



City of Phoenix

PLANNING AND DEVELOPMENT DEPARTMENT

ADDENDUM A **Staff Report: Z-TA-22-08** (Group Facilities) April 28, 2017

Application No Z-TA-22-08: Amend the following Sections of the Phoenix Zoning Ordinance regarding group facilities, such as adult day care, assisted living facilities, homes for individuals with disabilities, and associated uses:

Section 202 (Definitions), Section 603.A. (Suburban S-1 District—Ranch or Farm Residence), Section 605.A. (Residential Estate RE-43 District—One-Family Residence), Section 606.A. (Residential Estate RE-24 District—One-Family Residence), Section 608. (Residence Districts), Section 609. (RE-35 Single-Family Residence District), Section 610. (R1-18 Single-Family Residence District), Section 611. (R1-10 Single-Family Residence District), Section 612. (R1-8 Single-Family Residence District), Section 613. (R1-6 Single-Family Residence District), Section 614.C. (R-2 Multifamily Residence District), Section 615.C. (R-3 Multifamily Residence District), Section 616.C. (R-3A Multifamily Residence District), Section 617.C. (R-4 Multifamily Residence District), Section 618.D. (R-5 Multifamily Residence District), Section 619.A. (Residential R-4A District—Multifamily Residence—General), Section 620.B. (Residential Office R-O District—Restricted Commercial), Section 621.B. (Commercial Office C-O District—Restricted Commercial), Section 622.D. (Commercial C-1 District—Neighborhood Retail), Section 623.D. (Commercial C-2 District—Intermediate Commercial), Section 626. (Commerce Park District), Section 635.C.1. (Planned Area Development), 642. (Urban Residential (UR) District), Section 646. (Capitol Mall Overlay District), Section 647 (Special Permit Uses), Section 649. (Mixed Use Agricultural (MUA) District), Section 658. (Deer Valley Airport Overlay (DVAO) District), Section 660. (Four Corners Overlay District), Section 701.E. (Separation Requirements—Registration), Section 702. (Off-Street Parking and Loading), Section 1204. (Land Use Matrix, Downtown Code), Section 1306. (Land Use Matrix, Walkable Urban Code), and Section 1307. (Parking standards, Walkable Urban Code).

Staff recommendation: Staff recommends approval of Z-TA-22-08 as shown in the recommended text in Exhibit 1.

The subject text amendment has been heard by 15 Village Planning Committees (VPCs) as previously proposed by staff. Ten VPCs recommended approval of the text amendment, two recommended approval with changes, one recommended denial, and two have pending recommendations, as summarized in Exhibit 2.

On February 2, 2017, the Planning Commission continued the text amendment for two months as requested by Councilwoman Stark and Councilman Valenzuela. The

Planning Commission members directed staff to hold two meetings with neighborhood leaders prior to the April Planning Commission to address community concerns. On April 6, 2017, the Planning Commission continued the text amendment as requested by staff to allow additional time to evaluate potential changes.

Staff has held three community meetings on February 27, March 7, and March 23 to provide an overview of the proposed text amendment and listen to community concerns. A summary of the concerns, questions and recommendations are provided in Exhibit 3.

The following is a summary of the primary concerns heard at the village planning committee meetings, Planning Commission hearing, as well as the community meetings:

- Change in number of residents for spacing from 1-5 and 6-10 to 1-6 and 7-10.
- No spacing/registration for 1-5/6 resident homes – clustering issues.
- Lack of enforcement.
- Health and safety concerns both with disabled residents and in the neighborhood – lack of oversight.
- Homes are too crowded.
- Should be treated as a business in residential districts and some type of license required.
- Reasonable accommodation provision:
 - Too broadly applied.
 - Should not consider arterial streets and parks.

Since the first draft of the staff report was written a revised joint statement was released by the Department of Justice and the Department of Housing and Urban Development related to Fair Housing Act guidance on regulating group homes for individuals with disabilities. As stated by the Department of Justice, the joint statement provides “(guidance to help local governments) better understand how to comply with the Fair Housing Act when making zoning and land use decisions as well as to help members of the public understand their rights under the Fair Housing Act.” The revised statement essentially relays the same message and has been reformatted to address several questions. The latest version of the Joint Statement of the Department of Justice and the Department of Housing and Urban Development (dated November 10, 2016) is attached in Exhibit 4.

Proposed Revisions to the Proposed Text Amendment:

Staff is recommending several revisions to the proposed text amendment based on community input and additional internal city review. Proposed text amendment revisions are outlined below:

1. The definitions for “assisted living center” and “assisted living home” are updated to replace the term “disabled” with “persons with a disability.”
2. The existing definition for rooming house will be maintained. This revision also requires an update to the Capitol Mall Overlay District Section of the Zoning Ordinance (Section 646). The term “rooming house” will be maintained.
3. The definition of “sober living home” is updated to more closely match the state definition as defined in Arizona Revised Statutes 9-500.40.
4. The number of residents within a registered care home (assisted living homes, residential care homes, and sober living homes) will be maintained at six to ten, rather than seven to ten, as previously proposed. In addition, language will be added to the residential care home requirements to address group homes for the developmentally disabled which allows up to six residents per A.R.S. 36-582.A.
5. Updates to the text amendment language are proposed to clarify enforceability.
 - a. This includes updates to all sections that reference registered care homes to require that the registration process be administratively verified by the department director’s designee, and in compliance with the registration standards in Section 701 of the Zoning Ordinance.
 - b. Section 701 is updated to replace the term “may” with “shall” where appropriate, and to state that it is unlawful to not register a use that requires a minimum separation from another use.
6. The separation features within the disability accommodation in Section 701 are modified to change the municipal open space criteria from 5 to 10 acres, and to remove arterial streets.
7. The disability accommodation appeal process in Section 701 is updated to include specific criteria to be met by the applicant, similar to the Town of Gilbert’s requirement. This requires that the applicant provide sufficient information to determine whether the accommodation may be granted pursuant to the requirements of the Fair Housing Act; and taking into consideration public safety, and welfare concerns and the neighborhood character.

Upcoming Public Meeting Schedule:

(subject to change if continuances are granted)

Camelback East VPC	May 2, 2017
Planning Commission	May 4, 2017
Alhambra VPC	May 23, 2017
DAEI Subcommittee	June 7, 2017
City Council	June 21, 2017

Staff will continue working with stakeholders on potential improvements on how the City will manage group facilities and will return with recommendations to the Downtown, Aviation, Economy and Innovation Subcommittee in the fall.

Exhibits

Exhibit 1: Proposed Language (46 pages)

Exhibit 2: Village Planning Committee Results (1 page)

Exhibit 3: Meeting Summaries from Three Community Meetings; 2/27/2017, 3/7/2017, and 3/23/2017 (6 pages)

Exhibit 4: Latest version of the Joint Statement of the Department of Justice and the Department of Housing and Urban Development, dated November 10, 2016 (20 pages)

EXHIBIT 1

Text Amendment Z-TA-22-08: Group facilities, such as adult day care, assisted living facilities, homes for individuals with disabilities, and associated uses

Proposed Language:

Amend Chapter 2, Section 202 (Definitions) to read as follows and alphabetize accordingly:

ADULT DAY CARE HOME: A RESIDENTIAL HOME PROVIDING CARE FOR 1 TO 10 ADULT PERSONS FOR LESS THAN 24 HOURS PER DAY AND FOR COMPENSATION. AN ADULT DAY CARE HOME SHALL BE LICENSED BY THE STATE OF ARIZONA.

ADULT DAY CARE CENTER: A FACILITY PROVIDING CARE FOR 11 OR MORE ADULT PERSONS FOR LESS THAN 24 HOURS PER DAY AND FOR COMPENSATION. AN ADULT DAY CARE CENTER SHALL BE LICENSED BY THE STATE OF ARIZONA.

Assisted Living Center: A residential care institution that provides resident rooms, or residential units, to 11 or more PERSONS WITH A DISABILITY ~~handicapped~~ ~~DISABLED~~ or elderly persons. The facility provides, or contracts to provide, supervisory care services, personal care services, or directed care services on a continuous basis. An assisted living center shall be licensed by the State of Arizona.

Assisted Living Home: A dwelling unit shared as their primary residence by ~~one~~ 1 to ~~ten~~ 10 ~~handicapped~~ PERSONS WITH A DISABILITY ~~DISABLED~~ or elderly persons living together as a single housekeeping unit, where staff persons provide on-site care, training, or support for the residents. The facility provides, or contracts to provide, supervisory care services, personal care services, directed care services on a continuous basis. An assisted living home shall be licensed by the State of Arizona.

DISABILITY: (1) A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE MAJOR LIFE ACTIVITIES; (2) A RECORD OF HAVING SUCH AN IMPAIRMENT; OR (3) BEING REGARDED AS HAVING SUCH AN IMPAIRMENT.

HOWEVER, A PERSON WITH A DISABILITY SHALL NOT INCLUDE: (1) ANY PERSON CURRENTLY ENGAGING IN THE ILLEGAL USE OF CONTROLLED SUBSTANCES [AS DEFINED IN SECTION 102 OF THE CONTROLLED SUBSTANCE ACT (21 UNITED STATES CODE 802)]; OR (2) ANY PERSON WHO 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 THAT CANNOT BE ELIMINATED OR REDUCED BY REASONABLE ACCOMMODATION.

DISABILITY AND DIRECT THREAT WILL BE INTERPRETED CONSISTENT WITH THE AMERICANS WITH DISABILITIES ACT (42 UNITED STATES CODE 12101, ET SEQ.), AS AMENDED, AND THE FEDERAL FAIR HOUSING ACT (42 UNITED STATES CODE 3601 – 3619).

