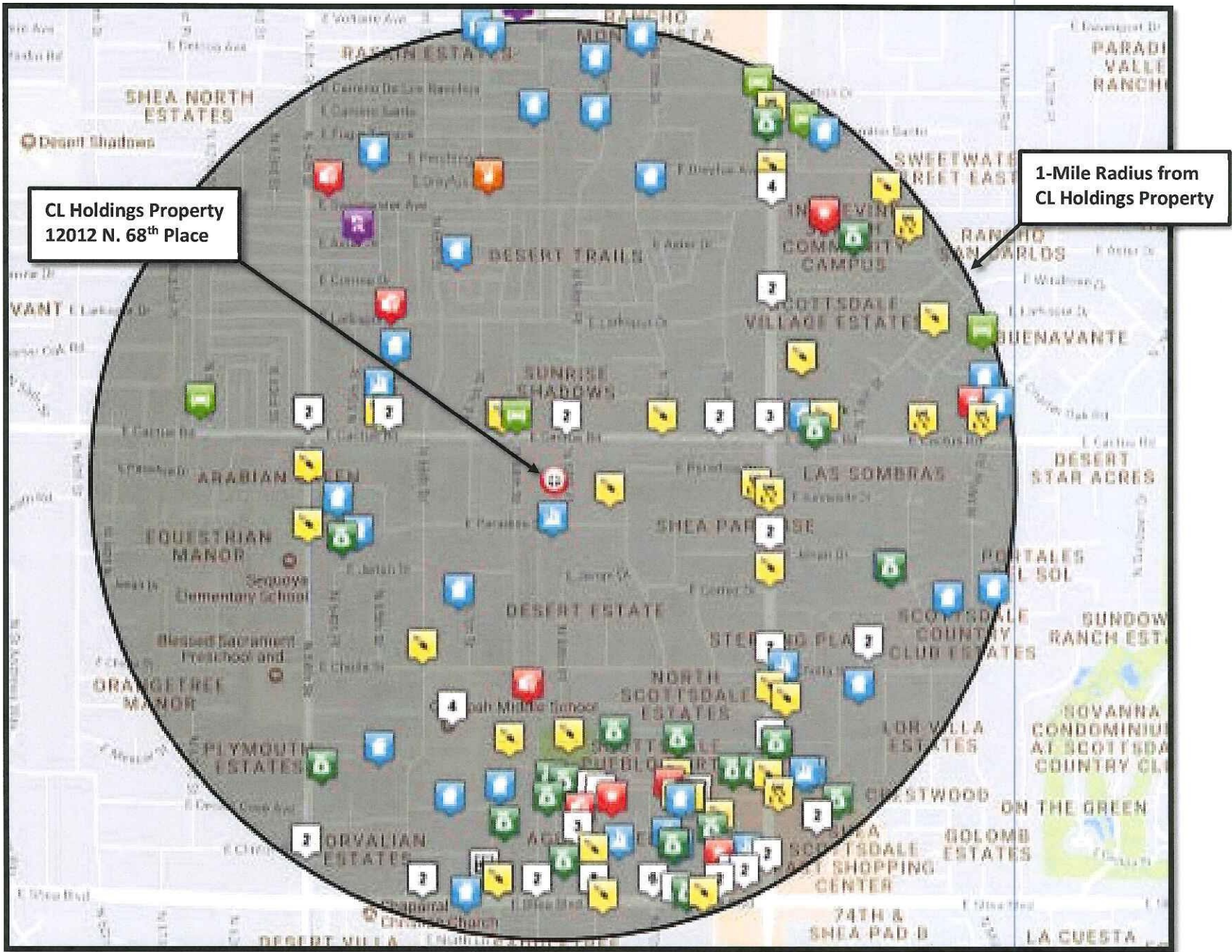
**Date Range**

**QUICK DATE**  
Select a pre-defined range...

**DATE RANGE**  
Start Date: 04/01/2017   
End Date: 04/01/2018   
☐ View points using time slider



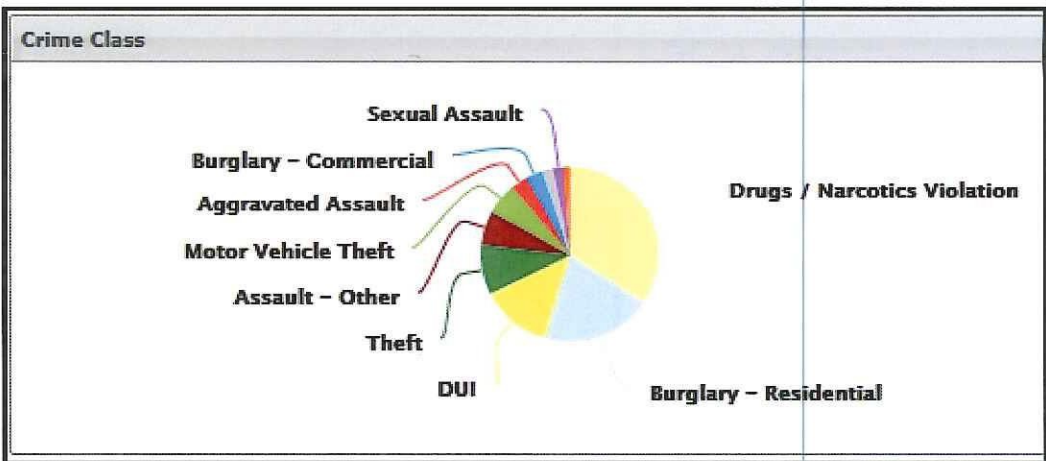
LEXIS NEXIS COMMUNITY CRIME MAP FOR AREA WITHIN 1-MILE RADIUS OF CL HOLDINGS' PROPERTY  
From April 1, 2017 through April 1, 2018



**Event**

- ☒ Homicide
- ☒ Attempted Homicide
- ☐ Death Investigation
- ☒ Sexual Assault
- ☐ Sexual Offense - Other
- ☒ Robbery - Commercial
- ☒ Robbery - Individual
- ☒ Aggravated Assault
- ☒ Assault - Other
- ☒ Burglary - Commercial
- ☒ Burglary - Residential
- ☒ Theft
- ☐ Fraud
- ☐ Shoplifting
- ☐ Theft - Other
- ☒ Motor Vehicle Theft
- ☐ Burglary from Motor Vehicle
- ☒ Arson

- ☒ DUI
- ☒ Alcohol Violation
- ☒ Drugs / Narcotics Violation
- ☒ Disorderly Conduct
- ☐ Traffic Incident
- ☐ Vandalism
- ☐ Weapons Violation
- ☐ All Other - Non-Criminal
- ☐ All Other - Criminal



**Search Address**

ADDRESS

12012 N 68th place, Scottsdale, AZ

1600 Pennsylvania Ave, Washington, DC 20500

**JUMP TO CITY**

Start typing or click the arrow...

**BUFFER**

☒ On

☒ Only display events within buffer

**Date Range**

**QUICK DATE**

Select a pre-defined range...

**DATE RANGE**

Start Date:

End Date:

☐ View points using time slider



# City of Scottsdale General Plan 2001



# **City of Scottsdale, Arizona**

## **2001 General Plan**

*adopted October 30, 2001*

*ratified by Scottsdale citizens March 12, 2002*

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### **City Council**

Mary Manross, Mayor

Cynthia Lukas

Robert Pettycrew

Ned O'Hearn

Tom Silverman

David Ortega

George Zraket

### **Planning Commission**

Betty Drake, Chair

Margaret Dunn

Charles Lotzar

David Gulino

Tony Nelssen

Kay Henry

Kevin Osterman

### **Other Boards and Commissions**

Airport Advisory Commission

Building Advisory Board of Appeals

Board of Adjustment

Development Review Board

Endowment Advisory Board

Environmental Quality Advisory Board

Historic Preservation Commission

Housing Board

Human Services Commission

Library Board

McDowell Sonoran Preserve Commission

Neighborhood Enhancement Commission

Parks and Recreation Commission

Redevelopment Board

Scottsdale Pride Committee

Transportation Commission



# Housing

## VISION STATEMENT

*Scottsdale will be a community that embraces a variety of housing opportunities that enhance the character, diversity, and vitality of the city, as well as respect and conserve our Sonoran desert. Our vision is to incrementally, but steadfastly expand housing opportunities for current and future citizens. This involves fiercely protecting our existing stock of housing inventory, while offering support programs to help with improvements and upkeep. It means ensuring that new housing involving public investment of any kind includes a range of pricing options. It also means encouraging builders through incentives to broaden the spectrum of home options in proposed residential developments. Our vision focuses on the people who occupy housing as much as the product itself. Housing options will include a wide range of opportunities for people living and working in Scottsdale, people at different life stages, income levels, and social and physical needs.*

### Introduction

Since incorporating in 1951, Scottsdale's housing and neighborhoods have shifted and evolved in response to marketplace trends and family lifestyles. From the early 1950's through the 1970's, Scottsdale pioneered creative housing solutions in Arizona, such as town home communities for part-time residents and the "live, work and play" master-planned communities like McCormick Ranch. One-mile planning areas with ranch-style homes, schools as the centerpiece of the area and commercial uses at the edges were the norm for development during these decades.

