

ZONING ORDINANCE

Article XVII. ASSISTED LIVING HOME ^{564 567}

Section 1701. Assisted Living Home, subject to the following provisions:

- A. Distribution of Uses. No assisted living home shall be located on a lot within one thousand three hundred and twenty (1,320) feet, measured by a straight line in any direction, from the lot line of another assisted living home located within the Town of Paradise Valley or any other adjacent jurisdiction.
- B. Occupancy. The number of residents at such home shall be limited by applicable state laws, including any minimum square footage requirement per person, but in no event shall the number of residents exceed ten (10), not including staff.
- C. Licensure. Such home shall be licensed or certified by the State of Arizona, and satisfactory evidence thereof shall be on file with the Town. In the event that the State of Arizona revokes or terminates the license or certification to operate such a home, the person operating the home shall immediately cease operations and inform the Town of such revocation or termination.
- D. Administrative Review. Such home shall be reviewed and approved by the Planning Department Director, or designee, for building code and land use compliance prior to the use commencing.
- E. Code compliance. Such home shall comply with all applicable Town codes, including building codes, fire safety regulations, zoning and subdivision codes.
- F. Compatibility. Such 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.
- G. Threat to Community. Such home shall not house any person whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others.
- H. All parking by staff associated with such home shall be on site.

FOOTNOTE:

564 Ordinance #564 – 11/03/2005(Interpretation, Purpose and Conflict, was repealed by Ordinance Number 564, and moved to Article I, Section 103)

567 Ordinance #567 – 11/17/2005

ZONING ORDINANCE

Article II. DEFINITIONS ^{84 112 164 170 179 196 200 207 376 432 477 534 548 564 566 567 617 633 2016-13 2021-01}

Section 201.

For the purpose of this Ordinance, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural, the singular; the word "building" shall include the word "structure;" the word "lot" shall include the word "plot;" and the word "shall" is mandatory.

Accessory Building / Structure⁵⁶⁴: A subordinate building, the use of which is incidental to that of the dominant use of the main building, or premises, including residential staff quarters; provided, however, that neither a building nor an enclosure for horses is an accessory building.

Alley: A public thoroughfare which affords only a secondary means of access to abutting property.

Anomaly: ⁵⁴⁸ A natural occurring, localized surface deviation from the natural land contour. Anomalies may include outcroppings, ridges, craters, or washes. When an anomaly affects the Open Space Criteria measurement for a building or structure, the Town Manager or designee shall eliminate the anomaly from the calculation and interpolate a simulated natural grade between the contour on each side of the anomaly for use when measuring the height of the building or structure.

Apartment House: See "Dwelling, Multiple."

Area of Jurisdiction: ²⁰⁷ The boundaries of Paradise Valley.

Assisted Living Home: ⁵⁶⁷ A dwelling shared as a primary residence by persons who are disabled, as defined in Arizona Revised Statutes §41-1491, who do not meet the definition of "family" as set forth in this section, who live together as a single housekeeping unit in an environment in which staff persons provide supervisory care, personal care and/or custodial care for the residents. This definition shall not apply to a home for the developmentally disabled as regulated by Arizona Revised Statutes §36-582.

Basement: ¹⁶⁴ A story having more than one-half (1/2) its height below natural grade.

Building: Any structure for the shelter, support or enclosure of persons, animals, or property; and when separated by dividing walls without openings, each portion of such building, so separated, shall be deemed a separate building.

Camper: ⁵⁶⁴ A camper is a unit designed for travel, recreational, and vacation uses, which may be placed upon or attached to a vehicle.

Cluster Plan (CP) District: ^{564 2016-13} A development approach that may be used in the R-43 or R-35 Cluster Plan zoning district that retains the same house per acre ratio as the R-43 or R-35,

RESOLUTION NUMBER 2017-15

**A RESOLUTION OF THE MAYOR AND COUNCIL OF
THE TOWN OF PARADISE VALLEY, ARIZONA,
MODIFYING THE AN APPLICATION PROCESS FOR
REASONABLE ACCOMMODATION REQUESTS BY OR
FOR PERSONS WITH DISABILITIES, APPROVING
CHANGES TO THE REASONABLE ACCOMMODATION
PROCESS GUIDE AND FORMS; AND DECLARING AN
EMERGENCY**