~~*Foster Home:* A home maintained by any individual or individuals having the care or control of one or more, but not more than five (5) minor children, other than those related to each other by blood or marriage, or related to such individuals, or who are legal wards of such individuals which is licensed by the appropriate government agency.~~

GROUP FOSTER HOME: A HOME MAINTAINED BY ANY INDIVIDUAL OR INDIVIDUALS HAVING THE CARE OR CONTROL OF 6 TO 10 MINOR CHILDREN WHO ARE NOT: (1) RELATED TO SUCH INDIVIDUALS OR TO EACH OTHER BY BLOOD, MARRIAGE, OR ADOPTION; OR (2) LEGAL WARDS OF SUCH INDIVIDUALS. A GROUP FOSTER HOME SHALL BE LICENSED BY THE STATE OF ARIZONA AND DOES NOT INCLUDE HOMES LICENSED AS A FAMILY FOSTER HOME THAT ARE OVER CAPACITY AND HAVE A GROUP FOSTER HOME CERTIFICATION.

~~*Group Home:* A residential facility for six (6) or more unrelated persons providing living facilities, sleeping rooms, and meals and which have a permit issued by the appropriate government agency as a boarding house.~~

~~*Group Home for the Handicapped:* Dwelling unit shared as their primary residence by handicapped or handicapped elderly persons living together as a single housekeeping unit, in which staff persons provide on-site care, training or support for the residents. Group homes shall not include nursing homes, personal care homes, or homes for the developmentally disabled as regulated by A.R.S. § 36-582. Such home or services provided therein shall be licensed by, certified by, approved by, registered with, funded by or through, or under contract with the State.~~

~~*Handicapped:* A person who: (1) has a physical or mental impairment which substantially limits one or more of such person's major life activities; (2) has a record of having such an impairment; or (3) is regarded as having such an impairment. However, "handicapped" shall not include current illegal use of or addiction to a controlled substance [as defined in Section 102 of the Controlled Substance Act (21 United States Code 802)].~~

HOSPICE: A HEALTH CARE SERVICE AGENCY OR INSTITUTION OTHER THAN A HOSPITAL, ASSISTED LIVING HOME OR CENTER, OR NURSING HOME THAT PROVIDES INPATIENT BEDS OR RESIDENT BEDS TO PERSONS WHO NEED CONTINUOUS HOSPICE SERVICES. A HOSPICE DOES NOT INCLUDE IN-HOME HOSPICE CARE. A HOSPICE SHALL BE LICENSED BY THE STATE OF ARIZONA.

~~*Personal Care Home:* A health care institution other than a hospital or nursing home which is licensed by the Arizona State Department of Health Services as a personal care home for two (2) or more unrelated persons.~~

RESIDENTIAL CARE HOME: A DWELLING UNIT SHARED AS A PRIMARY RESIDENCE BY 1 TO 10 PERSONS (ADULTS OR MINORS) LIVING TOGETHER AS A SINGLE HOUSEKEEPING UNIT, IN WHICH STAFF PERSONS PROVIDE ON-SITE CARE, TRAINING OR SUPPORT FOR THE RESIDENTS. A RESIDENTIAL CARE HOME SHALL BE LICENSED BY THE STATE OF ARIZONA.

RESIDENTIAL CARE CENTER: A RESIDENTIAL CARE INSTITUTION THAT PROVIDES RESIDENT ROOMS OR RESIDENTIAL UNITS TO 11 OR MORE PERSONS (ADULTS OR MINORS). THE FACILITY PROVIDES ON-SITE CARE, TRAINING OR SUPPORT FOR THE RESIDENTS, AS WELL AS HEALTH AND REHABILITATIVE SERVICES TO PERSONS WITH BEHAVIORAL HEALTH OR DEVELOPMENTAL DISABILITIES. A RESIDENTIAL CARE CENTER SHALL BE LICENSED BY THE STATE OF ARIZONA.

Rest Home: Same as "Group Home" SEE "ASSISTED LIVING CENTER" OR "NURSING HOME".

Rooming House: Same as "Group Home".

~~SOBER LIVING HOME: A DWELLING UNIT SHARED AS A PRIMARY RESIDENCE BY 1 TO 10 PERSONS (ADULTS OR MINORS) LIVING TOGETHER AS A SINGLE HOUSEKEEPING UNIT, IN WHICH ON-SITE CARE, TRAINING OR SUPPORT FOR RESIDENTS WITH A DISABILITY IN RECOVERY FROM ALCOHOL OR DRUG/SUBSTANCE ABUSE, AS DEFINED BY THE AMERICANS WITH DISABILITIES ACT.~~

SOBER LIVING HOME: ANY PREMISES, PLACE OR BUILDING THAT PROVIDES ALCOHOL-FREE OR DRUG-FREE HOUSING, FOR INDIVIDUALS WHO ARE RECOVERING FROM ADDICTION. THIS DOES NOT INCLUDE A PRIVATE RESIDENCE IN WHICH A RELATED FAMILY MEMBER IS REQUIRED TO RECEIVE OUTPATIENT BEHAVIORAL HEALTH SERVICES FOR SUBSTANCE ABUSE OR ADDICTION TREATMENT AS A CONDITION OF CONTINUING TO RESIDE IN THE FAMILY DWELLING. A SOBER LIVING HOME INCLUDES STRUCTURED SOBER LIVING HOME AS DEFINED IN A.R.S. 9-500.40.C.

Amend Chapter 6, Section 603.A. (Suburban S-1 District—Ranch or Farm Residence) to read as follows and renumber section accordingly:

2. ADULT DAY CARE HOME, PROVIDED THAT:
 - A. CARE IS PROVIDED FOR NO MORE THAN 4 ADULT PERSONS, NOT INCLUDING STAFF.
 - B. CARE IS PROVIDED FOR 5 TO 10 ADULT PERSONS, NOT INCLUDING STAFF, AND SUBJECT TO A USE PERMIT.
 - C. OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.

3. ASSISTED LIVING HOME, PROVIDED THAT:
 - A. THE HOME HAS NO MORE THAN 6 5 RESIDENTS, NOT INCLUDING STAFF; OR
 - B. FOR A HOME WITH 7 6 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) ~~SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.~~
SUCH HOME SHALL BE REGISTERED WITH, AND ADMINISTRATIVELY VERIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR'S DESIGNEE, AS TO COMPLIANCE WITH THE STANDARDS OF THIS SECTION AS PROVIDED IN SECTION 701.

- 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 6 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.
4. RESIDENTIAL CARE HOME, PROVIDED THAT:
- A. THE HOME HAS NO MORE THAN 6 5 RESIDENTS, NOT INCLUDING STAFF (UNLESS PERMITTED BY A.R.S. 36-582.A.); OR
 - B. FOR A HOME WITH 7 6 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) ~~SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.~~
SUCH HOME SHALL BE REGISTERED WITH, AND ADMINISTRATIVELY VERIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR'S DESIGNEE, AS TO COMPLIANCE WITH THE STANDARDS OF THIS SECTION AS PROVIDED IN SECTION 701.
 - 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 6 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.
5. SOBER LIVING HOME, PROVIDED THAT:
- A. THE HOME HAS NO MORE THAN 6 5 RESIDENTS, NOT INCLUDING STAFF; OR
 - B. FOR A HOME WITH 7 6 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:

- 1) ~~SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.~~
SUCH HOME SHALL BE REGISTERED WITH, AND ADMINISTRATIVELY VERIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR'S DESIGNEE, AS TO COMPLIANCE WITH THE STANDARDS OF THIS SECTION AS PROVIDED IN SECTION 701.
- 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 6 TO 10 RESIDENTS.
- 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.

11. ~~Foster homes and g~~Group foster homes.

Amend Chapter 6, Section 605.A. (Residential Estate RE-43 District—One-Family Residence) to read as follows and renumber section accordingly:

2. ADULT DAY CARE HOME, PROVIDED THAT:
 - A. CARE IS PROVIDED FOR NO MORE THAN 4 ADULT PERSONS, NOT INCLUDING STAFF.
 - B. CARE IS PROVIDED FOR 5 TO 10 ADULT PERSONS, NOT INCLUDING STAFF, AND SUBJECT TO A USE PERMIT.
 - C. OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.
3. ASSISTED LIVING HOME, PROVIDED THAT:
 - A. THE HOME HAS NO MORE THAN 6 5 RESIDENTS, NOT INCLUDING STAFF; OR
 - B. FOR A HOME WITH 7 6 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:

- 1) ~~SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.~~
SUCH HOME SHALL BE REGISTERED WITH, AND ADMINISTRATIVELY VERIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR'S DESIGNEE, AS TO COMPLIANCE WITH THE STANDARDS OF THIS SECTION AS PROVIDED IN SECTION 701.
 - 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 6 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.
4. RESIDENTIAL CARE HOME, PROVIDED THAT:
- A. THE HOME HAS NO MORE THAN 6 5 RESIDENTS, NOT INCLUDING STAFF (UNLESS PERMITTED BY A.R.S. 36-582.A.); OR
 - B. FOR A HOME WITH 7 6 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) ~~SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.~~
SUCH HOME SHALL BE REGISTERED WITH, AND ADMINISTRATIVELY VERIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR'S DESIGNEE, AS TO COMPLIANCE WITH THE STANDARDS OF THIS SECTION AS PROVIDED IN SECTION 701.
 - 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 6 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.
5. SOBER LIVING HOME, PROVIDED THAT:

- A. THE HOME HAS NO MORE THAN 6 5 RESIDENTS, NOT INCLUDING STAFF; OR
- B. FOR A HOME WITH 7 6 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) ~~SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.~~
SUCH HOME SHALL BE REGISTERED WITH, AND ADMINISTRATIVELY VERIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR'S DESIGNEE, AS TO COMPLIANCE WITH THE STANDARDS OF THIS SECTION AS PROVIDED IN SECTION 701.
 - 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 6 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.