In the early 1980's, Scottsdale annexed approximately 105 square miles of county land zoned for low-density housing. With the new land, low cost of living, and Scottsdale's nationally recognized image as a quality place to live and raise a family, the 1980's and 1990's were a period of planning and vigorous building for the north areas of our city. A number of master-planned communities and custom homes on larger lots were built. By the end of 1999, approximately 80 percent of the residential building permits being issued were for custom homes.



The following table shows population and housing differences between 1960, 1980, and 2000. The estimated buildout population of Scottsdale is expected to be less than 300,000.

	1960	1980	2000 estimate
<b>Population</b>	27,000	88,800	212,980
<b>Housing Units (constructed)</b>	9,800	43,900	106,700
<b>Household size (people/dwelling unit)</b>	3.60	3.49	2.26
<b>Median Income</b>	\$7,300	\$21,500	\$63,000
<b>Vacancy/ Occupancy Rates</b>	.85	.90	.88
<b>Home Price (median)</b>	\$15,800	\$60,000	\$198,000

In general, housing in Scottsdale has a higher cost and value than comparable housing in other Valley communities because of the community amenities and quality of life in Scottsdale. While this is beneficial for property and resale values, it makes provision of housing for the full spectrum of Scottsdale's citizens, our service workers, seniors on limited incomes, and citizens with special social or physical needs, more difficult.

The demographics of our community are changing and land identified for housing development is becoming increasingly limited. Now and in the future we will need to focus attention on the revitalization and preservation of our more mature housing neighborhoods, to seek creative infill development strategies, and to encourage a diversity of housing that accommodates a variety of income levels, households, and socioeconomic needs.



## City Government intervention in housing opportunities v. market driven housing

During the Future in Focus public participation process, citizens spoke about the importance of having a diversity of housing opportunities. Housing in Scottsdale is more costly than other Valley communities, giving rise to questions about a good supply of workforce (for example, teachers, police officers, etc.) housing and of people being able to remain in neighborhoods throughout their lives if they choose. Oftentimes however, people are concerned about the aesthetics or character of "affordable" housing, based on individual examples and past experiences with affordable housing "projects". The General Plan policies support the foundation of high quality, safe and affordable housing throughout the community, however, some feel that housing should be strictly market driven and the government should not be involved.

### Scottsdale Values ...

- Housing and neighborhoods that contribute to a sustainable community.
- A community that contains a broad diversity of owner occupied and rental housing types.
- A community in which residents can live, work, and play in close proximity and where neighborhoods have easy connections with other neighborhoods and surrounding amenities.
- Citizen involvement in the preservation and revitalization of Scottsdale neighborhoods.
- Preservation and development of high quality, safe, and affordable housing to serve the people who live and work here.
- Housing that is energy efficient, environmentally sensitive, and that blends with the city's natural surroundings.
- "Life cycle" housing opportunities for people to be able to live in Scottsdale throughout their lives.
- Participation in regional efforts addressing the region's housing needs.





## Goals and Approaches



1. **Preserve the quality of existing dwellings and neighborhoods so that people will find our community a healthy, safe and attractive place to call home today and into the future.**
  - Support existing and future housing rehabilitation and neighborhood preservation efforts.
  - Encourage ongoing property maintenance to sustain neighborhood vitality, value, and overall sense of community pride.
  - Seek appropriate resources to revitalize and preserve at-risk single- and multi-family developments.
  - Encourage rehabilitation of historic residential buildings and remodeling of older multi-unit buildings.
  - Continue an active property maintenance, inspection, and code enforcement program in partnership with the community to promote healthy neighborhoods.
  - Leverage state and federal funding opportunities for the preservation of high quality, safe and affordable housing.
  - Analyze city ordinances and policies that affect housing diversity and availability.
  
2. **Seek a variety of housing options that blend with the character of the surrounding community.**
  - Maintain Scottsdale's quality-driven development review standards for new housing development.
  - Encourage physical design, building structure, and lot layout relationships between existing and new construction to help the new developments complement the surrounding neighborhoods.
  - Encourage energy efficiency via integration of the city's Green Buildings and Sustainability programs (or future programs) in new housing design.
  - Support community dialogue to reassess and streamline the development review process so as to encourage creative housing designs.
  - Encourage the creation of mixed-use projects as a means to increase housing supply while promoting diversity and neighborhood vitality.
  - Consider incentives that encourage the development of diverse housing types, including smaller, more affordable units.

**3. Seek a variety of housing options that meet the socioeconomic needs of people who live and work here.**

- Encourage and establish appropriate incentives for development of aesthetically pleasing housing that will accommodate a variety of income levels and socioeconomic needs.
- Support programs that will increase home ownership among entry level and moderate-income households who work in Scottsdale.
- Find creative solutions to encourage the development of new housing that is more affordable to entry level and moderate-income households for both homeowners and renters.
- Support reduction of government and regulatory constraints to enhance housing affordability, such as streamlining project coordination and processing time and promoting innovative and creative design.
- Encourage energy efficiency via integration of city's Green Buildings and Sustainability programs (or future programs) in housing design as a contribution to long-term housing affordability and as a benefit to our environment.
- Consider incentives that encourage the development of diverse housing types, including smaller, more affordable units.

**4. Encourage housing development that provides for “live, work, and play” relationships as a way to reduce traffic congestion, encourage economic expansion and increase overall quality of life for our residents.**

- Encourage a variety of housing densities throughout Scottsdale, with mixed-uses in areas of major employment and transit hubs, to offer greater live-work choices to a broader economic range of households.
- Support partnerships whereby builders and/or major employers (in partnership with the city) help provide housing options for Scottsdale's workforce.
- Encourage the development of work force housing in the new development and expansion of hotels, resorts, and other generators of service-level employment.
- Support the creation and implementation of policies that encourage employers to assist in meeting employee housing needs.
- Support the use of future innovations in technology and telecommunications as a way to remain flexible to changing demographics, community profiles and quality of life choices, including opportunities like home based businesses, telecommuting, on-line shopping, etc.
- Consider a variety of strategies to increase housing intensity and diversity in appropriate locations, such as around commercial areas, near transit centers or major employment.





- Explore opportunities for new or redeveloped housing to serve the employment base.
- Encourage housing linked/connected to the city's mobility system.
- Work to adjust the housing mix based on changing demographics and economics of the city.

**5. Encourage the investment of resources and use of existing and future tools to promote the revitalization of Scottsdale's older neighborhoods and adaptation of dated housing stock.**

- Support policies and programs that provide opportunities for homeowners to update or renovate their homes and examine existing regulations that may be barriers to adaptation of existing homes.
- Encourage community involvement in the maintenance and enhancement of properties and rights of way in residential neighborhoods.
- Coordinate city programs dealing with neighborhood enhancement and support activities that work to revitalize neighborhoods.
- Expect use of relocation benefits to mitigate hardship on individuals and families during redevelopment process relocations.
- Support policies that seek quality housing with affordability for a wide range of income groups when redeveloping properties.
- Support proactive communications with affected residents and business owners during the planning and implementation of redevelopment projects.
- Work to ensure a one-to-one replacement of housing removed by redevelopment projects to maintain long-term housing affordability.



**6. Encourage the increased availability and integration of a variety of housing that supports flexibility, mobility, independent living, and services for all age groups and those with special needs.**

- Encourage the development of a full range of senior housing while also finding ways to incorporate adjacent service facilities, where appropriate.
- Support efforts to examine city processes and policies to promote opportunities for mixed-use development/structure options.
- Support existing and future policies and techniques that provide housing opportunities to meet the unique housing needs of young working families, the elderly, and disabled.
- Encourage links between housing and adjacent uses, such as senior centers, childcare centers, preschools, youth centers, and other community facilities to provide opportunities for inter-generational connections.

- Integrate elderly and assisted-care facilities into neighborhoods and create connections between residential developments to promote opportunities for inter-generational connections and continuum of care for the elderly.
- Encourage redevelopment activities that provide opportunities to address housing affordability challenges.
- Seek opportunities to locate housing for those citizens with special needs, near transportation services that will make their mobility easier.
- Support existing and future use of federal, state, and local matching funds in partnership with non-profit and social agencies to acquire and rehabilitate multi-family housing in at-risk areas of Scottsdale.
- Support agencies and organizations that provide shelter, housing, and services.
- Support housing that includes services and facilities to meet health care, mobility, child or elder care, youth services, recreation, or social service needs of households.
- Participate actively in identifying regional partners and regional solutions for those special needs that may be most appropriately addressed on a regional basis.





## Frequently Asked Questions

### Naloxone

#### What is naloxone?

Naloxone, also known as Narcan®, is a drug to treat the effects of opioids and can save the life of someone overdosing on opioids. The enhanced surveillance also allows us to track how many times naloxone has been dispensed by a pharmacist or given to someone who may be suffering from an opioid overdose.