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF
PARADISE VALLEY, ARIZONA THAT:

WHEREAS, pursuant to federal law, a request for a reasonable accommodation may be made by any person with a disability, their representative, or a developer or provider for housing for individuals with a disability in order to provide disabled individuals with an equal opportunity to use and enjoy a dwelling; and

WHEREAS, pursuant to Resolution No. 1252, the Town of Paradise Valley ("Town") has adopted standards and procedures for granting a reasonable accommodation to its zoning and land use regulations, policies, and practices when needed to provide an individual with a disability an equal opportunity to use and enjoy a dwelling, where such an accommodation does not cause an undue financial or administrative burden or does not result in a fundamental alteration in the nature of the Town's zoning program, as those terms are defined in fair housing laws and interpretive case law; and

WHEREAS, Resolution No. 1252 adopted a reasonable accommodation guide ("Guide") and forms to be completed by applicants for a reasonable accommodation ("Forms"), set a reasonable fee for any application for a reasonable accommodation, as

well as appointing a hearing officer to hear and consider applications for reasonable accommodations; and

WHEREAS, amendments to the Guide and the Forms adopted by Resolution No. 1252 are now necessary in order to provide for greater notice to neighboring properties and clarity on spacing requirements and property ownership requirements for reasonable accommodation requests; and

WHEREAS, by adoption of this Resolution, the Town desires to amend the Guide and Forms (both attached hereto as Exhibit A and incorporated herein by this reference), and authorize the Town Manager to make the changes to the Guide and the Forms immediately upon adoption of this Resolution;

NOW, THEREFORE, BE IT RESOLVED that the Town Council:

1. Adopts the changes to the Guide as set forth in Exhibit A hereto;
2. Adopts the changes to the Form as set forth in Exhibit A hereto;
3. Authorizes the Town Manager issue the new Guide and Forms to any applicant for any and all requests for reasonable accommodations.

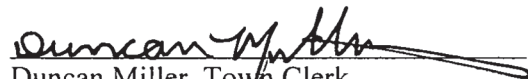
WHEREAS the immediate operation of the provisions of this Resolution are necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist and this Resolution shall be in full force and effect from and after its passage by the Town Council.

PASSED AND ADOPTED by the Mayor and Council of the Town of Paradise Valley, Arizona this 22nd day of June, 2017.



Michael Collins, Mayor

ATTEST:


Duncan Miller, Town Clerk

APPROVED AS TO FORM

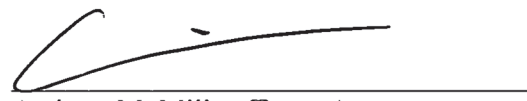

Andrew M. Miller, Town Attorney

EXHIBIT A

TOWN OF PARADISE VALLEY REASONABLE ACCOMMODATION GUIDE

Pursuant to federal law and Town Resolution No. 1252 (as amended by Resolution 2017-15), a request for a reasonable accommodation may be made by any person with a disability, their representative, or a developer or provider for housing for individuals with a disability in order to provide disabled individuals with an equal opportunity to use and enjoy a dwelling. The term “reasonable accommodation” is used here as the term is used in the Federal Fair Housing Amendments Act (“FHAA”), the Americans with Disabilities Act (“ADA”), and case law implementing and interpreting those statutes (“Fair Housing Law”).

Whether an accommodation can be granted is determined by the Town’s Accommodation Hearing Officer (who is appointed by the Town Manager) on a case-by-case basis. To request a reasonable accommodation, complete the Town’s Request for a Reasonable Accommodation Form and return it with the filing fee of \$500.00 to: Town of Paradise Valley, Attn: Accommodation Hearing Officer, 6401 E. Lincoln Drive, Paradise Valley, Arizona 85253. If you have any questions about the Request for Reasonable Accommodation Form or the requirements or procedures applicable to reasonable accommodation requests, please call Community Development Director at (480) 348-3522.

You may be required to provide additional information for the Accommodation Hearing Officer to properly evaluate your accommodation request. If needed, the Accommodation Hearing Officer may ask that medical and other health information be submitted; however, the name or extent of the disability will not be required. Unless the Accommodation Hearing Officer has previously requested additional information, the accommodation request shall be deemed complete ten days after it is received.

