ORDINANCE NO. 26-09

ORDINANCE NO. [26–09]

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, MARICOPA COUNTY, ARIZONA, AMENDING TOWN CODE CHAPTER 8, BUSINESS REGULATIONS, TO INCLUDE ARTICLE 8-8 CONTAINING PROVISIONS RELATED TO COMMUNITY COMMUNITY RESIDENCES.

WHEREAS, the Mayor and Town Council have determined that it is in the best interest of the residents of Fountain Hills to amend Chapter 8 of the Town Code to include Article 8-8 (Community Residences); and

WHEREAS, the Mayor and Town Council has determined that changes to the Town Code are necessary to protect the peace, health, safety, and welfare of the Town's residents by enacting reasonable regulations that ensure community residences are operated and maintained in a manner that complies with state licensing requirements, provides for the needs of residents, and maintains the peace and safety of the surrounding neighborhood.; and

WHEREAS, pursuant to the provisions of Title 9, Chapter 2, Article 3, Subsection 9-240 of Arizona Revised Statutes, the Town Council has the power to license and regulate businesses operating in the jurisdiction of the Town.; and

WHEREAS, pursuant to the provisions of Title 9, Chapter 7, Article 4, Subsection 9-842(H)(2) of Arizona Revised Statutes, the Town Council has the authority to require business and facility licenses within the jurisdiction of the Town.; and

WHEREAS, pursuant to the provisions of Title 9, Chapter 4, Article 6.1, Subsection 9-462.05 of the Arizona Revised Statutes, the Town Council has the authority to establish by ordinance appropriate rules and procedures necessary or desirable for enforcement of zoning ordinances.; and

WHEREAS, Arizona's comprehensive statutory scheme for regulating sober living homes requires in Title 36, Chapter 18, Article 4, Subsection 36-2062(C) that sobor living homes "must comply with all federal, state and local laws" and must "obtain and maintain current documentation from the local jurisdiction verifying compliance with all local zoning, building, fire and licensing ordinances and rules."

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, ARIZONA, as follows:

SECTION 1. The recitals above are hereby incorporated as if fully set forth herein.

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SECTION 2. That Chapter 8, Business Regulations, of the Fountain Hills Town Code is hereby amended by the addition of a new Article 8-8 – Community Residences as provided in Exhibit A attached hereto.

SECTION 3. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining portions of this ordinance.

SECTION 4. This ordinance shall become effective thirty (30) days after its passage and adoption by the Town Council of the Town of Fountain Hills, Arizona, and its approval by the Mayor and attestation by the Town Clerk.

PASSED AND ADOPTED by the Mayor and Council of the Town of Fountain Hills, Arizona, this 17th day of March, 2026.

TOWN OF FOUNTAIN HILLS, ARIZONA

_____
Gerry M. Friedel, Mayor

ATTEST:

_____
Bevelyn Bender, Town Clerk

REVIEWED BY:

_____
Rachael Goodwin, Town Manager

APPROVED AS TO FORM:

_____
Jennifer J. Wright, Town Attorney

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EXHIBIT A

Town Code Article 8-8 Community Residences

Sections:

8-8-1 Purpose

8-8-2 Definitions

8-8-3 Registration; Re-registration

8-8-4 Code Violation Investigations

8-8-5 Violations and Penalties

Section 8-8-1 Purpose

This article is adopted to protect the peace, health, safety, and welfare of the Town's residents by enacting reasonable regulations that ensure community residences are operated and maintained in a manner that complies with state licensing requirements, provides for the needs of residents, and maintains the peace and safety of the surrounding neighborhood. It shall be unlawful to provide, offer or operate a community residence within the corporate limits of the Town without first registering the home as provided in this article and without complying with any and all applicable laws, regulations and this code.

Section 8-8-2 Definitions

Community Residence: A community residence is a residential living arrangement where individuals live as a family in a single dwelling unit who are in need of the mutual support furnished by other residents of the community residence as well as the support services, if any, provided by the staff of the community residence. Residents may be self-governing or supervised by a sponsoring entity or its staff, which provides habilitative or rehabilitative services related to the residents' disabilities. A community residence seeks to emulate a biological family to foster normalization of its residents and integrate them into the surrounding community. Its primary purpose is to provide shelter in a family-like environment. Medical treatment is incidental as in any home. Supportive inter-relationships between

residents are an essential component. Community residence includes sober living homes and assisted living homes but does not include any other group living arrangement for unrelated individuals who are not disabled nor any shelter, rooming house, boarding house or transient occupancy.

Family: An individual, or two (2) or more persons related by blood or marriage, or a group of not more than four (4) persons not related by blood or marriage, living together as a single housekeeping group in a dwelling unit. In spirit but not direct application, families maintain legal domicile at the particular dwelling unit and legal ownership or tenancy of the dwelling unit as evidenced on a deed or lease.

Family Community Residence: A community residence with five (5) to eight (8) beds, including resident staff, that is a relatively permanent living arrangement with no limit on the length of tenancy as determined in practice or by the rules, charter, or other governing documents of the community residence. The minimum length of tenancy is typically a year or longer.