#### What is the difference between naloxone administration and dispensing?

*Naloxone Dispensing* is when a pharmacist provides a package and/or “kit” of naloxone/Narcan® to someone for them to have and keep for their use in an emergency (or in case a friend or family members needs it). Pharmacists may also dispense naloxone to certain community-based organizations so that the organizations can then provide the kits to people who may need them. ADHS’s [standing order](#) allows pharmacists to dispense naloxone to any individual in Arizona.

*Naloxone/Narcan® administration* is the act of getting a medication (in this case naloxone) into a person's blood stream.

#### How is naloxone administered?

Depending on the packaging, naloxone/Narcan® can be administered in one of three ways:

- (1) Via a mist sprayed into a person's nose;
- (2) Via an injection directly into a person’s muscle usually in the top of their upper thigh or in the muscular portion of their upper arm or shoulder;
- (3) Via a needle that has been placed into a person’s vein, usually on the inside of their arm.

The first two methods (#1 and #2) are the most common for the out-of-hospital setting.

ADHS’s [standing order](#) allows any individual to purchase naloxone/Narcan® from any pharmacy in Arizona. It is important to read and follow the instructions provided with the naloxone so that you know how to use it. The third method (#3) is for certified/licensed healthcare professionals.

#### Who needs naloxone immediately accessible to them?

Ideally, naloxone should be immediately accessible to family members and friends of people at risk of opioid overdose, first-responders to opioid overdose patients, and medical providers.

#### Where is naloxone available?

Patients can receive naloxone prescriptions through their medical providers. Patients and members of the public can now purchase naloxone from any pharmacy without a prescription (see [the standing order for naloxone](#)). There are also substance abuse treatment organizations that distribute naloxone.



**Are there guidelines for prescribing of naloxone to patients?**

The [CDC 2016 Guideline for Prescribing Opioids for Chronic Pain](#) recommends clinicians consider offering naloxone when there are factors that increase risk for opioid overdose, such as history of overdose, history of substance use disorder, and higher opioid dosages.

**Who can administer naloxone?**

Under [A.R.S. § 36-2267](#), any person may administer an opioid antagonist, like naloxone, to a person who is experiencing an opioid-related overdose. The statute further states, "A person who does this in good faith and without compensation is not liable for any civil or other damages as the result of the act."

**What are the legal protections for those prescribing and/or administering naloxone?**

The Arizona Revised Statutes regarding the prescription and administration of opioid antagonists, like naloxone, are as follows:

[A.R.S. § 36-2266](#) – Prescribing and dispensing; immunity; good faith statement; definition.

[A.R.S. § 36-2267](#) – Administration of opioid antagonist; exemption from civil liability; definition.

[A.R.S. § 36-2228](#) – Administration of opioid antagonist; training immunity; designation by director.

**Why is the administration and dispensing of naloxone reportable?**

On June 5, 2017, Arizona Governor Doug Ducey declared a [Public Health State of Emergency](#) due to the opioid epidemic. More than two Arizonans die every day due to opioid-related overdoses. The resultant [Enhanced Surveillance Advisory](#) went into effect June 15, 2017 as a first step toward understanding the current burden in Arizona and to collect data to best target interventions.

**Who needs to report the *administration* of naloxone?**

See [Reporting](#) for information on required reporters, health conditions to be reported, and reporting systems. Required reporters include law enforcement officers, emergency medical services/ambulance agencies, and healthcare facilities/providers.

**Who needs to report the *dispensing* of naloxone?**

See [Reporting](#) for information on required reporters, health conditions to be reported, and reporting systems. Required reporters include pharmacists.

**Do community members need to report the administration of naloxone?**

No, required reporters include healthcare providers, licensed healthcare facilities, correctional facilities, medical examiners, law enforcement officers, EMS and ambulance agencies, and pharmacists (see [Reporting](#)).

However, it should be noted that EMS, law enforcement, and the fire department are responsible for reporting bystander/layperson administration of naloxone.

**If naloxone is administered to a hospitalized patient, does that need to be reported?**

All patients requiring naloxone to reverse a suspected opioid overdose need to be reported (see [Reporting](#)). Patients that receive naloxone to reverse IV sedation or anesthesia are not reportable.



# ARIZONA DEPARTMENT OF HEALTH SERVICES

## STANDING ORDERS FOR NALOXONE

This standing order is issued by Dr. Lisa Villarroel, MD MPH (NPI #1598085896), Medical Director of the Division of Public Health Preparedness at the Arizona Department of Health Services. The standing order authorizes any Arizona-licensed pharmacist to dispense naloxone to any individual in accordance with the conditions of this order.

Dispense one of the three following naloxone products based on product availability and preference.

<input type="checkbox"/>	<p><b>For intranasal administration in children <math>\geq 5</math> years or <math>\geq 20</math>kg; adolescents; adults</b></p> <p><u>Dispense:</u> NARCAN™ 4mg/0.1mL nasal spray</p> <p><u>Sig:</u> For suspected opioid overdose, administer a single spray of Narcan in one nostril. Repeat after 3 minutes if no or minimal response.</p> <p><u>Refills:</u> PRN x 1 year</p> <p><b>OR</b></p> <p><u>Dispense:</u> 2mg/2mL single dose Luer-Jet prefilled syringe. Include 1 Luer-lock mucosal atomization device per dose dispensed.</p> <p><u>Sig:</u> For suspected opioid overdose, spray 1 mL in each nostril. Repeat after 3 minutes if no or minimal response.</p> <p><u>Refills:</u> PRN x 1 year</p>
<input type="checkbox"/>	<p><b>For intramuscular injection in children <math>\geq 5</math> years or <math>\geq 20</math>kg; adolescents; adults</b></p> <p><u>Disp:</u> 0.4mg/mL in 1mL single dose vials. Include one 3cc, 23g, 1" syringe per dose dispensed.</p> <p><u>Sig:</u> For suspected opioid overdose, inject 1mL IM in shoulder or thigh, PRN opioid overdose. Repeat after 3 minutes if no or minimal response.</p> <p><u>Refills:</u> PRN x 1 year</p>
<input type="checkbox"/>	<p><b>For intranasal administration in children <math>\geq 5</math> years or <math>\geq 20</math>kg; adolescents; adults</b></p> <p><u>Disp:</u> KLOXXADO™ (8mg naloxone hydrochloride) nasal spray</p> <p><u>Sig:</u> For suspected opioid overdose, follow carton instructions. Insert the device nozzle into one nostril of the patient, then press firmly on the plunger and remove the nozzle from the nostril after use. Repeat with the new device after 3 minutes if no or minimal response, alternating nostrils.</p> <p><u>Refills:</u> PRN x 1 year</p>

Douglas A. Ducey | Governor Don Herrington | Interim Director



## ARIZONA DEPARTMENT OF HEALTH SERVICES

Lisa Villarroel, MD MPH, Medical Director of Public Health Preparedness, ADHS

Effective date 8/20/21, Expiration date 8/20/22

Douglas A. Ducey | Governor    Don Herrington | Interim Director

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*Health and Wellness for all Arizonans*