~~11. Foster homes.~~

- ~~16. Group homes for the handicapped shall be permitted, provided that:~~
- ~~a. No such home is located on a lot with a property line within one thousand three hundred twenty feet, measured in a straight line in any direction, of the lot line of another such group home.~~
 - ~~b. Such home contains more than five but not more than ten residents, not including staff.~~
 - ~~c. Such home is registered with, and administratively approved by, the Zoning Administrator as to compliance with the standards of this section as provided in Section 701.~~

~~Notwithstanding the foregoing, group homes 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.~~

Amend Chapter 6, Section 606.A. (Residential Estate RE-24 District—One-Family Residence) to read as follows and renumber section accordingly:

- 2. ADULT DAY CARE HOME, PROVIDED THAT:

- A. CARE IS PROVIDED FOR NO MORE THAN 4 ADULT PERSONS, NOT INCLUDING STAFF.
 - B. CARE IS PROVIDED FOR 5 TO 10 ADULT PERSONS, NOT INCLUDING STAFF, AND SUBJECT TO A USE PERMIT.
 - C. OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.
3. ASSISTED LIVING HOME, PROVIDED THAT:
- A. THE HOME HAS NO MORE THAN 6 5 RESIDENTS, NOT INCLUDING STAFF; OR
 - B. FOR A HOME WITH 7 6 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) ~~SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.~~
SUCH HOME SHALL BE REGISTERED WITH, AND ADMINISTRATIVELY VERIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR'S DESIGNEE, AS TO COMPLIANCE WITH THE STANDARDS OF THIS SECTION AS PROVIDED IN SECTION 701.
 - 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 6 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.
4. RESIDENTIAL CARE HOME, PROVIDED THAT:
- A. THE HOME HAS NO MORE THAN 6 5 RESIDENTS, NOT INCLUDING STAFF (UNLESS PERMITTED BY A.R.S. 36-582.A.); OR
 - B. FOR A HOME WITH 7 6 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) ~~SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.~~
SUCH HOME SHALL BE REGISTERED WITH, AND ADMINISTRATIVELY VERIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR'S DESIGNEE, AS TO COMPLIANCE WITH THE STANDARDS OF THIS SECTION AS PROVIDED IN SECTION 701.

- 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 6 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.
5. SOBER LIVING HOME, PROVIDED THAT:
- A. THE HOME HAS NO MORE THAN 6 5 RESIDENTS, NOT INCLUDING STAFF; OR
 - B. FOR A HOME WITH 7 6 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) ~~SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.~~
SUCH HOME SHALL BE REGISTERED WITH, AND ADMINISTRATIVELY VERIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR'S DESIGNEE, AS TO COMPLIANCE WITH THE STANDARDS OF THIS SECTION AS PROVIDED IN SECTION 701.
 - 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 6 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.
10. Foster homes.
15. ~~Group homes for the handicapped shall be permitted; provided, that:~~
- a. ~~No such home is located on a lot with a property line within one thousand three hundred twenty feet, measured in a straight line in any direction, of the lot line of another such group home.~~
 - b. ~~Such home contains more than five but not more than ten residents, not including staff.~~
 - c. ~~Such home is registered with, and administratively approved by, the Zoning Administrator as to compliance with the standards of this section as provided in Section 701.~~

~~Notwithstanding the foregoing, group homes 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.~~

Amend Chapter 6, Section 608. (Residence Districts) to read as follows and renumber section accordingly:

C. Permitted Uses.

Use	Permitted	Permitted With Conditions ⁽¹⁾	Use Permit And Conditions ⁽²⁾
Single-Family DU	X		
Governmental Uses	X		
ASSISTED LIVING HOME		X	
RESIDENTIAL CARE HOME		X	
SOBER LIVING HOME		X	
* * *			
1—6 Dependent Care Facility		X	
1—4 ADULT DAY CARE HOME		X	
Display for Sale of Vehicle		X	
Guestrooms		X	
Public Utility Buildings and Facilities		X	
Schools, Private		X	X
* * *			
5—10 ADULT DAY CARE HOME		X	X
Churches/Place of Worship		X	X
Construction Facilities and Storage		X	X
Home Occupations		X	X
Model Homes and/or Subdivision Sales Office		X	X
Nondaily Newspaper Delivery Service		X	X
Public Assembly—Residential		X	X

* * *			
7—12 Dependent Care Facility			X
Environmental Remediation Facility			X

D. Permitted Uses with Conditions.

1. ADULT DAY CARE HOME FOR THE CARE OF 1 TO 4 ADULT PERSONS, PROVIDED THAT:
 - A. OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.

2. ASSISTED LIVING HOME, PROVIDED THAT:
 - A. THE HOME HAS NO MORE THAN 6 5 RESIDENTS, NOT INCLUDING STAFF; OR
 - B. FOR A HOME WITH 7 6 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) ~~SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.~~
SUCH HOME SHALL BE REGISTERED WITH, AND ADMINISTRATIVELY VERIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR'S DESIGNEE, AS TO COMPLIANCE WITH THE STANDARDS OF THIS SECTION AS PROVIDED IN SECTION 701.
 - 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 6 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.

3. RESIDENTIAL CARE HOME, PROVIDED THAT:

- A. THE HOME HAS NO MORE THAN 6 5 RESIDENTS, NOT INCLUDING STAFF (UNLESS PERMITTED BY A.R.S. 36-582.A.); OR
 - B. FOR A HOME WITH 7 6 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) ~~SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.~~
SUCH HOME SHALL BE REGISTERED WITH, AND ADMINISTRATIVELY VERIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR'S DESIGNEE, AS TO COMPLIANCE WITH THE STANDARDS OF THIS SECTION AS PROVIDED IN SECTION 701.
 - 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 6 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.
4. SOBER LIVING HOME, PROVIDED THAT:
- A. THE HOME HAS NO MORE THAN 6 5 RESIDENTS, NOT INCLUDING STAFF; OR
 - B. FOR A HOME WITH 7 6 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) ~~SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.~~
SUCH HOME SHALL BE REGISTERED WITH, AND ADMINISTRATIVELY VERIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR'S DESIGNEE, AS TO COMPLIANCE WITH THE STANDARDS OF THIS SECTION AS PROVIDED IN SECTION 701.
 - 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 6 TO 10 RESIDENTS.

- 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.

F. Permitted with Use Permit Approval Pursuant to Section 307.

- 1. ADULT DAY CARE HOME FOR THE CARE OF 5 TO 10 ADULT PERSONS, SUBJECT TO A USE PERMIT AND PROVIDED THAT:
 - A. OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.

G. Accessory Uses.

- 2. Foster homes.

Amend Chapter 6, Section 609. (RE-35 Single-Family Residence District) to delete as follows and renumber section accordingly:

B. District Regulations.

RE-35 Development Option			
Standards	(a) Subdivision	(b) Average Lot	(c) Planned Residential Development

Allowed uses	Single-family detached; foster homes	Single-family attached; plus (a)	Single-family attached; plus (a)

C. Special Regulations.

- 1. ~~Group homes for the handicapped shall be permitted, provided that:~~
 - a. ~~No such home is located on a lot with a property line within one thousand three hundred twenty feet, measured in a straight line in any direction, of the lot line of another such group home.~~
 - b. ~~Such home contains more than five but not more than ten residents, not including staff.~~
 - c. ~~Such home is registered with, and administratively approved by, the Zoning Administrator as to compliance with the standards of this section as provided in Section 701.~~

~~Notwithstanding the foregoing, group homes 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.~~

Amend Chapter 6, Section 610. (R1-18 Single-Family Residence District) to delete as follows:

B. District Regulations.

R1-18 Development Option			
Standards	(a) Subdivision	(b) Average Lot	(c) Planned Residential Development

Allowed uses	Single-family detached; foster homes	Single-family attached; plus (a)	Single-family attached; plus (a)

~~C. Special Regulations.~~

- 1. ~~Group homes for the handicapped shall be permitted, provided that:~~

- a. ~~No such home is located on a lot with a property line within one thousand three hundred twenty feet, measured in a straight line in any direction, of the lot line of another such group home.~~
- b. ~~Such home contains more than five but not more than ten residents, not including staff.~~
- c. ~~Such home is registered with, and administratively approved by, the Zoning Administrator as to compliance with the standards of this section as provided in Section 701.~~

~~Notwithstanding the foregoing, group homes 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.~~

Amend Chapter 6, Section 611. (R1-10 Single-Family Residence District) to delete as follows:

B. District Regulations.

TABLE B. SINGLE-FAMILY DETACHED (SUBDIVIDED PRIOR TO JUNE 2, 1999), SINGLE-FAMILY ATTACHED AND MULTIFAMILY DEVELOPMENT

Standards	(a) Subdivision	(b) Average Lot	(c) Planned Residential Development

Allowed uses	Single-family detached; foster homes	Single-family attached; plus (a)	Multiple-family plus (b)

C. Special Regulations.

- 1. ~~Group homes for the handicapped shall be permitted, provided that:~~
 - a. ~~No such home is located on a lot with a property line within one thousand three hundred twenty feet, measured in a straight line in any direction, of the lot line of another such group home.~~

