

ORDINANCE NO. [26-03]

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, MARICOPA COUNTY, ARIZONA, AMENDING ZONING ORDINANCE CHAPTER 5, GENERAL PROVISIONS, SECTION 5.13, COMMUNITY RESIDENCES, DELETING PROVISIONS MOVED TO TOWN CODE ARTICLE 8-8, COMMUNITY RESIDENCES.

WHEREAS, the Mayor and Council of the Town of Fountain Hills (the “Town Council”) adopted Ordinance No. 93-22 on November 18, 1993, which adopted the Zoning Ordinance for the Town of Fountain Hills (the “Zoning Ordinance”); and

WHEREAS, the Town Council desires to amend Chapter 5, General Provisions, Section 5.13, Community Residences; and

WHEREAS, in accordance with the Zoning Ordinance and pursuant to ARIZ. REV. STAT. § 9-462.04, public hearings regarding this ordinance were advertised in the March 25, 2026, and April 1, 2026, editions of the Fountain Hills Times; and

WHEREAS, a public hearing was held by the Planning and Zoning Commission on April 13, 2026, and by the Town Council on May 19, 2026; and

WHEREAS, in accordance with Article II, Sections 1 and 2, Constitution of Arizona, and the laws of the State of Arizona, the Town Council has considered the individual property rights and personal liberties of the residents of the Town and the probable impact of the proposed ordinance on the cost to construct housing for sale or rent before adopting this ordinance.

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.

SECTION 2. Chapter 5, Section 5.13 of the Fountain Hills Zoning Ordinance is hereby amended as provided in Exhibit A.

SECTION 3. If any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct and independent of all other provisions and such holding shall not affect the validity of 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 19st day of May, 2026.

TOWN OF FOUNTAIN HILLS, ARIZONA

ATTEST:

Gerry M. Friedel, Mayor

Bevelyn Bender, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:

Rachael Goodwin, Town Manager

Jennifer J. Wright, Town Attorney

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EXHIBIT A

Section 5.13 Community Residences

A. *Standards.*

1. To prevent the clustering of community residences and to better integrate community residence residents into the surrounding neighborhood and community, such home must be located on a lot that is at least one thousand three hundred twenty (1,320) feet from the exterior lot lines of another community residence, measured by a straight line from the property line in any direction.
2. No more than two (2) persons per bedroom.
3. An individual required to register under Arizona law as a sex offender and classified as a Level II or Level III community risk (intermediate to high risk) is not permitted to live in a community residence.

~~B. *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 or not 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. Evidence of the property's appropriate Maricopa County tax classification for the use applied prior to completion of registration and occupancy of the property.~~

~~9. A copy of the standard residency agreement for individuals to occupy the community residence.~~

~~10. 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.~~

~~11. Owner and/or operator receives a Town business license.~~

~~C. 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 B 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 (B)(1) of this section;~~
 - ~~b. The Maricopa tax verification required by subsection (B)(8) of this section;~~
~~and~~
 - ~~c. A Town business license.~~

~~The applicant may not 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.~~

- ~~6. *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:~~

- ~~a. The home has maintained a current license or certificate.~~
- ~~b. The home or operator has maintained a current Town business license.~~
- ~~c. Reinspection of the property has verified ongoing compliance with:~~
 - ~~i. Life safety standards;~~
 - ~~ii. Occupancy limits; and~~
 - ~~iii. The policies and procedures established in subsection (B)(5) of this section.~~
- ~~d. Verification of the current, appropriate Maricopa County tax status.~~

~~D~~**B.** Any community residence that is in operation as of the adoption of this section shall be considered a legal nonconforming use consistent with Section 4.01(B). Any new community residence or any residence that is in operation but that transfers ownership shall be subject to the provisions of this section.

~~E~~**C.** *Waiver For Reasonable Accommodation.* To establish a community residence that does not comply with the occupancy or separation requirements, the applicant may apply to the Development Services Department for a waiver for reasonable accommodation. In all cases the Development Services Director shall submit the request for the waiver to the Community Residence Waiver Committee to make findings of fact in support of the determinations and shall render the decision in writing. The application will initially be reviewed by the Development Services Director for completeness. The Director may meet with and interview the applicant to request additional supporting information to determine the necessity of the accommodation and to ascertain or clarify information sufficient for the Committee to make the required findings.

1. To grant a waiver, the Committee shall find affirmatively all of the following standards:

- a. The applicant demonstrates through documentation and evidence that the proposed community residence can and will emulate a biological family and function as a residential use rather than an institutional or other nonresidential use.

b. The applicant demonstrates through documentation and evidence that the proposed community residence needs to house more than eight (8) residents in a family community residence or six (6) residents in a transitional community residence or reduce the separation.

c. The applicant demonstrates through documentation and evidence that the proposed community residence will not interfere with the normalization and community integration of the residents of any existing community residence and that the presence of other community residences will not interfere with the normalization and community integration of the residents of the proposed community residence.

d. The applicant demonstrates through documentation and evidence that it will operate the home in a manner similar to that ordinarily required by state licensing to protect the health, safety, and welfare of the occupants of the proposed community residence.

e. The applicant demonstrates through documentation and evidence that there are no other viable locations for the community residence and that the proposed community residence in combination with any existing community residences will not alter the residential character of the surrounding neighborhood by creating an institutional atmosphere or by creating a de facto social service district by concentrating community residences on a block or in a neighborhood.

2. The Community Residence Waiver Committee shall be composed of the Town Development Services Director, the Board of Adjustment chair or designee, and the Planning and Zoning Commission chair or designee.

D. REGISTRATION. PRIOR TO OPERATING A COMMUNITY RESIDENCE, THE OWNER OR OPERATOR MUST REGISTER THE HOME AS PROVIDED IN TOWN CODE ARTICLE 8-8.

~~F~~**E.** *Violations and Penalties.*

1. 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.

~~2. In addition to the provisions above, registration for a community residence may be revoked and the community residence required to vacate the property if:~~

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

~~b. 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.~~

~~c. The applicant for the community residence knowingly provides false or misleading information on the registration or annual renewal.~~