## RESIDENTIAL\_FACILITIES

rundate	subtype	FACID	FACTYF	ZIP	LEGALNAME	ADDRESS	LICENSE
10/12/2021	ASSISTED LIVING CENTER-DIRECTED	AL9784	1J1	85260	AMBER CREEK MEMORY CARE COMMUNITY	11250 NORTH 92ND STREET	AL9784C
10/12/2021	ASSISTED LIVING CENTER-DIRECTED	AL9474	1J1	85260	ATRIA PARK OF SIERRA POINTE	14500 NORTH FRANK LLOYD WRIGHT BLVD	AL9474C
10/12/2021	ASSISTED LIVING CENTER-DIRECTED	AL11866	1J1	85253	BARTON HOUSE I	7001 EAST MOUNTAIN VIEW ROAD	AL11866C
10/12/2021	ASSISTED LIVING CENTER-DIRECTED	AL11867	1J1	85253	BARTON HOUSE II	7007 EAST MOUNTAIN VIEW	AL11867C
10/12/2021	ASSISTED LIVING CENTER-DIRECTED	AL10063	1J1	85260	BELMONT VILLAGE SCOTTSDALE	13850 NORTH FRANK LLOYD WRIGHT BLVD	AL10063C
10/12/2021	ASSISTED LIVING CENTER-DIRECTED	AL7714	1J1	85254	BROOKDALE NORTH SCOTTSDALE	15436 NORTH 64TH STREET	AL7714C
10/12/2021	ASSISTED LIVING CENTER-DIRECTED	AL11015	1J1	85255	GENERATIONS AT PINNACLE PEAK	23733 NORTH SCOTTSDALE ROAD	AL11015C
10/12/2021	ASSISTED LIVING CENTER-DIRECTED	AL6929	1J1	85260	JUNE AND FRANK SACKTON ASSISTED LIVING APARTMENTS AT WESTMINSTER	12000 NORTH 90TH STREET	AL6929C
10/12/2021	ASSISTED LIVING CENTER-DIRECTED	AL11712	1J1	85258	LEGACY VILLAGE OF SALT RIVER	8170 NORTH 90TH STREET	AL11712
10/12/2021	ASSISTED LIVING CENTER-DIRECTED	AL10638	1J1	85266	LONE MOUNTAIN MEMORY CARE	7171 EAST LONE MOUNTAIN ROAD	AL10638C
10/12/2021	ASSISTED LIVING CENTER-DIRECTED	AL8636	1J1	85255	MARAVILLA SCOTTSDALE	7375 EAST PRINCESS BOULEVARD	AL8636C
10/12/2021	ASSISTED LIVING CENTER-DIRECTED	AL8850	1J1	85257	MIMOSA SPRINGS	8435 EAST MCDOWELL ROAD	AL8850C
10/12/2021	ASSISTED LIVING CENTER-DIRECTED	AL8856	1J1	85258	SCOTTSDALE MEMORY CARE	9450 EAST MOUNTAIN VIEW ROAD	AL8856C
10/12/2021	ASSISTED LIVING CENTER-DIRECTED	AL10612	1J1	85257	SCOTTSDALE VILLAGE SQUARE	2620 NORTH 68TH STREET	AL10612C
10/12/2021	ASSISTED LIVING CENTER-DIRECTED	AL6287	1J1	85258	SUNRISE OF SCOTTSDALE	7370 EAST GOLD DUST AVENUE	AL6287C
10/12/2021	ASSISTED LIVING CENTER-DIRECTED	AL11195	1J1	85260	THE AUBERGE AT SCOTTSDALE - A MEMORY CARE COMMUNITY	9410 EAST THUNDERBIRD ROAD	AL11195C
10/12/2021	ASSISTED LIVING CENTER-DIRECTED	AL8808	1J1	85251	THE GARDENS OF SCOTTSDALE	6001 EAST THOMAS ROAD	AL8808C
10/12/2021	ASSISTED LIVING CENTER-DIRECTED	AL11354	1J1	85260	TRUEWOOD BY MERRILL, SCOTTSDALE	9185 EAST DESERT COVE	AL11354C
10/12/2021	ASSISTED LIVING CENTER-DIRECTED	AL2627	1J1	85255	VI AT GRAYHAWK, A VI AND PLAZA COMPANIES COMMUNITY	7501 EAST THOMPSON PEAK PARKWAY	AL2627C
10/12/2021	ASSISTED LIVING CENTER-DIRECTED	AL8222	1J1	85255	VI AT SILVERSTONE, A VI & PLAZA COMPANIES COMMUNITY	22605 NORTH 74TH STREET	AL8222C
10/12/2021	ASSISTED LIVING CENTER-DIRECTED	AL9221	1J1	85251	VILLA OCOTILLO MANAGEMENT CO, LLC	3327 NORTH CIVIC CENTER PLAZA	AL9221C
10/12/2021	ASSISTED LIVING CENTER-PERSONAL	AL11675	1J2	85255	ACOYA SCOTTSDALE AT TROON	10455 EAST PINNACLE PEAK PKWY	AL11675C
10/12/2021	ASSISTED LIVING CENTER-PERSONAL	AL9105	1J2	85259	ANDARA	11415 NORTH 114TH STREET	AL9105C
10/12/2021	ASSISTED LIVING CENTER-PERSONAL	AL11255	1J2	85254	FORUM PUEBLO NORTE ASSISTED LIVING	7108 EAST MESCAL STREET	AL11255C
10/12/2021	ASSISTED LIVING CENTER-PERSONAL	AL10749	1J2	85257	MCDOWELL VILLAGE	8300 EAST MCDOWELL ROAD	AL10749C
10/12/2021	ASSISTED LIVING CENTER-PERSONAL	AL11613	1J2	85260	THE RANCH ESTATES AT SCOTTSDALE	9160 EAST DESERT COVE AVENUE	AL11613C
10/12/2021	ASSISTED LIVING CENTER-PERSONAL	AL6092	1J2	85251	THE SPRINGS OF SCOTTSDALE	3212 NORTH MILLER ROAD	AL6092C
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL12003	1G1	85266	29192 ASSISTED LIVING, LLC	29192 NORTH 76TH STREET	AL12003H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL2100	1G1	85254	A & I ADULT CARE HOME	5327 EAST ANDERSON DRIVE	AL2100H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL8220	1G1	85260	A & M ASSISTED LIVING OF SCOTTSDALE, LLC	7512 EAST LARKSPUR DRIVE	AL8220H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL5757	1G1	85254	A HAPPY PLACE ADULT CARE HOME, INC.	4918 EAST KAREN DRIVE	AL5757H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL5436	1G1	85257	A PLACE IN THE SUN	6879 EAST VERNON AVENUE	AL5436H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL4977	1G1	85250	A R D C SCOTTSDALE HOME	8632 EAST PECOS LANE	AL4977H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL9929	1G1	85254	ABERDEEN HOME, LLC	10639 NORTH ABERDEEN ROAD	AL9929H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL9773	1G1	85254	ABOVE & BEYOND ASSISTED LIVING	5119 EAST CALAVAR DRIVE	AL9773H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL9818	1G1	85254	ACTIVE CARE HOME II LLC	5711 EAST AIRE LIBRE AVENUE	AL9818H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10008	1G1	85254	ACTIVE CARE HOME III LLC	17826 NORTH 56TH STREET	AL10008H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL9745	1G1	85254	ACTIVE CARE HOMES, LLC	16212 NORTH 55TH PLACE	AL9745H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10943	1G1	85254	ADAGIO 2 - ENDEAVOR AL	5328 EAST ANDERSON	AL10943H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL9234	1G1	85254	AGAPE CARE HOME OF SCOTTSDALE	5920 EAST LUDLOW DRIVE	AL9234H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL8734	1G1	85260	AGAPE SENIOR LIVING OF SCOTTSDALE, LLC	8611 EAST CHOLLA STREET	AL8734H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10391	1G1	85254	AGAVE CARE HOME OF SCOTTSDALE	4833 EAST MARCONI AVENUE	AL10391H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL8066	1G1	85254	AGAVE MANOR	5937 EAST CACTUS ROAD	AL8066H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11576	1G1	85251	ALOHA ASSISTED LIVING LLC	3414 NORTH 81ST STREET	AL11576H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11533	1G1	85255	AMMY'S PLACE	8038 EAST HAPPY VALLEY ROAD	AL11533H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11628	1G1	85254	ARABIAN VIEWS	5501 EAST WOODRIDGE DRIVE	AL11628H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL8593	1G1	85260	ARIZONA ROYAL CARE HOME, LLC	9823 EAST JENAN DRIVE	AL8593H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL4808	1G1	85254	ASSISTED LIVING AT BLOOMFIELD MANOR, INC	5815 EAST AIRE LIBRE AVENUE	AL4808H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL8602	1G1	85254	ASSISTED LIVING AT MOUNTAIN VISTA	12823 NORTH 65TH PLACE	AL8602H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL8649	1G1	85254	ASSISTED LIVING AT THE PHOENICIAN	5915 EAST ST JOHN ROAD	AL8649H