- b. ~~Such home contains more than five but not more than ten residents, not including staff.~~
- c. ~~Such home is registered with, and administratively approved by, the Zoning Administrator as to compliance with the standards of this section as provided in Section 701.~~

~~Notwithstanding the foregoing, group homes 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.~~

Amend Chapter 6, Section 612. (R1-8 Single-Family Residence District) to delete as follows:

B. District Regulations.

TABLE B. SINGLE-FAMILY DETACHED (SUBDIVIDED PRIOR TO JUNE 2, 1999), SINGLE-FAMILY ATTACHED AND MULTIFAMILY DEVELOPMENT

Standards	(a) Subdivision	(b) Average Lot	(c) Planned Residential Development

Allowed uses	Single-family detached; foster homes	Single-family attached; plus (a)	Multiple-family plus (b)

G. Special Regulations.

- 1. ~~Group homes for the handicapped shall be permitted, provided that:~~
 - a. ~~No such home is located on a lot with a property line within one thousand three hundred twenty feet, measured in a straight line in any direction, of the lot line of another such group home.~~
 - b. ~~Such home contains more than five but not more than ten residents, not including staff.~~

- e. ~~Such home is registered with, and administratively approved by, the Zoning Administrator as to compliance with the standards of this section as provided in Section 701.~~

~~Notwithstanding the foregoing, group homes 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.~~

Amend Chapter 6, Section 613.C. (R1-6 Single-Family Residence District) to delete as follows:

~~G. Special Regulations.~~

- 1. ~~Group homes for the handicapped shall be permitted, provided that:~~
 - a. ~~No such home is located on a lot with a property line within one thousand three hundred twenty feet, measured in a straight line in any direction, of the lot line of another such group home.~~
 - b. ~~Such home contains more than five but not more than ten residents, not including staff.~~
 - c. ~~Such home is registered with, and administratively approved by, the Zoning Administrator as to compliance with the standards of this section as provided in Section 701.~~

~~Notwithstanding the foregoing, group homes 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.~~

Amend Chapter 6, Section 614.C. (R-2 Multifamily Residence District) to delete as follows:

- 2. ~~Group homes for the handicapped shall be permitted, provided that:~~
 - a. ~~No such home is located on a lot with a property line within one thousand three hundred twenty feet, measured in a straight line in any direction, of the lot line of another such group home.~~
 - b. ~~Such home contains more than five but not more than ten residents, not including staff.~~
 - c. ~~Such home is registered with, and administratively approved by, the Zoning Administrator as to compliance with the standards of this section as provided in Section 701.~~

~~Notwithstanding the foregoing, group homes 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.~~

Amend Chapter 6, Section 615.C. (R-3 Multifamily Residence District) to read as follows and renumber section accordingly:

1. ADULT DAY CARE CENTER, SUBJECT TO A USE PERMIT AND PROVIDED THAT:
 - A. OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.
2. ASSISTED LIVING OR RESIDENTIAL CARE CENTER, SUBJECT TO A USE PERMIT AND THE FOLLOWING CONDITIONS:
 - A. A MAXIMUM LOT COVERAGE OF 25 PERCENT.
 - B. A MINIMUM OF 100 SQUARE FEET OF USABLE OUTDOOR OPEN SPACE PER BED SHALL BE PROVIDED.
 - C. THE LOT SHALL ONLY HAVE VEHICULAR ACCESS FROM AN ARTERIAL OR COLLECTOR STREET.
- ~~13. A group home is allowed, with SUBJECT TO a use permit.~~
- ~~24. A group foster care home is allowed in an R-4 district. A group foster care home is allowed, in an R-3 or R-3A district with SUBJECT TO a use permit.~~
- ~~3. Group homes for the handicapped shall be permitted, provided that:
 - a. No such home is located on a lot with a property line within one thousand three hundred twenty feet, measured in a straight line in any direction, from the lot line of another such group home.
 - b. Such home is registered with, and administratively approved by, the Zoning Administrator as to compliance with the standards of this section as provided in Section 701.~~

~~Notwithstanding the foregoing, group homes 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.~~

Amend Chapter 6, Section 616.C. (R-3A Multifamily Residence District) to read as follows and renumber section accordingly:

1. ADULT DAY CARE CENTER, SUBJECT TO A USE PERMIT AND PROVIDED THAT:
 - A. OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.
2. ASSISTED LIVING OR RESIDENTIAL CARE CENTER, SUBJECT TO A USE PERMIT AND THE FOLLOWING CONDITIONS:
 - A. A MAXIMUM LOT COVERAGE OF 25 PERCENT.
 - B. A MINIMUM OF 100 SQUARE FEET OF USABLE OUTDOOR OPEN SPACE PER BED SHALL BE PROVIDED.
 - C. THE LOT SHALL ONLY HAVE VEHICULAR ACCESS FROM AN ARTERIAL OR COLLECTOR STREET.
- ~~13. A group home is allowed, with SUBJECT TO a use permit.~~
- ~~24. A group foster care home is allowed in an R-4 district. A group foster care home is allowed, in an R-3 or R-3A district with SUBJECT TO a use permit.~~
- ~~3. Group homes for the handicapped shall be permitted, provided that:
 - a. No such home is located on a lot with a property line within one thousand three hundred twenty feet, measured in a straight line in any direction, from the lot line of another such group home.
 - b. Such home is registered with, and administratively approved by, the Zoning Administrator as to compliance with the standards of this section as provided in Section 701.Notwithstanding the foregoing, group homes 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.~~

Amend Chapter 6, Section 617.C. (R-4 Multifamily Residence District) to read as follows and renumber section accordingly:

1. ADULT DAY CARE CENTER, SUBJECT TO A USE PERMIT AND THE PROVIDED THAT:
 - A. OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.

2. ASSISTED LIVING OR RESIDENTIAL CARE CENTER, SUBJECT TO A USE PERMIT AND THE FOLLOWING CONDITIONS:
 - A. A MAXIMUM LOT COVERAGE OF 25 PERCENT.
 - B. A MINIMUM OF 100 SQUARE FEET OF USABLE OUTDOOR OPEN SPACE PER BED SHALL BE PROVIDED.
 - C. THE LOT SHALL ONLY HAVE VEHICULAR ACCESS FROM AN ARTERIAL OR COLLECTOR STREET.

- ~~13. A group home is allowed, with SUBJECT TO a use permit.~~

- ~~24. A group foster care home is allowed in an R-4 district. A group foster care home is allowed in an R-3 or R-3A district with a use permit.~~

- ~~3. Group homes for the handicapped shall be permitted, provided that:

 - a. No such home is located on a lot with a property line within one thousand three hundred twenty feet, measured in a straight line in any direction, from the lot line of another such group home.
 - b. Such home is registered with, and administratively approved by, the Zoning Administrator as to compliance with the standards of this section as provided in Section 701.
 Notwithstanding the foregoing, group homes 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.~~

Amend Chapter 6, Section 618.D. (R-5 Multifamily Residence District) to read as follows and renumber section accordingly:

1. ADULT DAY CARE CENTER, SUBJECT TO A USE PERMIT AND PROVIDED THAT:
 - A. OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.

2. ASSISTED LIVING CENTER, SUBJECT TO A USE PERMIT AND THE FOLLOWING CONDITIONS:

- A. A MAXIMUM LOT COVERAGE OF 25 PERCENT.
- B. A MINIMUM OF 50 SQUARE FEET OF USABLE OUTDOOR OPEN SPACE PER BED SHALL BE PROVIDED.

79. Group Foster Care Home

~~9. Group home for the handicapped shall be permitted; provided, that:~~

- ~~a. No such home is located on a lot with a property line within 1,320 feet, measured in a straight line in any direction, from the lot line of another such group home.~~
- ~~b. Such home is registered with, and administratively approved by, the Zoning Administrator as to compliance with the standards of this section as provided in Section 701.~~

~~Notwithstanding the foregoing, group 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.~~

12. HOSPICE, SUBJECT TO A USE PERMIT.

~~1416. Personal care home and a nNursing home, subject to a use permit and the following conditions:~~

- ~~a. A maximum lot coverage of 25 percent.~~
- ~~b. A minimum of 50 square feet of usable outdoor open space per bed SHALL BE PROVIDED.~~

18. RESIDENTIAL CARE CENTER, SUBJECT TO A USE PERMIT AND THE FOLLOWING CONDITIONS:

- A. A MAXIMUM LOT COVERAGE OF 25 PERCENT.
- B. A MINIMUM OF 50 SQUARE FEET OF USABLE OUTDOOR OPEN SPACE PER BED SHALL BE PROVIDED.

Amend Chapter 6, Section 619.A. (Residential R-4A District—Multifamily Residence—General) to read as follows and renumber section accordingly:

- 3. ADULT DAY CARE CENTER, SUBJECT TO A USE PERMIT AND PROVIDED THAT:
 - A. OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.
- 4. ASSISTED LIVING CENTER, SUBJECT TO A USE PERMIT AND THE FOLLOWING CONDITIONS:
 - A. A MAXIMUM LOT COVERAGE OF 25 PERCENT.
 - B. A MINIMUM OF 50 SQUARE FEET OF USABLE OUTDOOR OPEN SPACE PER BED SHALL BE PROVIDED.