To ensure applicants have an actual, vested interest in the property where a reasonable accommodation is requested the applicant shall submit a current title report with all Schedule B exceptions shown, and either proof of property ownership or written notarized authorization from the property owner.

After receipt of a complete application, the Accommodation Hearing Officer may seek comments from Town staff or adjacent landowners before issuing a decision, depending on the type of accommodation requested. By way of example, if the accommodation request concerns the zoning of the subject property, comments may be sought from the Town’s Planning Division or landowners within 1,000 feet of the property; if the accommodation request concerns a building code provision, comments may be sought from the Town’s Building Department. If the Accommodation Hearing Officer seeks comments, they will be due no less than five days before the decision deadline; copies of any comments received will be provided to the applicant. Regardless of whether the Hearing Officer seeks comments, all Town property owners within one thousand (1,000) feet of the property will receive notice of the requested accommodation within five (5) days of the filing of the application and a copy of the Hearing Officer decision within five (5) days of the Accommodation Hearing Officer’s decision. Depending on the type of accommodation requested and comments received, if any, the Accommodation Hearing Officer may issue a decision, seek additional information from you, or conduct a public hearing after providing at least seven-day advance notice to you and those providing comments, unless the Accommodation Hearing Officer determines a shorter notice period is necessary or reasonable.

Within 30 days after receipt of a complete application, the Accommodation Hearing Officer shall issue a written decision granting the request, conditionally granting the request, offering an alternative accommodation, or denying the request with the reason for the denial stated. If the Accommodation Hearing Officer requests additional information from you during this 30-day period, the time for making

a decision shall be tolled until the additional information is received. The Accommodation Hearing Officer's decision will be considered final. The accommodation request and accompanying information will be kept with a record of the decision, will be a matter of public record, and will be made available to the public upon request.

REASONABLE ACCOMMODATION REQUIREMENTS

The following requirements must be met for the Town's Accommodation Hearing Officer to grant a reasonable accommodation. Please provide evidence to satisfy the requirements below on your Request for a Reasonable Accommodation Form.

1. The requested accommodation is requested by or on the behalf of one or more individuals with a disability protected under Fair Housing Law.
2. The requested accommodation is reasonable and necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling.
3. The requested accommodation will not impose an undue financial or administrative burden on the Town as "undue financial or administrative burden" is defined in Fair Housing Law.
4. The requested accommodation will not result in a fundamental alteration in the nature of the Town's land use and zoning scheme, as "fundamental alteration" is defined in Fair Housing Law.
5. The requested accommodation complies with all other applicable Town Code provisions, zoning regulations, and development standards.
6. The requested accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.
7. The applicant owns the property for which a reasonable accommodation is requested, or has notarized written consent from the property owner to apply for the requested accommodation.
8. The requested accommodation site is not located on a lot within one thousand three hundred twenty (1,320) feet, measured by a straight line in any direction, from any lot line of another group home or any assisted living home located within the Town of Paradise Valley or any other jurisdiction.

REQUEST NO. _____

**TOWN OF PARADISE VALLEY
REQUEST FOR A REASONABLE ACCOMMODATION FORM**

SUBMITTAL DATE: _____

To aid the Town's Accommodation Hearing Officer in determining whether the necessary requirements can be met for approving or conditionally approving this request, please answer the following questions and attach additional pages if necessary. Return this completed form with the filing fee of \$500.00 to: Town of Paradise Valley, Attn: Accommodation Hearing Officer, 6401 E. Lincoln Drive, Paradise Valley, Arizona 85253. If you have any questions about this form or the requirements or procedures applicable to reasonable accommodation requests, please call Community Development Director at (480) 348-3522.

Applicant Information:

Name: _____

☐ INDIVIDUAL ☐ CORPORATION ☐ LLC ☐ OTHER (check one)

Address: _____

Phone: _____ Fax: _____ E-mail: _____

Facility Information:

Name of Facility: _____

Address: _____

Assessor Parcel Number: _____

Are You the Owner of this Property? ☐ YES ☐ NO

Will smoking be allowed at this facility? ☐ YES ☐ NO

How many residents or employees will have vehicles parked on the premises? _____

1. Is this application being submitted by a person with a disability, that person's representative, or a developer or provider of housing for persons with a disability?