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10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL4974	1G1	85254	ASSISTED LIVING AT THE WOODRIDGE, INC.	5717 EAST WOODRIDGE DRIVE	AL4974H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL5797	1G1	85253	ASSISTED LIVING OF PARADISE VALLEY	6146 EAST VIA ESTRELLA	AL5797H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL2868	1G1	85254	ASSISTED LIVING OF SCOTTSDALE	6819 EAST SHEA BOULEVARD	AL2868H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL8727	1G1	85254	ASSISTED LIVING OF SCOTTSDALE II	5431 EAST SHEA BOULEVARD	AL8727H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11134	1G1	85254	ASSISTED SENIOR LIVING CARE, LLC	6149 EAST THUNDERBIRD ROAD	AL11134H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10854	1G1	85254	AT HOME IN SCOTTSDALE	13650 NORTH 57TH PLACE	AL10854H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11172	1G1	85254	AVANT ONE SENIOR HOMES L L C	12201 NORTH 61ST STREET	AL11172H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL2181	1G1	85254	BELL ADULT CARE HOME	5343 EAST WOODRIDGE DRIVE	AL2181H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL6060	1G1	85260	BLOOMFIELD HOUSE	9409 EAST BLOOMFIELD	AL6060H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10022	1G1	85258	BLUE LAKES ASSISTED LIVING LLC	9815 NORTH 96TH PLACE	AL10022H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL9613	1G1	85260	BRIDGE ROYAL HOMECARE	8425 EAST CACTUS ROAD	AL9613H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11481	1G1	85260	BUENAVANTE A L H	12558 NORTH 76TH STREET	AL11481H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11658	1G1	85260	CACTUS VILLA L L C	7366 EAST PARADISE DRIVE	AL11658H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL9084	1G1	85260	CALINI'S ALOS I I	10610 NORTH 84TH STREET	AL9084H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL6949	1G1	85260	CALLINI'S ASSISTED LIVING	8139 EAST CHOLLA STREET	AL6949H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11126	1G1	85254	CAREMERIDIAN LLC	6512 EAST LUDLOW DRIVE	AL11126H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11445	1G1	85254	CARING FOR LOVED ONES	14810 NORTH 52ND STREET	AL11445H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11447	1G1	85254	CARING FOR LOVED ONES	5718 EAST SHARON DRIVE	AL11447H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL4812	1G1	85260	CASA BUENAVANTE	7741 EAST CHARTER OAK ROAD	AL4812H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL9467	1G1	85258	CENTRAL SCOTTSDALE ASSISTED LIVING, LLC	10571 NORTH 96TH PLACE	AL9467H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11848	1G1	85250	CHAPARRAL HOME CARE, LLC	5132 NORTH 86TH PLACE	AL11848H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10327	1G1	85254	CLASSIC ASSISTED LIVING LLC	14002 NORTH 64TH STREET	AL10327H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL5228	1G1	85254	COMPASS ROSE ASSISTED LIVING HOME	6835 EAST PERSHING AVENUE	AL5228H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL9186	1G1	85251	CONSTANT CARE ASSISTED LIVING OF ARCADIA	6646 EAST MONTEROSA	AL9186H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10758	1G1	85251	COOLIDGE LEGACY AT SCOTTSDALE LLC	7556 EAST COOLIDGE STREET	AL10758H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11426	1G1	85254	CORNERSTONE AL LLC	5554 EAST CAMPO BELLO DRIVE	AL11426H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL9112	1G1	85259	DESERT COVE ASSISTED LIVING	10405 EAST DESERT COVE AVENUE	AL9112H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL8542	1G1	85254	DESERT JEWEL AT ORANGE TREE	5640 EAST SHEA BOULEVARD	AL8542H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11981	1G1	85257	DESERT PALM ON PALM LANE	7935 NORTH PALM LANE	AL11981H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL7798	1G1	85254	DESERT PARADISE ASSISTED LIVING	5705 EAST AIRE LIBRE AVENUE	AL7798H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL5443	1G1	85254	DIAMOND QUALITY ASSISTED LIVING CARE HOME	6177 EAST BLANCHE DRIVE	AL5443H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL5726	1G1	85262	DIXILETA ADULT CARE HOME II	29914 NORTH 78TH STREET	AL5726H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL2440	1G1	85254	DREAM CATCHER ASSISTED LIVING HOME	5449 EAST CROCUS DRIVE	AL2440H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11898	1G1	85259	EAST SHEA II ASSISTED LIVING LLC	12705 EAST SAHUARO DRIVE	AL11898H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL6061	1G1	85254	ELITE LOVING CARE HOME	6722 EAST JEAN DRIVE	AL6061H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL4052	1G1	85254	ETERNITY ALH	16810 NORTH 66TH STREET	AL4052H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL3388	1G1	85254	EVERGREEN ASSISTED LIVING	11635 NORTH 56TH STREET	AL3388H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11902	1G1	85260	FLAMINGO ALH LLC	13330 NORTH 88TH PLACE	AL11902H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10471	1G1	85254	GENTLE HEARTS CARE HOME LLC	15640 NORTH 54TH WAY	AL10471H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL8989	1G1	85254	GOLDEN CARE	5857 EAST BETTY ELYSE LANE	AL8989H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10909	1G1	85254	GOLDEN HERITAGE ASSISTED LIVING HOME, LLC	17015 NORTH 58TH WAY	AL10909H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL7896	1G1	85254	GRANDVIEW ASSISTED LIVING, LLC	5938 EAST GRANDVIEW ROAD	AL7896H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10685	1G1	85254	GREENWAY HOME CARE, LLC	5801 EAST BECK LANE	AL10685H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL9627	1G1	85260	HANDS OF CARE	11444 NORTH 88TH PLACE	AL9627H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10637	1G1	85260	HAYDEN ESTATES ASSISTED LIVING	7585 EAST SWEETWATER AVENUE	AL10637H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10089	1G1	85260	HAYDEN VILLA	7917 EAST CACTUS ROAD	AL10089H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10815	1G1	85251	HAZELWOOD MANOR ASSISTED LIVING	8319 EAST HAZELWOOD STREET	AL10815H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL6265	1G1	85251	HOME SWEET HOME ON CHEERY LYNN	8701 EAST CHEERY LYNN ROAD	AL6265H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL8718	1G1	85254	HORIZON MANOR 2	5645 EAST NISBET ROAD	AL8718H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11615	1G1	85254	HUMMINGBIRD HAVEN	14628 NORTH 49TH PLACE	AL11615H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10595	1G1	85257	INTEGRITY CARE LLC	1721 NORTH 74TH PLACE	AL10595



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10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10070	1G1	85254	JADE ROYALE CARE HOME LLC, ON PARADISE LANE	5837 EAST PARADISE LANE	AL10070H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11546	1G1	85260	JASPER RESIDENCE, LLC	11030 NORTH 84TH PLACE	AL11546H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL8118	1G1	85254	KATIE'S CARE HOME	5402 EAST MARILYN ROAD	AL8118H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11892	1G1	85254	KIERLAND CARE ASSISTED LIVING, L L C	7044 EAST THUNDERBIRD ROAD	AL11892H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10170	1G1	85260	KIT'S HOUSE	8111 EAST CHARTER OAK DRIVE	AL10170H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL8013	1G1	85260	LAS FUENTES ASSISTED LIVING	7340 EAST SWEETWATER AVENUE	AL8013H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL9059	1G1	85260	LAS FUENTES ASSISTED LIVING II	8617 EAST SWEETWATER AVENUE	AL9059H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL7526	1G1	85266	LAS FUENTES ASSISTED LIVING III	7191 EAST MONTGOMERY ROAD	AL7526H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL9593	1G1	85255	LAS FUENTES ASSISTED LIVING IV	7247 EAST TAILFEATHER DRIVE	AL9593H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11595	1G1	85254	LEGACY COMFORT HOMES	12802 NORTH 57TH STREET	AL11595H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11594	1G1	85254	LEGACY COMFORT HOMES LLC	13809 NORTH 57TH STREET	AL11594H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10831	1G1	85254	LETI'S HOME AT SCOTTSDALE	5529 EAST BLOOMFIELD ROAD	AL10831H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL1004	1G1	85258	LIANN'S HOMES	7021 NORTH 79TH PLACE	AL1004H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL2346	1G1	85260	LIANN'S HOMES	9693 EAST DAVENPORT DRIVE	AL2346H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL2348	1G1	85258	LIANN'S HOMES	8411 EAST VIA DE JARDIN	AL2348H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL6295	1G1	85255	LOVIN MANOR TOO	8434 EAST LA JUNTA	AL6295H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11859	1G1	85254	MANOR ON PARADISE	7125 EAST PARADISE DRIVE	AL11859H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10291	1G1	85254	MARILYN MANOR ASSISTED LIVING HOME LLC	6327 EAST MARILYN ROAD	AL10291H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11225	1G1	85258	MCCORMICK RANCH ASSISTED LIVING HOME, LLC	7002 NORTH VIA DE LA CAMPANA	AL11225H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10145	1G1	85251	MEADOWBROOK QUALITY ASSISTED LIVING	4235 NORTH 87TH PLACE	AL10145H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL9122	1G1	85254	MIRAMONTE ALH	14601 NORTH 55TH PLACE	AL9122H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11220	1G1	85260	NEURO REHABCARE SCOTTSDALE-AZ, L L C	7480 EAST CAMINO SANTO	AL11220H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11463	1G1	85255	NEW YOU 1	26009 NORTH HORSESHOE TRAIL	AL11463H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL9609	1G1	85254	NORTH RANCH ASSISTED LIVING HOME LLC	6121 EAST BEVERLY LANE	AL9609H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10730	1G1	85255	NORTH SCOTTSDALE ASSISTED LIVING	10111 EAST SADDLE HORN TRAIL	AL10730H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL5413	1G1	85260	NORTH SCOTTSDALE GARDENS ASSISTED LIVING HOME	10250 EAST BECKER LANE	AL5413H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11314	1G1	85254	NORTH SCOTTSDALE PLACE 1	14203 NORTH 68TH PLACE	AL11314H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10780	1G1	85255	NORTH SCOTTSDALE RETREAT	23402 NORTH 84TH STREET	AL10780H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11801	1G1	85254	OAKMONT ASSISTED LIVING OF SCOTTSDALE	5545 EAST YUCCA STREET	AL11801H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL8857	1G1	85254	OUR PARENTS HOME, LLC	6414 EAST JUNIPER AVENUE	AL8857H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10820	1G1	85250	PARADISE VALLEY CARE HOME, LLC	6838 NORTH ROCKING ROAD	AL10820H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10478	1G1	85259	PEAK CARE ASSISTED LIVING SCOTTSDALE LIFE HOME	10125 NORTH 131ST PLACE	AL10478H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10527	1G1	85260	PEAK CARE ASSISTED LIVING SCOTTSDALE LIFE II HOME	9660 EAST CLINTON AVENUE	AL10527H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10377	1G1	85257	PERPETUAL HELP ASSISTED LIVING	8201 EAST LEWIS AVENUE	AL10377H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10763	1G1	85254	PHOENIX ASSISTED LIVING LLC	14403 NORTH 60TH STREET	AL10763H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11652	1G1	85255	PINNACLE PEAK ASSISTED LIVING HOME L L C	7878 EAST VISTA BONITA DRIVE	AL11652H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11186	1G1	85260	PRIME ASSISTED LIVING	9742 EAST GELDING DRIVE	AL11186H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL8821	1G1	85260	RAINTREE ASSISTED LIVING LLC	9043 EAST HILLERY DRIVE	AL8821H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11805	1G1	85254	SAGE HOUSE - 68	12802 NORTH 68TH STREET	AL11805H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11143	1G1	85254	SAGE HOUSE - HARTFORD	5239 EAST HARTFORD AVENUE	AL11143H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11885	1G1	85251	SANTORINI VILLAS 2	8331 EAST MONTEREY WAY	AL11885H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL6095	1G1	85254	SCOTTSDALE ADULT CARE HOME	6943 EAST LUDLOW DRIVE	AL6095H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL8506	1G1	85259	SCOTTSDALE FOOTHILLS ASSISTED LIVING	10474 EAST CORRINE DRIVE	AL8506H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL7942	1G1	85260	SCOTTSDALE NORTH INC A L	9883 EAST CORTEZ STREET	AL7942H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11670	1G1	85254	SCOTTSDALE PALMS ASSISTED LIVING LLC	12202 NORTH 68TH PLACE	AL11670H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11954	1G1	85254	SCOTTSDALE QUARTER CARE ASSISTED LIVING LLC	6321 EAST EVANS DRIVE	AL11954H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10826	1G1	85254	SENIOR PARADISE LIVING	5045 EAST PARADISE LANE	AL10826H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11865	1G1	85254	SENIOR VALLEY ASSISTED LIVING LLC	5241 EAST ANDERSON DRIVE	AL11865H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11590	1G1	85254	SERENDIPITY IN THE SUN, LLC	6501 EAST CORRINE DRIVE	AL11590H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10953	1G1	85251	SERENE VALLEY ASSISTED LIVING HOME, LLC	8704 EAST AMELIA AVENUE	AL10953H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL8671	1G1	85266	SERENITY OF NORTH SCOTTSDALE	29750 NORTH 77TH PLACE	AL8671H