- 7. HOSPICE, SUBJECT TO A USE PERMIT.
- 58. Nursing home, ~~and personal care home~~ subject to a use permit. ~~In addition, the following special provisions shall be complied with~~ AND THE FOLLOWING CONDITIONS:
 - a. A maximum lot coverage of ~~twenty-five~~25 percent.
 - b. A minimum of ~~fifty~~50 square feet of usable outdoor open space per bed SHALL BE PROVIDED.
 - c. Walls or fences shall be required as provided in Section 703.A.
- 6. ~~Group homes for the handicapped shall be permitted, provided that:~~

- a. ~~No such home is located on a lot with a property line within one thousand three hundred twenty feet, measured in a straight line in any direction, from the lot line of another such group home.~~
- b. ~~Such home is registered with, and administratively approved by, the Zoning Administrator as to compliance with the standards of this section as provided in Section 701.~~

~~Notwithstanding the foregoing, group homes 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.~~

- 10. RESIDENTIAL CARE CENTER, SUBJECT TO A USE PERMIT AND THE FOLLOWING CONDITIONS:
 - A. A MAXIMUM LOT COVERAGE OF 25 PERCENT.
 - B. A MINIMUM OF 50 SQUARE FEET OF USABLE OUTDOOR OPEN SPACE PER BED SHALL BE PROVIDED.

Amend Chapter 6, Section 620.B. (Residential Office R-O District—Restricted Commercial), to read as follows and renumber section accordingly:

- 1. ADULT DAY CARE HOME OR CENTER, PROVIDED THAT:
 - A. OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.
- 2. ASSISTED LIVING HOME, PROVIDED THAT:
 - A. THE HOME HAS NO MORE THAN 6 5 RESIDENTS, NOT INCLUDING STAFF; OR
 - B. FOR A HOME WITH 7 6 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) ~~SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.~~
SUCH HOME SHALL BE REGISTERED WITH, AND ADMINISTRATIVELY VERIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR'S DESIGNEE, AS TO COMPLIANCE WITH THE STANDARDS OF THIS SECTION AS PROVIDED IN SECTION 701.

- 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 6 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.
3. RESIDENTIAL CARE HOME, PROVIDED THAT:
- A. THE HOME HAS NO MORE THAN 6 5 RESIDENTS, NOT INCLUDING STAFF (UNLESS PERMITTED BY A.R.S. 36-582.A.); OR
 - B. FOR A HOME WITH 7 6 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) ~~SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.~~
SUCH HOME SHALL BE REGISTERED WITH, AND ADMINISTRATIVELY VERIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR'S DESIGNEE, AS TO COMPLIANCE WITH THE STANDARDS OF THIS SECTION AS PROVIDED IN SECTION 701.
 - 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 6 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.
4. SOBER LIVING HOME, PROVIDED THAT:
- A. THE HOME HAS NO MORE THAN 6 5 RESIDENTS, NOT INCLUDING STAFF; OR
 - B. FOR A HOME WITH 7 6 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:

- 1) ~~SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.~~
SUCH HOME SHALL BE REGISTERED WITH, AND ADMINISTRATIVELY VERIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR'S DESIGNEE, AS TO COMPLIANCE WITH THE STANDARDS OF THIS SECTION AS PROVIDED IN SECTION 701.
- 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 6 TO 10 RESIDENTS.
- 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.

Amend Chapter 6, Section 621.B. (Commercial Office C-O District—Restricted Commercial), to read as follows and renumber section accordingly:

1. ADULT DAY CARE CENTER, PROVIDED THAT:
 - A. OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.

Amend Chapter 6, Section 622.D. (Commercial C-1 District—Neighborhood Retail), to read as follows and renumber section accordingly:

2. ADULT DAY CARE HOME AND CENTER.
7. ASSISTED LIVING CENTER, SUBJECT TO A USE PERMIT.
81. HOSPICE, SUBJECT TO A USE PERMIT.

~~124. Personal Care Home, subject to a use permit~~

148. RESIDENTIAL CARE CENTER, SUBJECT TO A USE PERMIT.

Amend Chapter 6, Section 623.D. (Commercial C-2 District—Intermediate Commercial) to read as follows and renumber section accordingly:

10. ASSISTED LIVING CENTER.

84. HOSPICE.

~~133. Personal Care Home~~

Amend Chapter 6, Section 626. (Commerce Park District) to read as follows and renumber section accordingly:

E. Business Park option.

2. Permitted uses.

A. ADULT DAY CARE CENTER, PROVIDED THAT:

(1) OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.

F. General Commerce Park option.

2. Permitted uses.

A. ADULT DAY CARE CENTER, PROVIDED THAT:

- (1) OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.

Amend Chapter 6, Section 635.C.1. (Planned Area Development) to read as follows:

- b. Other uses as permitted in Section 608 AND 703.A.

Amend Chapter 6, Section 642. (Urban Residential (UR) District) to read as follows and renumber section accordingly:

C. Permitted uses.

1. **Primary uses.**

A. ASSISTED LIVING HOME, PROVIDED THAT:

- (1) THE HOME HAS NO MORE THAN 6 5 RESIDENTS, NOT INCLUDING STAFF; OR
- (2) FOR A HOME WITH 7 6 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:

- (A) ~~SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.~~ SUCH HOME SHALL BE REGISTERED WITH, AND ADMINISTRATIVELY VERIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR'S DESIGNEE, AS TO COMPLIANCE WITH THE STANDARDS OF THIS SECTION AS PROVIDED IN SECTION 701.
- (B) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 6 TO 10 RESIDENTS.

- (C) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.
- B. RESIDENTIAL CARE HOME, PROVIDED THAT:
- (1) THE HOME HAS NO MORE THAN 6 5 RESIDENTS, NOT INCLUDING STAFF (UNLESS PERMITTED BY A.R.S. 36-582.A.); OR
 - (2) FOR A HOME WITH 7 6 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - (A) ~~SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.~~ SUCH HOME SHALL BE REGISTERED WITH, AND ADMINISTRATIVELY VERIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR'S DESIGNEE, AS TO COMPLIANCE WITH THE STANDARDS OF THIS SECTION AS PROVIDED IN SECTION 701.
 - (B) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 6 TO 10 RESIDENTS.
 - (C) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.
- C. SOBER LIVING HOME, PROVIDED THAT:
- (1) THE HOME HAS NO MORE THAN 6 5 RESIDENTS, NOT INCLUDING STAFF; OR
 - (2) FOR A HOME WITH 7 6 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:

- (A) ~~SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.~~ SUCH HOME SHALL BE REGISTERED WITH, AND ADMINISTRATIVELY VERIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR'S DESIGNEE, AS TO COMPLIANCE WITH THE STANDARDS OF THIS SECTION AS PROVIDED IN SECTION 701.
- (B) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 6 TO 10 RESIDENTS.
- (C) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.

2. Accessory use.

- a. Neighborhood commercial uses:

- (2) ADULT DAY CARE HOME AND CENTER, PROVIDED THAT:
 - (A) OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.

Amend Chapter 6, Section 646. (Capitol Mall Overlay District) to read as follows:

F. Special Permit Uses.

- 1. Land in the CMO district may be used for the following purposes, subject to the procedures and standards of Section 504.1 regarding special permits.

- b. ~~Nonhandicapped group facilities, including, but not limited to group homes, boarding or rooming houses. No nonhandicapped group facility shall be located within one thousand five hundred feet of another such facility as measured between the closest property lines of the two facilities; this standard shall not be varied by the procedures of Section 307~~

A GROUP HOME OR ROOMING HOUSE SHALL BE A MINIMUM OF 1,500 FEET FROM ANOTHER SUCH GROUP HOME.

Amend Chapter 6, Section 647 (Special Permit Uses) to read as follows and renumber section accordingly:

- A. Permitted uses. There shall be permitted, in addition to the uses enumerated in the several use districts, certain additional uses subject to the requirements of this section.

- 2. A special permit may be granted by the Council upon recommendation of the Commission to establish the following uses in the use districts named:

- p. ~~Nursing home and personal care home~~ in the R-3, R-3A, and R-4 districts. The site shall be subject to the following:

- (1) A maximum lot coverage of ~~twenty-five~~25 percent.
- (2) A MINIMUM OF ~~One hundred~~ 100 square feet of usable outdoor OPEN space per bed shall be provided.
- (3) The lot shall only have vehicular access from an arterial or collector street.

- Q. HOSPICE IN THE R-3, R-3A, AND R-4 DISTRICTS.

Amend Chapter 6, Section 649. (Mixed Use Agricultural (MUA) District) to read as follows and renumber section accordingly:

- C. **Permitted Primary Uses.** The following uses are permitted in accordance with the regulations and special standards established below.

6. ASSISTED LIVING HOME, PROVIDED THAT:
- A. THE HOME HAS NO MORE THAN 6 5 RESIDENTS, NOT INCLUDING STAFF; OR
 - B. FOR A HOME WITH 7 6 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) ~~SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.~~
SUCH HOME SHALL BE REGISTERED WITH, AND ADMINISTRATIVELY VERIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR'S DESIGNEE, AS TO COMPLIANCE WITH THE STANDARDS OF THIS SECTION AS PROVIDED IN SECTION 701.
 - 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 6 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.

- ~~26. Group home for the handicapped, provided that:~~
- ~~a. No such home is located on a lot with a property line within one thousand three hundred twenty feet, measured in a straight line in any direction, of the lot line of another such group home;~~
 - ~~b. Such home contains more than five but not more than ten residents, not including staff; and~~
 - ~~c. Such home is registered with, and administratively approved by, the Zoning Administrator as to compliance with the standards of this section as provided in Section 701~~

44. RESIDENTIAL CARE HOME, PROVIDED THAT:
- A. THE HOME HAS NO MORE THAN 6 5 RESIDENTS, NOT INCLUDING STAFF (UNLESS PERMITTED BY A.R.S. 36-582.A.); OR
 - B. FOR A HOME WITH 7 6 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) ~~SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.~~
SUCH HOME SHALL BE REGISTERED WITH, AND ADMINISTRATIVELY VERIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR'S DESIGNEE, AS TO COMPLIANCE WITH THE STANDARDS OF THIS SECTION AS PROVIDED IN SECTION 701.
 - 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 6 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.