2. Does the applicant, or person with a disability on whose behalf the application is being made, have physical or mental impairments that substantially limit one or more of such person's major life activities? If so, please state the impairment and provide documentation of such impairment.

3. From which specific Town ordinance, rule, policy, procedure, practice, or service is an accommodation being requested?

4. Please describe the requested accommodation and explain why the specific accommodation requested is necessary to provide an equal opportunity to use and enjoy the dwelling. Please provide documentation to support your explanation.

5. Please describe alternative reasonable accommodations that may provide an equivalent level of benefit, if any, and explain how the alternatives are necessary to provide an equal opportunity to use and enjoy the dwelling. Please provide documentation to support your explanation.

6. Please explain why the requested accommodations will affirmatively enhance the quality of life of the person with a disability. Please provide documentation to support your explanation.

7. Please explain how the person with a disability will be denied an equal opportunity to use and enjoy the housing type of their choice absent the accommodations. Please provide documentation to support your explanation.

8. Please explain why the requested accommodations will not impose an undue financial or administrative burden on the Town.

9. Please explain the potential impact of the requested accommodations on the surrounding neighborhood and why the requested accommodations will not result in a fundamental alteration in the nature of the Town's land use and zoning scheme.

10. Please add any other information that may be helpful for the Town's Accommodation Hearing Officer to determine whether the requirements for approving the accommodations have been met.

11. If the applicant is a developer or provider of housing for individuals with a disability, please list any licenses or certifications required by applicable federal, state, county, and local laws and regulations and provide documentation of any such licenses or certifications.

12. If the applicant is a developer or provider of housing for persons with a disability, please describe whether or how it screens residents to determine whether their residency would constitute a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.

41-1491. Definitions

In this article, unless the context otherwise requires:

1. "Aggrieved person" includes any person who either:

(a) Claims to have been injured by a discriminatory housing practice.

(b) Believes that the person will be injured by a discriminatory housing practice that is about to occur.

2. "Assistance animal" means a trained or untrained animal that works, provides assistance, performs tasks or provides therapeutic or emotional support for the benefit of a person with a disability.

3. "Complainant" means a person, including the attorney general, who files a complaint under section 41-1491.22.

4. "Conciliation" means the attempted resolution of issues raised by a complaint or by the investigation of the complaint through informal negotiations involving the aggrieved person, the respondent and the attorney general.

5. "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.

6. "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).

7. "Discriminatory housing practice" means an act prohibited by sections 41-1491.14 through 41-1491.21.

8. "Dwelling" means either:

(a) Any building, structure or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one or more families.

(b) Any vacant land that is offered for sale or lease for the construction or location of a building, structure or part of a building or structure described by subdivision (a) of this paragraph.

9. "Family" includes a single individual.

10. "Person" means one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, receivers, fiduciaries, banks, credit unions and financial institutions.

11. "Respondent" means either:

(a) The person accused of a violation of this article in a complaint of a discriminatory housing practice.

(b) Any person identified as an additional or substitute respondent under section 41-1491.25 or an agent of an additional or substitute respondent.

12. "Service animal":

(a) Means any dog or miniature horse that is individually trained or in training to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability.

(b) Does not include other species of animals, whether wild or domestic, trained or untrained.

13. "To rent" includes to lease, to sublease, to let or to otherwise grant for a consideration the right to occupy premises not owned by the occupant.