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10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10691	1G1	85260	SERVA ASSISTED LIVING OF SCOTTSDALE	7412 EAST WETHERSFIELD ROAD	AL10691H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL9420	1G1	85254	SHEA ESTATES ASSISTED LIVING	6101 EAST VOLTAIRE AVENUE	AL9420H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11786	1G1	85257	SHERWOOD HEIGHTS ADULT LIVING	5813 EAST LEWIS AVENUE	AL11786H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL0755	1G1	85254	SILVER BELLS ADULT CARE HOME	5248 EAST MARCONI AVENUE	AL0755H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL6377	1G1	85254	SILVER BELLS II	5541 EAST ANGELA DRIVE	AL6377H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11681	1G1	85257	SOUTHWEST COMFORT CARE, LLC	8608 EAST ROANOKE AVENUE	AL11681H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL6742	1G1	85254	SUN VALLEY HEIGHTS ASSISTED LIVING	17244 NORTH 57TH STREET	AL6742H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL1459	1G1	85254	SUN VALLEY MANOR ASSISTED LIVING HOME	17245 NORTH 56TH WAY	AL1459H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL8023	1G1	85260	SUNNYHILL ADULT CARE HOME, INC. II	7311 EAST SUNNYSIDE DRIVE	AL8023H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL7433	1G1	85254	SUNNYSIDE SCOTTSDALE, LLC	5249 EAST TIERRA BUENA LANE	AL7433H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10246	1G1	85254	SUNRISE CARE HOMES SWEETWATER	6431 EAST SWEETWATER AVENUE	AL10246H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL9203	1G1	85260	SUNRISE CARE HOMES-HAYDEN	13452 NORTH HAYDEN ROAD	AL9203H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL7904	1G1	85250	SUNRISE CARE HOMES-MCDONALD	6401 NORTH 82ND STREET	AL7904H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL5705	1G1	85254	SUNRISE CARE HOMES-SHEA	11002 NORTH 66TH STREET	AL5705H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10999	1G1	85257	SV ALH 2, LLC	7308 EAST VIRGINIA AVENUE	AL10999H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11731	1G1	85260	SWEETWATER PINES 1, LLC	7515 EAST SWEETWATER AVENUE	AL11731H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11316	1G1	85254	SWEETWATER PLACE 1	12433 NORTH 71ST STREET	AL11316H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11530	1G1	85260	SWEETWATER SENIOR LIVING HOME	7924 EAST SWEETWATER AVENUE	AL11530H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL6463	1G1	85254	SWISS TOUCH	5235 EAST WAGONER ROAD	AL6463H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11904	1G1	85254	THE GREENWAY MANOR II	6144 EAST ANDERSON DRIVE	AL11904H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10618	1G1	85254	THE KIERLAND SANCTUARY	15841 NORTH 63RD PLACE	AL10618H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10529	1G1	85250	THE PLAZA ASSISTED LIVING OF SCOTTSDALE, LLC	8501 EAST PLAZA AVENUE	AL10529H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL8828	1G1	85260	THE RETREAT AT DESERT COVE	10031 EAST DESERT COVE AVENUE	AL8828H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11724	1G1	85254	THE VILLA ON SWEETWATER 1, LLC	6739 EAST SWEETWATER AVENUE	AL11724H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL9643	1G1	85251	TRANQUILITY ASSISTED LIVING HOME	4526 NORTH 82ND STREET	AL9643H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL6365	1G1	85259	TRINITY HOME OF SCOTTSDALE, LLC	10710 EAST MESCAL STREET	AL6365H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11884	1G1	85260	TUCAN PLACE II, L L C	13637 NORTH 87TH STREET	AL11884H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10418	1G1	85254	TULSI ASSISTED LIVING, LLC	15220 NORTH 52ND PLACE	AL10418H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL7079	1G1	85266	UPON THE ROCK ASSISTED LIVING	32100 NORTH SCOTTSDALE ROAD	AL7079H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10971	1G1	85266	VALENCIA CARE HOMES	26639 NORTH 71ST PLACE	AL10971H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11551	1G1	85254	VALENCIA HOME AT 60TH	16008 NORTH 60TH STREET	AL11551H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL11280	1G1	85259	VIA LINDA ASSISTED LIVNG	11420 NORTH 122ND PLACE	AL11280H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL8166	1G1	85259	VIP PARADISE CARE LLC	12650 EAST COCHISE DRIVE	AL8166H
10/12/2021	ASSISTED LIVING HOME-DIRECTED	AL10130	1G1	85254	WOODRIDGE ASSISTED LIVING	6020 EAST WOODRIDGE DRIVE	AL10130H
10/12/2021	BH RESIDENTIAL FACILITY - ADULT	BH5860	1M1	85266	ARIZONA ADDICTION CENTER	6885 EAST PINNACLE VISTA DRIVE	BH5860
10/12/2021	BH RESIDENTIAL FACILITY - ADULT	BH4859	1M1	85257	BBC SCOTTSDALE	808 NORTH 74TH STREET	BH4859
10/12/2021	BH RESIDENTIAL FACILITY - ADULT	BH6119	1M1	85254	COMFORT HOME	5420 EAST KAREN DRIVE	BH6119
10/12/2021	BH RESIDENTIAL FACILITY - ADULT	BH5557	1M1	85255	FIRST STEP CENTER LLC	23222 NORTH CHURCH ROAD	BH5557
10/12/2021	BH RESIDENTIAL FACILITY - ADULT	BH6170	1M1	85266	FOUNTAIN HILLS RECOVERY, LLC	7210 EAST DALE LANE	BH6170
10/12/2021	BH RESIDENTIAL FACILITY - ADULT	BH5404	1M1	85257	MEREWAY MANOR BEHAVIORAL HEALTH HOME	7746 EAST LATHAM STREET	BH5404
10/12/2021	BH RESIDENTIAL FACILITY - ADULT	BH6150	1M1	85254	ORION HOMES LLC - BECK HOUSE	5447 EAST BECK LANE	BH6150
10/12/2021	BH RESIDENTIAL FACILITY - ADULT	BH6252	1M1	85254	PARK PLACE RESIDENCE	7150 EAST GARY ROAD	BH6252
10/12/2021	BH RESIDENTIAL FACILITY - ADULT	BH6657	1M1	85254	PASTALINO MANOR LLC 6	4929 EAST LAUREL LANE	BH6657
10/12/2021	BH RESIDENTIAL FACILITY - ADULT	BH5587	1M1	85266	PATHFINDERS RECOVERY CENTER	34048 NORTH 59TH WAY	BH5587
10/12/2021	BH RESIDENTIAL FACILITY - ADULT	BH5753	1M1	85260	SCOTTSDALE RECOVERY II LLC	11024 NORTH MILLER ROAD	BH5753
10/12/2021	BH RESIDENTIAL FACILITY - ADULT	BH616	1M1	85257	SOUTHWEST BEHAVIORAL HEALTH SERVICES, INC - SHERIDAN GROUP HOME	7626 EAST SHERIDAN	BH616
10/12/2021	BH RESIDENTIAL FACILITY - ADULT	BH6992	1M1	85260	SUNSHINE BEHAVIORAL HOME LLC	13614 NORTH 89TH STREET	BH6992
10/12/2021	BH RESIDENTIAL FACILITY - ADULT	BH5538	1M1	85262	THE HOPE HOUSE #1	28901 NORTH 114TH STREET	BH5538
10/12/2021	BH RESIDENTIAL FACILITY - ADULT	BH5539	1M1	85255	THE HOPE HOUSE #2 LLC	9220 EAST VEREDA SOLANA DRIVE	BH5539
10/12/2021	BH RESIDENTIAL FACILITY - CHILD	BH3649	1M2	85254	DEVEREUX ARIZONA - RESPITE # 5	6439 EAST EUGIE TERRACE	BH3649
10/12/2021	BH RESIDENTIAL FACILITY - CHILD	BH3881	1M2	85254	DEVEREUX ARIZONA - RESPITE #2	6411 EAST EUGIE TERRACE	BH3881