49. SOBER LIVING HOME, PROVIDED THAT:
- A. THE HOME HAS NO MORE THAN 6 5 RESIDENTS, NOT INCLUDING STAFF; OR
 - B. FOR A HOME WITH 7 6 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) ~~SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.~~
SUCH HOME SHALL BE REGISTERED WITH, AND ADMINISTRATIVELY VERIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR'S DESIGNEE, AS TO COMPLIANCE WITH THE STANDARDS OF THIS SECTION AS PROVIDED IN SECTION 701.

- 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 6 TO 10 RESIDENTS.
- 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.

D. **Use Permit Uses.** Land in the MUA District may be used for the following purposes, subject to obtaining a use permit in accordance with the standards and procedures of Section 307.

1. ADULT DAY CARE HOME FOR THE CARE OF 5 TO 10 ADULT PERSONS, PROVIDED THAT:
 - A. OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.
 - B. ONE PARKING SPACE SHALL BE PROVIDED FOR EACH EMPLOYEE WHO DOES NOT RESIDE AT THE FACILITY.

7. GROUP FOSTER HOME.

E. **Permitted Accessory Uses.** Land in the MUA District may be used as permitted accessory uses and structures, incidental to and on the same zoning lot as the primary use, for the following uses:

1. ADULT DAY CARE HOME FOR THE CARE OF 1 TO 4 ADULT PERSONS, PROVIDED THAT:
 - A. OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.

Amend Chapter 6, Section 658. (Deer Valley Airport Overlay (DVAO) District) to read as follows and renumber section accordingly:

- C. Regulation Areas: The DVAO District is divided into three separate regulation areas. When a parcel falls partially into one or more of the regulation areas, the most restrictive regulation area shall apply to the entire parcel.

2. Prohibited uses, Areas 2 & 3: Same as Area 1 and the following:
- A. ADULT DAY CARE HOME OR CENTER.
 - aB. Assembly halls and auditoriums.
 - C. ASSISTED LIVING HOME OR CENTER.
 - bD. Church or similar place of worship; including parish houses, parsonages, rectories and convents, and dormitories (including all elements of such as defined in Section 608.C.4).
 - eE. Dependent care facility.
 - d. ~~Foster home.~~
 - eF. Group foster care home.
 - f. ~~Group home for the handicapped.~~
 - g. Gymnasium; private or commercial.
 - h. Hospital.
 - i. Motion picture theater.
 - j. Nursery School.
 - k. Nursing Home.
 - l. ~~Personal care home.~~
 - mL. Public assembly uses limited to active recreational and spectator only.
 - n. ~~Schools, private.~~
 - M. RESIDENTIAL CARE HOME OR CENTER.
 - eN. Residential uses in the C-1, C-2 or C-3 Zoning Districts; except that one dwelling unit may be maintained as an accessory use to a self-service storage warehouse for housing a watchman or caretaker employed on the premises.
 - O. SCHOOL, PRIVATE.
 - P. SOBER LIVING HOME.

Amend Chapter 6, Section 660. (Four Corners Overlay District) to read as follows:

C. **Permitted Uses:** The Four Corners Overlay District is established to encourage the development of neighborhood serving retail uses and limited community serving uses. Uses listed in the underlying commercial district are permitted except that certain uses and the sale of certain products will be permitted only subject to a special permit approval in accordance with Section 504.1 of the Zoning Ordinance. These include:

* ~~Personal care homes~~ ASSISTED LIVING CENTER;

E. **Parking Requirements.** The amount of parking is reduced from what is otherwise required in order to encourage more pedestrian activity and less vehicle trips between uses.
~~Off-street automobile parking space or area shall be provided according to the following table.~~
 Off-street automobile parking space or area shall be provided according to the following table.

TYPE OF LAND USE	PARKING REQUIREMENT FOUR CORNERS OVERLAY
Day care center (ADULT AND CHILD CARE)	1 space per 500 square feet of floor area

Amend Chapter 7, Section 701.E. (Separation Requirements—Registration) to read as follows and renumber section accordingly:

Any person who USES, intends to establish, CAUSES, PERMITS, FACILITATES OR AIDS AND ABETS, any use ~~which~~ under the provisions of this ordinance THAT is required to maintain a minimum separation from another use ~~may~~ SHALL register with the Planning and Development Department a notice ~~of intention~~ to establish such a use. THE PLANNING AND DEVELOPMENT DEPARTMENT WILL ONLY ACCEPT REGISTRATION THAT ~~which~~ complies with applicable separation requirements as of the date of registration. IT IS UNLAWFUL AND IS A VIOLATION OF THIS CODE FOR ANY PERSON WHO USES, ESTABLISHES, CAUSES, PERMITS, FACILITATES OR AIDS AND ABETS, ANY USE UNDER THE PROVISIONS OF THIS ORDINANCE THAT IS REQUIRED TO MAINTAIN A MINIMUM SEPARATION FROM ANOTHER USE WITHOUT REGISTERING WITH THE PLANNING AND DEVELOPMENT DEPARTMENT. Upon the filing of such notice, until the expiration of the time period specified in subsection 1 of this section, no other use ~~which~~ under the provisions of this ordinance THAT is required to maintain the minimum separation from the registered use ~~may~~ SHALL be registered or established closer to the registered use than the minimum distance prescribed by this ordinance UNLESS A REASONABLE ACCOMMODATION HAS BEEN MADE. The fee for such registration shall be as set forth in appendix A.1 of the City Code.

2. **Establishment of registered use.**

Establishment of a registered use shall be evidenced by and shall occur on the date a certificate of occupancy is issued for such use. Application for and issuance of a certificate of occupancy shall be according to the procedures established in the Construction Code. If, at the expiration of the time period specified in subsection 1 of this section, the registered use has been established, no other use which under the provisions of this ordinance is required to maintain a minimum separation from the registered use may subsequently be established closer to the registered use than the minimum distance prescribed by this ordinance.

A. THE APPLICANT MAY PROVIDE EVIDENCE TO THE PLANNING AND DEVELOPMENT DEPARTMENT STAFF THAT A REGISTERED FACILITY WITHIN THE SPACING REQUIREMENTS IS NO LONGER OPERATING. THE PLANNING AND DEVELOPMENT DEPARTMENT STAFF WILL VERIFY THE STATUS OF THE FACILITY WITHIN 3 BUSINESS DAYS AND UPDATE THE REGISTERED USE DOCUMENTS.

3. **REQUEST FOR A DISABILITY ACCOMMODATION.**

- A. AN APPLICANT MAY REQUEST A DISABILITY ACCOMMODATION FROM A SEPARATION REQUIREMENT IF THE REQUIREMENT PROHIBITS AN ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME (“REGISTERED CARE HOME”) FOR A PERSON WITH DISABILITIES ON A LOT. THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR’S DESIGNEE MAY ADMINISTRATIVELY APPROVE SUCH REQUESTS IF THERE ARE NO MORE THAN 5 REGISTERED CARE HOMES WITH 7 6 TO 10 RESIDENTS WITHIN A HALF MILE AREA (2,640-FOOT RADIUS).

A REGISTERED CARE HOME IS NOT DEEMED WITHIN THE HALF MILE AREA IF SEPARATED FROM THE PROPOSED LOT BY A NATURAL OR MAN-MADE BARRIER INCLUDING, BUT NOT LIMITED TO, ANY OF THE FOLLOWING:

- (1) ARIZONA CANAL,
CENTRAL ARIZONA PROJECT CANAL,
ELLIOT CANAL,
GRAND CANAL,
HIGHLINE CANAL,
ROOSEVELT IRRIGATION DISTRICT CANAL, AND
WESTERN CANAL;
- (2) MUNICIPAL OPEN SPACE THAT IS AT LEAST 5 10 ACRES IN SIZE (SUCH AS A PARK OR GOLF COURSE);
- (3) RAILROAD;
- (4) FREEWAY; OR
- (5) ARTERIAL STREET.

- B. IF THE DISABILITY ACCOMMODATION REQUEST IS DENIED, THE APPLICANT MAY APPEAL THE DENIAL TO THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR (“THE DEPARTMENT DIRECTOR”). THE APPLICANT SHALL SUBMIT TO THE DEPARTMENT DIRECTOR A WRITTEN REQUEST FOR ACCOMODATION AND THE REASON WHY THE ACCOMODATION IS REQUIRED. THE WRITTEN REQUEST SHALL CONTAIN SUFFICIENT FACTS TO ALLOW THE DEPARTMENT DIRECTOR TO MAKE AN INDIVIDUALIZED DETERMINATION OF THE PROPOSED REGISTERED CARE HOME’S NEEDS, TO ADDRESS THE CITY’S SAFETY AND WELFARE CONCERNS, AND TO ASSURE COMPLIANCE WITH THIS SECTION. THE DEPARTMENT DIRECTOR SHALL REVIEW THE WRITTEN REQUEST AND DETERMINE:

- (1) WHETHER AN ACCOMMODATION SHOULD BE MADE PURSUANT TO THE REQUIREMENTS OF THE FAIR HOUSING ACT; AND

(2) IF SO, THE NATURE OF THE ACCOMMODATION TAKING INTO CONSIDERATION THE REQUIREMENTS OF THE FAIR HOUSING ACT, PUBLIC SAFETY AND WELFARE CONCERNS, AND THE RESIDENTIAL CHARACTER OF THE NEIGHBORHOOD.