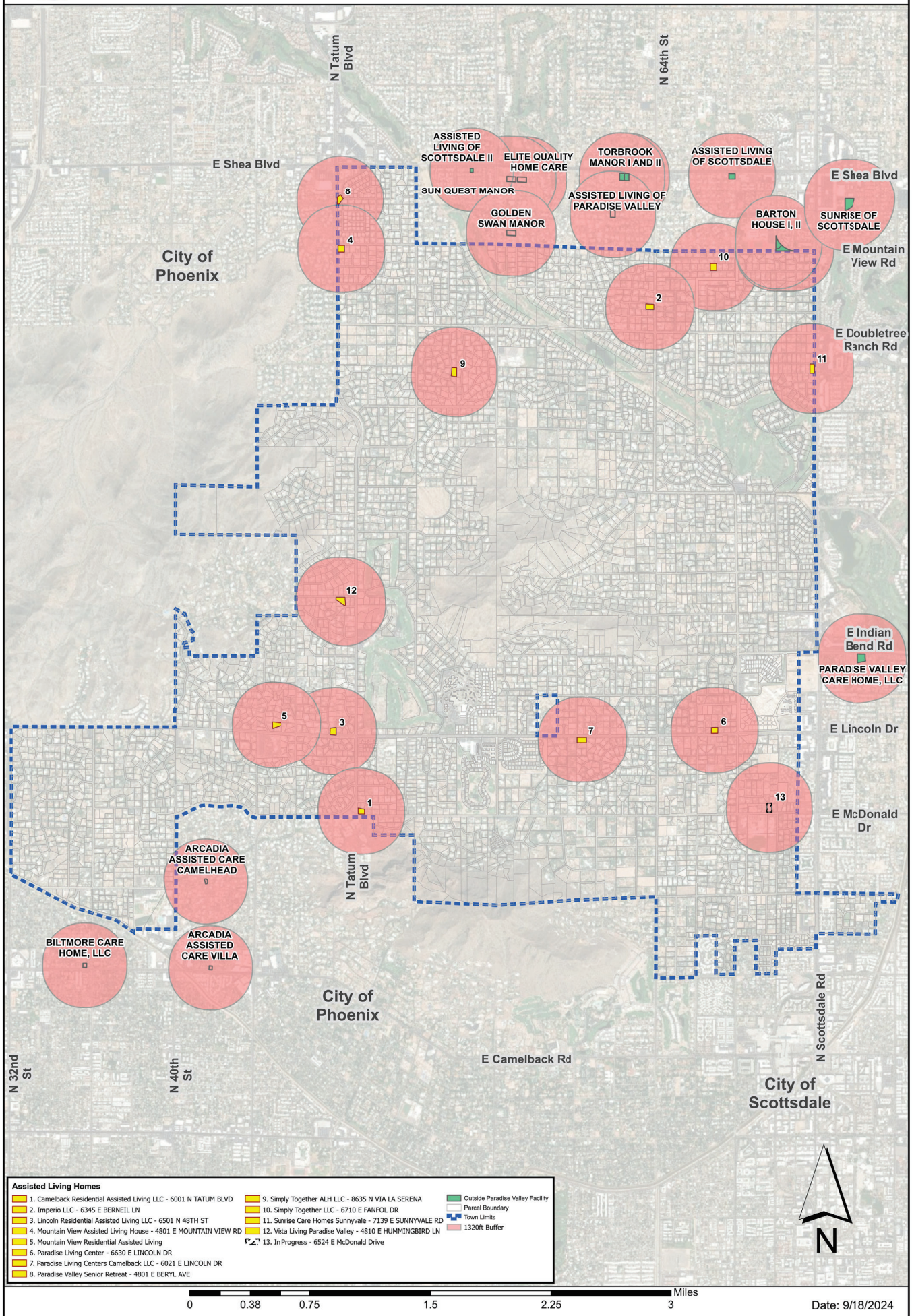
36-582. Residential facilities; zoning; notice; appeal