RESIDENTIAL\_FACILITIES

10/12/2021 BH RESIDENTIAL FACILITY - CHILD	BH5692	1M2	85254	DEVEREUX ARIZONA - RESPITE #3	6421 EAST EUGIE TERRACE	BH5692
10/12/2021 BH RESIDENTIAL FACILITY - CHILD	BH3648	1M2	85254	DEVEREUX ARIZONA - RESPITE #4	6429 EAST EUGIE TERRACE	BH3648



HEALTH

# 'We miss him every minute': How the COVID-19 pandemic worsened the opioid epidemic in Arizona

**Drew Favakeh** Arizona Republic

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On a blistering day in Scottsdale in early August, Rebecca is crouching underneath an otherwise obscure, small oak tree in the spacious Kierland Park.

“You don’t mind if I do my gardening a little bit?” She asks before wiping away tears.

“We miss him every minute of every day. When I come here, it’s hard for me to hold it together. It’s just hard,” Rebecca said.

She starts swiping her hand back-and-forth, brushing off blades of grass until a small, rectangular, metal plaque appears, and the words on it materialize.

“On Wings, you were taken away, but in my heart, you will always stay. In loving memory of Bryant Armistead, 1992-2020,” the plaque reads.

Rebecca Anders planted this tree in May 2021, six months after her son, Bryant, died unexpectedly from a fentanyl overdose.

Long before the COVID-19 pandemic erupted, opioid deaths were increasing in Arizona. Fentanyl availability has spiked in the past three to four years. Fentanyl was often cut and pressed into less harmful drugs.

The COVID-19 pandemic worsened a pre-existing problem.

Bryant was one of the victims.

Years before he got into drugs, though, Bryant was just a kid who frequented the park across the street from his childhood house. He ran around with his two dogs. Played T-ball. Competed in flag football.

“Which turned into tackle football. You know how boys are,” Rebecca says, as she walks around the playground Bryant used to play around as a little kid.

“He had a great childhood. No indications of any such path. But nowadays, you don’t really see a stereotypical background. It used to be troubled kids. Now, it can happen to anyone.”

Since her son’s death, Rebecca visits the park at least four days per week. A routine has formed in earnest. She shares with Bryant what’s going on in her life. She asks him questions. She plays and sings along to his favorite song, *Burning Man*, by country singer Dierks Bentley.

*Half your life you struggle*

*Half your life you fly*

*Half your life makin' trouble*

*Half your life makin' it right*

“It’s accurate,” Rebecca says of the first verse of Burning Man. “When he would listen to that song, he would pound on the wheel of the car and he would sing. He loved it. Because it touched his soul. He was an honest soul. Because he knew who he was and who he wasn’t. But during addiction, not so much.”

Slowly, Rebecca stands up and picks off the brown, withering leaves in the tree.



“We’re growing now, this is good,” Rebecca says. “The tree has gotten a lot bigger since May.”

## **It can happen to anyone**

Bryant Armistead was always outgoing.

He was a straight A student in college at Arizona State University who had 17 credit hours before he would graduate with a bachelor’s degree in human systems engineering. But it was his ability to connect with people on a personal level that made him a fun person to hang out with and a terrific salesman. He went to Horizon High School. He was 27 years old when he died.

When the pandemic erupted, he felt lost.

“He loved interaction, to spend time with friends with family, meeting with business associates and with customers, so I think not having any of those things stressed him out,” Rebecca Anders said.

The way Rebecca sees it, her son was an honest soul. A gifted athlete. An avid hiker.

And, she says, a longtime drug user.

He was first caught possessing drugs when he was 13 and eventually transitioned to harder drugs. He cycled in-and-out of rehab and treatment programs at least a dozen times, cycling through periods of sobriety and addiction.

“In his journals, he wrote: I want career success. I want happiness. I want to have a loving relationship. I want to be married and have kids. He wanted so many things,” Rebecca said.

When the COVID-19 pandemic erupted, he was four months sober. He was receiving care in a rehabilitation facility in Denver, near his father’s house. While Bryant received all the normal care patients do regardless of the COVID-19

pandemic, “it was not ideal,” Rebecca said, because of the social distancing, masks, and, worst of all, “the follow-up was lacking.”

After leaving a rehab program, some patients will enter a sober living program to ease their transition into the real world. Bryant’s longest periods of sobriety came when he stayed in the sober living programs. But with most sober living programs closed during the COVID-19 pandemic, Bryant bought an apartment, where he quickly spiraled back into a dangerous cycle.

“I really believe that one of the most vulnerable times in their recoveries are those few months after they leave,” Rebecca said. “If they don’t stay connected and go into a sober living program, and have that support system, the possibility for relapses definitely goes up.”

“Mom, the opposite of addiction is interaction,” Rebecca remembers her son telling her two years before he passed.

## **A problem compounded by another problem**

The Arizona Department of Health Services has not released the number of opioid deaths in 2020 and 2021, but in early February 2021, Dr. Cara Christ, former director of the ADHS, estimated the total end-of-year tally for opioid overdose deaths be 2,300, which would be a roughly 69% increase from 2019.

That number could be higher than Christ originally predicted, as the delta variant spreads through Arizona, where 53% percent of the population has received at least one vaccine dose.

Josephine Korchmaros, a University of Arizona professor whose research focuses on treatment models including substance use, said COVID-19 has worsened the opioid crisis in that it has “created a lot of different stressors for individuals.”

“You have the stressors related to jobs, income, housing stability, social isolation, the additional challenges of more of these concentrated living situations and

adapting to situations,” Korchmaros said.

Because of these stressors, “people are looking to cope,” Korchmaros said.

## **Federal, state governments trying to help**

The state and the federal government are trying to combat the opioid epidemic amidst the COVID-19 pandemic, but officials say their resources are hamstrung by other issues.

Sheila Sjolander, the assistant director for prevention services at ADHS who oversees the state’s opioid epidemic, said COVID-19 has had “somewhat of an impact” on the state’s worsening opioid crisis, but declined to go into detail, citing the state’s lack of data.

“I think we're still assessing all of the impacts from the pandemic,” Sjolander said. “Certainly, some of our county health department staff had to be reassigned to work on the COVID response. So that may have impacted some of the work going on in local communities.”

Long before the COVID-19 pandemic erupted, the state was trying to curtail the opioid issue. In July 2019, Gov. Doug Ducey introduced the “Arizona Opioid Action Plan Version 2.0.” One of the goals in the plan remains particularly prescient.

“Isolation is harmful to one’s health; lack of social connection is a risk factor for adverse outcomes, including substance use,” one part of the Arizona Opioid Action Plan reads. “The previous Surgeon General has a platform that discussed the Loneliness Epidemic, as it has been shown that isolation is harmful to one’s health and social connection and relationships are beneficial.”

While the plan was scheduled to end in June 2021, the COVID-19 pandemic has extended it indefinitely, Sjolander said.

“While that plan has ended internally, we're assessing what is going to continue from the ADHS perspective,” Sjolander said.

“Some of our strategies that we had identified in the opioid action plan have been a bit delayed,” Sjolander said. “So we're looking forward to launching some of those in the next year.”

As part of the assessment, Arizona will continue spending multiple federal grants received before and after the pandemic. In early June 2020, the Federal Emergency Management Agency awarded a Crisis Counseling Immediate Services Program grant in the amount of \$532,804 to the Arizona Health Care Cost Containment System, which helped launch Resilient Arizona, a crisis counseling program. Specifically, the money was supposed to help "provide crisis counseling services to the general public who have been affected by the COVID-19 emergency with specific focus on healthcare workers, youth, families, those 65 and older and tribal communities," according to the AHCCCS website.

By late April, that grant served more than 8,000 Arizonans and reached more than 41,000 contacts, according to the AHCCCS website. Even then, the grants were given a six-month extension, ending in early December, and an additional \$3,333,200. The purpose of the additional funding was to "offer confidential support services from the existing 2-1-1 statewide information and referral phone number, in English and Spanish." Their crisis counselors are supposed to "promote effective coping strategies and resilience" and work alongside "community organizations to familiarize themselves with available resources to then refer and connect individuals and families to other necessary services."