THE ACCOMMODATION SHALL BE MADE ONLY TO THE EXTENT NECESSARY TO COMPLY WITH THE FAIR HOUSING ACT. THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR'S DETERMINATION CONSTITUTES A FINAL ADMINISTRATIVE ACTION.

Amend Chapter 7, Section 702. (Off-Street Parking and Loading) to read as follows:

C. Parking Requirements.

Day Care Center (ADULT AND CHILD CARE) 1 space per 300 s.f. of floor area (20% reduction allowed for storage, restrooms, etc).

Assisted Living and Residential Care Facility CENTER, Nursing Homes, Personal Care Homes, Specialized Treatment Facility, AND HOSPICE 1 space per 2 RESIDENT/patient beds

Amend Chapter 12, Section 1204. (Land Use Matrix) to read as follows and alphabetize accordingly:

- C. The following shall apply to uses that are permitted with conditions (pc) as indicated with a number that corresponds with the Land Use Matrix in Section 1204.D:

Spacing

4. No use shall be located ON A LOT WITH A PROPERTY LINE within 1,320 feet of the same type of use as measured IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER SUCH ~~from the exterior walls of the building or portion thereof in which the use is conducted.~~

DISPERSAL & ESTABLISHMENT OF A REGISTERED USE:

34. ASSISTED LIVING, RESIDENTIAL CARE, AND SOBER LIVING HOMES, SUBJECT TO THE FOLLOWING:
- A. THE HOME HAS NO MORE THAN ~~6~~ 5 RESIDENTS, NOT INCLUDING STAFF (UNLESS PERMITTED BY A.R.S. 36-582.A.); OR
 - B. FOR A HOME WITH ~~7~~ 6 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) ~~SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.~~
SUCH HOME SHALL BE REGISTERED WITH, AND ADMINISTRATIVELY VERIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR'S DESIGNEE, AS TO COMPLIANCE WITH THE STANDARDS OF THIS SECTION AS PROVIDED IN SECTION 701.
 - 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH ~~7~~ 6 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.

D. Land Use Matrix

LAND USE CATEGORIES	CHARACTER AREAS															
	ACTIVE USE	BioMed	BC	Central Park	Community	Downtown	East Evergreen	Evans	Evans	McDowell	Roosevelt	Roosevelt	Roosevelt	Townsend	Van Buren	Warehouse
Residential Uses																
Assisted Living Home		pe4 34	pe4 34	pe4, 20 34	pe4, 20 34	pe4	pe4 34	pe4 34	pe4 34	pe4, 20 34	pe4, 20 34	pe4, 20 34	pe4, 20 34	pe4, 20 34	pe4 34	pe4 34

Group Home		pc4	pc4	pc4, 20	pc4, 20	pc4	pc4	pc4	pc4, 20	pc4, 20	pc4, 20	pc4, 20	pc4, 20	pc4, 20	pc4	pc4
GROUP FOSTER HOME		P	P	UP	P	P	P	P	P	P	P	UP	UP	P	P	P

RESIDENTIAL CARE HOME		PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34
SOBER LIVING HOME		PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34
Assembly Uses																

Day Care (ADULT DAY CARE CENTER AND CHILD CARE), Nursery School	x	p	p	pc20,22	p	p	pc20,22	p	p	p	p	pc20,22	pc20,22	p	p	p

Health and Support Services																

HOSPICE	X	P	P	SP	P	P	P	P	P	P	P	SP	UP	P	P	P

RESIDENTIAL CARE CENTER	X	P	P	SP	P	P	P	P	P	P	P	SP	UP	P	P	P

Accessory Uses and Facilities																
ADULT DAY CARE HOME		UP	P	UP	P	P	P	P	P	P	P	UP	P	P	P	P

Amend Chapter 13, Section 1306. (Land Use Matrix) to read as follows, and renumber and alphabetize accordingly:

TABLE 1306.1 LAND USE MATRIX

CATEGORY: RESIDENTIAL USES	T3	T4	T5:2	T5:3	T5:5	T5:6	T5:7	T6:7 T6:15	T6:22 T6:H WR

ADULT DAY CARE HOME									
1-4 PERSONS	PC	PC	PC	P	P	P	NP	NP	NP
5-10 PERSONS	NP	UP	UP	P	P	P	NP	NP	NP
Assisted Living Home									
1-10 residents	NPPC	PC	PC	PC	PC	PC	P	P	P
Assisted Living Home CENTER									
11+ residents	NP	UP	UP	P	P	P	P	P	P
Dependent Care Facility									
1-6 residents	PC	PC	PC	P	P	P	NP	NP	NP
DEPENDENTS									
Dependent Care Facility									
7-12 residents	NP	UP	UP	P	P	P	NP	NP	NP
DEPENDENTS									

GROUP FOSTER HOME									
NP	UP	UP	P	P	P	P	P	P	P
Group Home for the Handicapped									
5-10 residents (not including staff)	PC	PC	PC	PC	PC	PC	NP	NP	NP
11+ residents	NP	PC	PC	PC	PC	PC	NP	NP	NP
NURSING HOME									
NP	UP	UP	P	P	P	P	P	P	P
RESIDENTIAL CARE HOME									
1-10 RESIDENTS	PC	PC	PC	PC	PC	PC	P	P	P
RESIDENTIAL CARE CENTER									
11+ RESIDENTS	NP	UP	UP	P	P	P	P	P	P
SOBER LIVING HOME									
1-10 RESIDENTS	PC	PC	PC	PC	PC	PC	P	P	P

C. Residential Uses, Land Use Conditions.

1. ADULT DAY CARE HOME.

- A. OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.

12. Assisted Living, RESIDENTIAL CARE, AND SOBER LIVING HOME.

- a. ~~Such home shall be licensed by the State of~~ THE HOME HAS NO MORE THAN ~~6~~ 5 RESIDENTS, NOT INCLUDING STAFF (UNLESS PERMITTED BY A.R.S. 36-582.A.); OR
- B. FOR A HOME WITH ~~7~~ 6 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) ~~SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.~~
SUCH HOME SHALL BE REGISTERED WITH, AND ADMINISTRATIVELY VERIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR'S DESIGNEE, AS TO COMPLIANCE WITH THE STANDARDS OF THIS SECTION AS PROVIDED IN SECTION 701.
 - 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH ~~7~~ 6 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.

23. Dependent Care Facility.

- a. One to ~~six~~6 residents DEPENDENTS: standards as per Section 608.D.1. Use permit required for ~~seven~~7 to 12 residents DEPENDENTS.

3. ~~Group Homes for the Handicapped.~~

- a. ~~No such home is located on a lot with a property line within 1,320 feet, measured in a straight line in any direction, of the lot line of another such group home.~~
- b. ~~Such home is registered with, and administratively approved by, the Zoning Administrator.~~
- c. ~~The subject property must be at least 1,320 feet away from another registered handicapped group home that has six to ten residents.~~

- d. Notwithstanding the foregoing, group homes 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.

TABLE 1306.1 LAND USE MATRIX

CATEGORY: ASSEMBLY USES	T3	T4	T5:2	T5:3	T5:5	T5:6	T5:7	T6:7 T6:15	T6:22 T6:H WR

Day Care (ADULT DAY CARE CENTER AND CHILD CARE), Nursery School	PC	PC	P	P	P	P	P	P	P

D. Assembly Uses, Land Use Conditions.

4. Day Care (ADULT DAY CARE CENTER AND CHILD CARE)/Nursery School.
- a. Outdoor uses or activities must be screened by a minimum six-foot-high solid decorative fence or wall.

TABLE 1306.1 LAND USE MATRIX

CATEGORY: SERVICES	T3	T4	T5:2	T5:3	T5:5	T5:6	T5:7	T6:7 T6:15	T6:22 T6:H WR

HOSPICE	NP	UP	UP	P	P	P	P	P	P

Amend Chapter 13, Section 1307. (Parking standards) to read as follows:

TABLE 1307.1. MINIMUM REQUIRED VEHICULAR PARKING

USE	Measure	T3	T4	T5 1-5 stories	T5 6-10 stories	T6

Assisted Living AND RESIDENTIAL CARE CENTER; and Group Home; AND HOSPICE	per bedroom	1	0.75	0.75		0.5

EXHIBIT 2

TA-22-08 Group Facilities - Village Planning Committee Results			
Village	Date	Recommendations	Vote
Ahwatukee Foothills	1/23/17	Approved.	11-0
Alhambra	1/24/2017 2/28/2017 3/28/2017 4/25/2017 5/23/2017	No Quorum. Continued. Continued. Continued. <i>Results pending</i>	N/A 10-0 10-0 11-1 <i>Pending</i>
Camelback East	1/17/2017 2/7/2017 3/7/2017 4/4/2017 5/2/2017	Continued. Continued. Continued. Meeting canceled. <i>Results pending</i>	13-0 12-0 11-0 N/A <i>Pending</i>
Central City	1/9/17	Approved.	11-1
Deer Valley	1/19/17	Approved. One member had concerns about reasonable accomodation provision.	6-0
Desert View	1/10/17	Approved.	12-0
Encanto	1/9/17	Approved, with changes. Requested that staff work to further refine barriers listed in the reasonable accommodation provision to provide additional clarity regarding the minimum size and scope of the barriers. In addition, staff should continue to explore ways to incorporate neighborhood input into the review process for reasonable accommodation requests.	5-3
Estrella	1/17/17	Approved.	6-0
Laveen	1/9/17	Approved. Concerns regarding applicability to sex offenders.	8-2
Maryvale	1/11/17	Approved.	11-0
North Gateway	1/12/17	Approved. Concerns with the reasonable accommodations provision specifically related to behavioral health and sober living facilities.	2-1
North Mountain	1/18/17	Denied. Concerns about the 1-6 people as a family and little/no oversight over these facilities or state registration required. In addition, noted that this is a complicated text amendment and needed more time to digest and review the information.	9-0 (1 abstained)
Paradise Valley	1/9/17	Approved.	13-0
Rio Vista	1/10/17	Approved, with changes. Concerned about reasonable accomodation provision and recommended that the provision be excluded.	3-0
South Mountain	1/10/17	Approved.	10-0