Transitional Community Residence: A community residence with five (5) to six (6) beds, including resident staff, that provides a relatively temporary living arrangement with a limit on length of tenancy more than thirty (30) days and less than a year, as determined either in practice or by the rules, charter, or other governing document of the community residence.

8-3-3 Registration; Re-registration

A. Application Requirements.

1. Copy of license or certified through one (1) or more of the following groups:

    a. License or is certified by the State of Arizona Department of Health; or

    b. License or is certified by the Arizona Recovery Housing Association; or

    c. “Permanent” Oxford House charter.

2. If the property is being rented or leased, an acknowledgement from the property owner agreeing to the use of the property as a community residence.

3. A description of the scope of services to be provided in the home and whether the residents will be ambulatory.

4. A statement the 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.

5. The portions of any state license or third-party certification application requirements that provide:

a. Names and contact information for contact individual(s) for the home who can respond to complaints or emergencies.

b. Information regarding policies and procedures for residents and visitors related to parking, noise emanating from the home, smoking, cleanliness of the public space near the home, and loitering in front of the home or nearby homes are established, known to residents, and enforced.

c. Information regarding efforts to promote the safety of the surrounding neighborhood.

6. A floor plan of the home showing all bedrooms, living, and dining areas.

7. The applicant shall attest that they will provide all evidence permissible by code and authority having jurisdiction necessary in response to a code enforcement inquiry, in particular, occupancy logs.

8. The applicant shall attest that they will cooperate with any code violation investigations.

9. Evidence of the property's appropriate Maricopa County tax classification for the use applied prior to completion of registration and occupancy of the property.

10. A copy of the standard residency agreement for individuals to occupy the community residence.

11. Certification that no outpatient treatment center licensure will be solicited or occur on premises and that medication distribution will not exceed what would normally be expected in a family home.

12. Owner and/or operator receives a Town business license.

13. A certificate of commercial liability insurance for operation of the home at the given location. Insurance policy shall be a minimum of $2 million per occurrence and $4 million in aggregate with a waiver of subrogation for the town.

B. Registration.

1. Registration of a community residence with the Town is required prior to beginning operation. An approved registration is valid for one (1) year from date administratively issued.

2. Following receipt of a complete application for registration, the property will be inspected by the Building Official and Fire Marshal for compliance with all life safety requirements. Any identified deficiencies must be addressed and compliance verified through a follow-up inspection before the registration will be completed. Unannounced follow-up inspections may be conducted upon a reasonable belief of noncompliance.

3. All required documents listed in subsection A of this section will be reviewed. Any required corrections or clarifications must be submitted to complete the registration process.

4. When all registration requirements have been met, the Development Services Director will administratively complete the Town's registration process.

5. If all other requirements of this section are met, the Development Services Director may issue a conditional registration for up to ninety (90) days while the applicant applies for and receives:

a. The license or certificate as required by subsection (A)(1) of this section;

b. The Maricopa tax verification required by subsection (A)(8) of this section; and

c. A Town business license.

The applicant may occupy the residence until these items are received by the Town. If one (1) or more of these items are not received by the Town within ninety (90) days, or is not approved, the registration of the property will be rescinded. Should the license or certificate become revoked for any reason, the community residence operator will have forty-five (45) days to vacate the property.

C. Reregistration. The community residence operator must register annually by submitting a new application with any updated documents. The registration can be renewed if the following are met:

1. The home has maintained a current license or certificate.

2. The home or operator has maintained a current Town business license.

3. The home or operator is in good standing with the Town, has cooperated with code violation investigations, and has timely resolved any deficiencies.

4. Reinspection of the property has verified ongoing compliance with:

   a. Life safety standards;

   b. Occupancy limits; and

   c. The policies and procedures established in subsection (A)(5) of this section.

5. Verification of the current, appropriate Maricopa County tax status.

6. Verification of current insurance.

8-8-4 Code Violation Investigations.

To ensure the safety and welfare of community residents and to ensure the peace and tranquility of neighbors, the Town will implement a system that allows residents and neighbors to report suspected Town code violations at community residences. Complaints that contain verifiable evidence of a Town code violation will be investigated by Town officials, and those without verifiable evidence and unable to be substantiated will be administratively dismissed. Code violation investigations may require an interior inspection of the community residence.

8-8-5 Violations and Penalties.

A. In addition to applicable penalties under Arizona law, violations of this section shall be subject to the provisions of Town Code Section 1-8-3 regarding civil penalties.

B. In addition to the provisions above, registration for a community residence may be revoked and the community residence required to vacate the property if:

1. The required registration, licensure or certificate lapse and are not reinstated within forty-five (45) days of their last effective date; or

2. The property owner or community residence operator receives any combination of three (3) violations related to the operation of the community residence from either the Town or the Arizona Department of Health Services within a twelve (12) month period; or

3. A code violation fails to meet life safety standards to such a degree that it poses an immediate threat to the health and safety of community residents.

4. The applicant for the community residence knowingly provides false or misleading information on the registration or annual reregistration.