On Aug. 27, 2020, Arizona received from the Substance Abuse and Mental Health Services Administration the “State Opioid Response II grant,” which is worth \$63,212,924 and expires in two years. The "overarching goal" of the State Opioid Response II grant was to increase access to OUD treatment, to coordinated and integrated care, to recovery support services and to prevention activities to reduce

the prevalence of OUDs, stimulant-use disorders and opioid-related overdose deaths, the AHCCCS website says.

In June, Arizona legalized syringe or needle exchange programs.

In the next couple of months, the state government also plans on launching two campaigns, including a stigma reduction campaign targeting pregnant and parenting women and a social isolation connectedness campaign, Sjolander said. In addition, their injury prevention program is working with “some emergency departments across Arizona” to implement naloxone distribution programs, Sjolander said.

“Obviously, our EMS responders and hospitals have all been very focused on the COVID response over the past year and a half,” Sjolander said. “So it's become more of a challenge to refocus again on the opioid work, but we're definitely looking at that again.”

The federal government, meanwhile, has also tried to help.

After the pandemic erupted in March 2020, the Drug Enforcement Administration allowed doctors to prescribe medications to treat opioid addiction via the internet or telephone. Pre-pandemic, doctors were only allowed to prescribe controlled substances following an in-person evaluation.

On March 16, 2020, the Substance Abuse and Mental Health Services Administration allowed states to prescribe up to 28 days of take-home medication. Pre-pandemic, patients on medication-assisted treatment were required to visit a facility daily to receive counseling and medication.

As part of the CARES Act approved by Congress on March 27, 2020, then-President Donald Trump spent \$425 million to expand access to substance abuse treatment, specifically to implement treatment and prevention and recovery strategies, and support community health clinics.



The American Recovery Plan, passed in March 2021, authorized \$4 billion in the American Recovery Plan to SAMHSA, which was meant to “combat addiction and the rising incidence of psychological problems during the pandemic.” The plan included \$1.5 billion for substance abuse prevention and treatment and more than \$400 million to support community behavioral health clinics.

However, the state and federal government need to provide more help, said Korchmaros, specifically by implementing prevention tactics, such as behavioral health treatment.

“We need to get them back up on their feet so that they can be self-sustaining,” Korchmaros said. “That could mean vocational engagement support, employment support, transportation support and additional peer support.”

## **Impossible to recover**

Programs intended to help opioid addicts recover were less available in the past year and a half because of pandemic-related shut-downs.

Before the COVID-19 pandemic erupted last year, most of the clients who sought treatment from the Recovery in Motion Treatment Center, which is located in Tucson, Arizona, hailed from different states or countries. So, when the federal government limited flights from the United States and Europe on March 11, 2020, Recovery in Motion Treatment Center lost most of its clientele.

That day, Nick Jones, founder and CEO of Recovery in Motion Treatment Center said, is “when it really hit the fan.”

“All the family members of our clients called up and said, ‘Hey, we got to get them on a plane and get them home,’” Jones said.

By the end of the day, Jones lost 68 of his 70 clients and laid off 13 employees. Which meant Jones became an employee of sorts; his daily routine consisted of picking clients up, listening to their stories while abiding by typical COVID-19

procedures, including mask-wearing, sanitization, and testing, before dropping them off.

A PPP loan from the federal government kept the Center's doors open. Jones slowly hired more staff and signed more clients. But COVID-19 persisted. At one point, four clients tested positive for COVID-19; Jones sequestered them in a special unit in the center. Later, one person contracted COVID-19; Jones quarantined them in a local motel for two weeks.

Recovery in Motion Treatment Center currently has just 36 clients, none of whom are from outside of Arizona.

"We definitely lost some people to substance abuse this year, because of a loss of face-to-face treatment," Jones said. "The quality of Zoom is just not the same."

The COVID-19 pandemic also impacted harm-reduction programs.

Haley Coles said the Sonoran Prevention Works, of which she is the executive director, said, "we didn't have the opportunity to do a lot of that one-on-one peer support during COVID, because people were literally starving, and dropping dead of overdoses in front of us," Coles said.

When the COVID-19 pandemic erupted, Coles said they paused their peer support and recovery support and hepatitis C testing, "because it just felt like the most important thing was to get people these survival tools," Coles said. Employees once focused on speaking with clients one-on-one started distributing food, medical supplies, and overdose prevention supplies. Coles also shifted all of their community training online, which resulted in a decrease in attendees, especially from rural areas, where internet connection is sparse.

Then, there was the trickle-down effect from other sectors being negatively affected by the COVID-19 pandemic. Needle exchanges with which Sonoran Prevention Works used to work were forced to change their hours or shut down temporarily, if not permanently. If an attendee did return to full health, pinpointing housing

programs and shelters was difficult because they had been shuttered due to the pandemic or because of the price, with housing costs increasing 40% during the pandemic.

With their staff all vaccinated, Sonoran Prevention Works has brought back peer support and hired more staff. They are relying more on a peer distribution network, meaning they equip the users who come to them with more supplies and information to disperse to other users who might be interested in recovery.

They created a map on [AZnaloxone.org](http://AZnaloxone.org), allowing people to type in their ZIP code and find the nearest center that offers free Naloxone shots, and whether the center is open or closed. They started mailing out Naloxone shots and other harm-reduction supplies for people who are not able to come in person due to the COVID-19 pandemic. They have been promoting a national phone line called “Never use alone,” which allows operators to summon 911 if the caller stops responding.

But Coles said, “We know that there are a lot more people who aren't coming to see us because of the pandemic.”

Access to methadone clinics — medically assisted drug therapy for those who are opioid-dependent — also has been difficult to access during the COVID-19 pandemic.

One day in spring 2020, Danielle Russell, a Sonoran Prevention Works board member, took three regular drug users to a Phoenix methadone clinic. But when they arrived, a nurse told her the wait was 8 to 12 hours. It was a far cry from the 30-minute wait Russell, who is trying to wean off her own heroin use, usually faced pre-pandemic. The regular drug users wouldn't wait that long; she hasn't heard from them since.

“COVID had an effect on the people that I brought to try to get into treatment,” Russell said. “It’s already so hard to convince people to get help. To tell them to wait somewhere for eight hours to get treatment is impossible. They already have so much disappointment in their lives.”

As a doctoral student at ASU researching the criminalization of people using drugs, Russell said she “kept reading about all these changes in federal shifts and federal regulations around accessing medication for opioid use disorder during COVID-19.”

“And I sure as hell haven't seen any of that. I've been reading about how much easier it's gotten,” Russell said. “And I'm like, Are you freaking kidding me? It's only gotten harder.”

## **Grieving during a pandemic**

When she heard that her son was found dead in his apartment, Rebecca Anders, and her husband, Bryant's step-father, immediately booked a flight from Arizona to Colorado.

Rebecca wasn't sure how her son got fentanyl, but she is led to believe it was not prescribed. They are not taking legal action.

But when they arrived, they were not allowed to see Bryant's body. “I just wanted to say my last goodbye,” Rebecca said. And that was only the start of it. The family wanted a burial, but the coroners only offered cremation. They obliged —but didn't receive his ashes for 11 weeks. A devout Christian, Rebecca wasn't allowed to host an in-person memorial service at her church. “That was all because of COVID,” Rebecca said.

“At the time, it made me very angry,” Rebecca said. “It's understandable from an intellectual standpoint because we're trying to protect against the spreading of the disease. I understand it intellectually, but from an emotional standpoint, it is reprehensible for a medical profession. Emotionally, it was cruel for the mortuary and the coroner to not figure out how to protect themselves and us so we could say goodbye to our son. I mean, emotionally it was cruel. But intellectually, I understood it completely. So I guess it's a complex issue.”

When her church did open back up in May, Rebecca hosted the memorial service.

“I couldn’t wait any longer,” Rebecca said. “It just had been so long. But at the same time, I wanted people who loved him to be able to come and celebrate him.”

She spread her son’s ashes in Kierland Park and joined PAL, Parents of Addicted Loved Ones, first as a member, then as a facilitator.

When the meetings were in person, Rebecca started each one by hugging each grieving parent and asking how they were doing. She joined a circle and shared her story and listened to other’s stories. As a facilitator, Rebecca then went over the day’s lesson.

“And the tears flow. I can tell you when a parent is hurting, and lost and scared,” Rebecca said.

But the spread of the delta variant has led PAL to shift its in-person meetings to zoom.

“No Zoom call can address the grief other parents and I felt,” Rebecca said.

Rebecca said, "it will be worth telling my story, even if it will only impact one person."

“Because I want this epidemic to go away. I want it to stop. I don't want it to become a pandemic,” Rebecca said.

## **Where to get help with opioids**

**FindTreatment.gov:** For help finding treatment, go to the website or call 1-800-662-HELP (4357).

**The OARLine:** 1-888-688-4222. The Opioid Assistance + Referral Line provides information and referrals to the public and conducts follow-up with people experiencing overdoses. It also is available for health care clinicians to call for free consultation on patients with complex pain or opioid use disorder.



**Substanceabuse.az.gov:** Find Arizona prevention, treatment and recovery resources.

**AHCCCS 24/7:** List of locations providing opioid treatment services for AHCCCS patients.

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