**Group Facilities Text Amendment
February 27, 2017 Meeting Summary
Meeting #1**

Number of attendees (including staff): Approximately 26

Questions/Comments/Concerns:

1. ADHS: How do they administer and enforce?
2. Why can't city fight this like they are the FAA flight path?
3. There was a one sided presentation at the Village Planning Committee meetings – want the text amendment to go back with a less biased presentation.
4. Planning Commission and Village Planning Committee was disappointing and demoralizing process.
5. Multiplex sites – can have up to 6 in each unit – is that right or fair? How to know how many?
6. Why weren't neighbors included sooner in drafting the text amendment?
7. Group homes are not managed well – they cause problems and lower property values.
8. Need map to show locations of all group homes (directed to ADHS website). No one really knows the concentration of group homes.
9. Need explanation from HUD and city attorney as to why the state law that allows cities to control how group homes are managed is not legal (in conflict with HUD requirements).
10. Explain how neighbors should deal with impacts.
11. Concern with allowing up to 6 residents to be treated the same as a family. Adding one more person isn't beneficial. (5 instead of 6).
12. Complimented the proposed definitions to better match the state.
13. Concern that neighborhood input will not or cannot be considered.
14. Does the text amendment impact sex offenders?
15. Does the text amendment propose regulation for vacation rentals?
16. The state health licensing is tiered and should be considered with the zoning regulations.
17. Requested third meeting if necessary.

FOLLOW-UP ITEMS (for next meeting on March 7, 2017 – Tues):

1. Bring comment cards for participants to fill out (per Stephanie Lieb).
2. Answer all of Lawrie Fitzhugh questions that she sent to staff.
3. Consider property parcel rather than individual units for text amendment language (if multifamily or single-family with guest home).
4. Define sober living home to match state definition. Define "single housekeeping unit" and "primary residence."
5. Explain why home business is treated more strictly and why group homes that charge for each room isn't classified a business. Why the unequal treatment?
6. Provide an overview of the experiences that Police and Fire are having with group homes (should route text amendments to Police and Fire for comments and invite to next Group Facilities meeting).
7. List the pro's and con's of the text amendment.
8. Explain how "grandfathered" (non-conforming) group homes will be treated.
9. Respond whether the text amendment should return to Village Planning Committees due to one sided view.
10. Discuss the Town of Gilbert text amendment and how they reduced the number of allowable residents in group homes (dropped down the number – how and why).

11. List the tools that the neighborhood can use to intervene (support our rights).
12. Discuss the city's enforcement capacity.
13. Consider using a citizen ombudsman or the previous city mediation program to enforce how group homes are managed.
14. Include representatives from and city Law Department, Arizona Department Health Services (ADHS), and U.S. Department of Housing and Urban Development (HUD) at the next meeting.
15. List all of the concerns that the neighbors identified (to make sure staff was listening and understanding).
16. How many use permits have been denied in the city? (Wally Graham)
17. What are acceptable legal ways to limit the number of group homes, based on HUD perspective?

Depts/other orgs to reach out to and invite to next meeting:

- Fire
- Police
- Law
- ADHS
- HUD

**Group Facilities Text Amendment
March 7, 2017 Meeting Summary
Meeting #2**

Number of attendees (including staff): Approximately 50

Position (from completed input forms):

In favor: 0

Opposed: 2

Unsure: 2

Concerns:

1. Changing number of allowable residents from 5 to 6.
2. Lack of health/safety oversight and licensing for group homes.
3. Staff hours it will take to enforce regulations.
4. Neighborhood safety. Some group homes have negative impacts on neighborhoods.
5. Some group homes have on-street parking issues.
6. Clustering issues of group homes for the disabled.
7. How larger facilities are regulated and overcrowded (too many people in one bedroom).
8. Lack of investment into behavioral health services.
9. People that manage or oversee group homes are not well equipped to manage the homes.
10. Sober living homes operate like a business and should have business licensing and pay rental property or lodging tax.
11. Staff in the homes are not counted towards the maximum allowable residents.
12. The reasonable accommodation provision is being used too broadly for spacing.
13. No one knows who to contact at the home if there is an issue. All homes should be registered (1 to 10 residents).

Recommendations:

1. Do not change number of allowable residents without spacing from 5 to 6.
2. Should regulate based on number of people per room rather than per home/dwelling unit.
3. Business license or registration should be required for all sober living homes.
4. Adopt health/safety ordinance for the care of residents in sober living homes. Should protect those in recovery from operators engaging in neglect, abuse, mistreatment, fraud, and inadequate supervision (similar to Prescott Ordinance).
5. Urge the state to require health licensing.
 - a. 24-hour oversight is needed at all group homes for the disabled.
6. Meet with Gilbert staff to find out how they were able to reduce number of allowable residents.
7. Nonprofit status should be required for veteran housing projects.
8. Account for sober living homes that do not require monthly residency. Treat similar to AirBnB.
 - a. City rental tax (less than 3 rental properties = exempt)
 - b. City lodging tax
 - c. All parking must be accommodated onsite
9. Set-up a notification system for emergency first responders when responding to calls involving group homes for the disabled.
10. Ensure City Council members are prepared to deal with the concerns.
11. All group homes for the disabled should be licensed to address health and safety of the residents.

Additional information for next meeting:

1. Where in the Joint Statement does it say that we have to treat group homes as a family.
2. Residential building code occupancy handout or create an exhibit comparing zoning and building codes.
3. How much does it cost to respond to an emergency call.

**Group Facilities Text Amendment
March 23, 2017 Meeting Summary
Meeting #3**

Number of attendees (including staff): Approximately 30

Position (from completed input forms): No forms were submitted.

Concerns:

1. Enforcement of spacing.
2. Health and safety concerns of the disabled residents and neighbors.
3. Clustering issues with 1-5 residents and 6-10.
4. Ensuring that the disabled are not taken advantage of.
5. Too many residents are allowed to occupy small spaces.

Questions/Follow-up Items:

1. Number of group homes for the disabled registered in database for 6 residents that wouldn't need to register if number of allowed changes to 6 (from 5). Need to know impact if TA changes number.
2. Is insurance required for group homes for the disabled to cover damage to neighbor's property?
3. City Referendum information (Wally) (then it can go to Supreme Court).
4. Gross quantity of fire permits for group homes.
5. City budget manpower: dollars impact/forecast NSD, Fire and Police hours. Project out the impact on hours/budget if TA passed.

Suggested Changes to the TA:

1. Need to revisit Single Resident Occupancy (SRO) and rooming house – (keep in ordinance).
2. Require use permit for group homes for the disabled.
3. Do not change number for group homes for the disabled to 6 residents (keep 5 to match definition of "family").
4. Grandfathered clause is loophole. Need language to address during time of no enforcement. Establish date threshold or create temporary registration for those established during the break that is only good for 1-year (then must get reasonable accommodation or relocate).
5. Remove arterial street in reasonable accommodation analysis and how staff enforces spacing.
6. Change park size to minimum 25 acres instead of 5 acres when reviewing spacing.
7. Include definition that removes residences as "family" if they "offer services." Need definition of "services."
8. Change to be similar to Town of Gilbert regulations. Registration for group homes for the disabled with 1-5 residents.

Suggested Process Improvements:

1. State DHS, County and City should talk to each other and coordinate better.
2. Recognize that sober living homes are businesses – need business license.
 - a. Cost should recover inspection/enforcement (May need new tax).
 - b. Require proof of insurance.
3. Verification process needed to confirm number of residents. License fee should pay for inspections.

4. Application to register should be notarized, include name of emergency contact available 24/7, list license numbers/types, information on property case manager.
 - a. Statement on registration: Under penalty of law I attest the truth/accuracy of information on the application.
 - b. Staff should research or have applicant identify all other locations within city (owned/operated).
 - c. Registration should be revocable if operator is not complying with regulations/complaints received.
 - d. Need consequences if home is not operating appropriately (fines, revoke permits/licenses).
5. Educate inspectors – if they see it, report it. Have forms in their trucks.
6. Increased cost to enforce needs to be funded by taxes (citizens' initiative).
7. Add registered group homes for the disabled information on Phoenix website (searchable database or map).

POSITIVE FEEDBACK: TA better describes the functions of the various group homes for the disabled. Very important!

NOTE: Councilwoman Stark reached out to Maricopa County Planning Director and Environmental Services (improve coordination – communication).



**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*

**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**

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”),¹ 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.² 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

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

² 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”),³ Section 504 of the Rehabilitation Act of 1973 (“Section 504”),⁴ and Title VI of the Civil Rights Act of 1964.⁵ 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.

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.

³ 42 U.S.C. §12132.

⁴ 29 U.S.C. § 794.

⁵ 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.⁶

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.*⁷ 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.”⁸

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

⁷ ___ U.S. ___, 135 S. Ct. 2507 (2015).

⁸ *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.⁹

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

In *Olmstead v. L.C.*,¹⁰ 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

⁹ 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.

¹⁰ 527 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.

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.

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

- U.S. Department of Justice website, 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.
- 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>.