- A. Unrelated persons living together notwithstanding, a residential facility which serves six 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 per day 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 the residential use of property. The limitation of six or fewer persons does not include the operator of a residential facility, members of the operator's family or persons employed as staff, except that the total number of all persons living at the residential facility shall not exceed eight.
- B. For the purpose of all local ordinances, a residential facility which serves six or fewer persons shall not be included within the definition of any term which implies that the residential facility differs in any way from a single family residence.
- C. The provisions of this section shall not be construed to forbid any city, county or other local public entity from placing restrictions on building heights, setback, lot dimensions and placements of signs of a residential facility which serves six or fewer persons as long as such restrictions are identical to those applied to other single family residences.
- D. The provisions of this section shall not be construed to forbid the application to a residential facility of any local ordinance which deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity provided that such ordinance does not distinguish residential facilities which serve six or fewer persons from other single family dwellings and provided further that such ordinance does not distinguish residents of such residential facilities from persons who reside in other single family dwellings.
- E. A local ordinance which distinguishes, tends to distinguish, or has the effect of distinguishing residential facilities which serve six or fewer persons from single family dwellings shall be void and of no effect as applied to such facilities.
- F. No conditional use permit, zoning variance, or other zoning clearance shall be required of a residential facility which serves six or fewer persons which is not required of a single family residence in the same zone.
- G. For the purposes of any contract, deed, or covenant for the transfer of real property executed subsequent to the effective date of this section, a residential facility which serves six or fewer persons shall be considered a residential use of property and a use of property by a single family, notwithstanding any disclaimers to the contrary.
- H. No residential facility shall be established within a twelve hundred foot radius of an existing residential facility in a residential area.
- I. Prior to the establishment of a residential facility in a residential area, the department shall give at least sixty days written notice to the local government unit affected. The government unit shall have the right to contest the establishment of a residential facility in a residential area by written objection filed with the department within thirty days after receiving notice and may request an administrative hearing pursuant to title 41, chapter 14, article 3.
- J. Other residential facilities which serve seven or more persons shall be a permitted use in any zone in which residential buildings of similar size, containing rooms or apartments which are provided on a continuing basis for compensation, are a permitted use. Nothing in this section shall be construed to prohibit any city or county from requiring a conditional use permit in order to maintain a residential facility serving seven or more persons, provided that no conditions shall be imposed on such a facility which are more restrictive than those imposed on other similar dwellings in the same zones.
- K. The provisions of this article shall apply only to residential facilities licensed, operated, supported or supervised by the department and the establishment of a particular facility shall not create any zoning rights with respect to any subsequent use of the property involved.
- L. This article shall apply only as to those government units which have adopted zoning ordinances which place more restrictions on the establishment of residential facilities than those pertaining to facilities authorized under this article, except that the local government unit to which this article does not otherwise apply may require the same notice and hearing procedures applicable to other zoning matters notwithstanding the provisions of subsection I of this section.



Town of Paradise Valley, AZ

Assisted Living Homes





[Insert Date]

[Insert staff name/title]
6401 E Lincoln Drive
Paradise Valley, AZ 85253
480-348-3531
[Insert email]

[Insert owner/applicant name]
[Insert address]

RE: Proposed Assisted Living Home
Address: [Insert site address]
APN: [Insert parcel number]
Zoning: [Insert zoning district]

Dear [Insert owner/applicant name]:

An assisted living home is permitted in the [Insert zoning] zoning district subject to compliance with Article II, Definitions, and Article XVII, Assisted Living Home, in the Town's Zoning Ordinance. Review of available records appear to show the proposed assisted living home at the above location is more than 1,320 feet from the lot line of any other assisted living home within the Town of Paradise Valley or any adjoining zip codes pursuant to Article XVII, Assisted Living Home. As of the date of this letter, the nearest assisted living facility is [Insert nearest assisted living facility] at [Insert address] at approximately [Insert distance] feet away. The proposed assisted living home is limited to a maximum of ten residents pursuant to Article XVII, Assisted Living Home (plus a maximum of two staff pursuant to Town policy).

This letter is not the Town's approval of an assisted living home at the above site location. Approval and operation of the assisted living home is dependent upon obtaining the necessary documentation from the State of Arizona, completion of the building permit process for any improvements, related inspections, and the issuance of a Town of Paradise Valley business license. You can contact the Town Clerk, Duncan Miller, or his designee for information on Town business licenses at 480-348-3610. You will also want to verify any additional rules subject to the property from any homeowner association regulations. If there is a homeowner association, provide this contact information to the Town.

All required improvements which include, and may not be limited to, the installation of fire sprinklers and emergency access shall be met along with all applicable inspections. You can contact the Town Fire Marshal/Building Official, Chuck Ransom at 480-348-3631 regarding any questions you have regarding these life safety requirements.

Sincerely,

[Insert staff name/title]

C: Chad Weaver, Community Development Director
Paul Michaud, Planning Manager
Chuck Ransom, Fire Marshal/Building Official
Duncan Miller, Town Clerk

Attached: Article XVII, Assisted Living Home