

*** Granted ***
See eSignature Page

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8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

9 **IN AND FOR THE COUNTY OF MARICOPA**

11 THE STATE OF ARIZONA *ex rel.* THOMAS C.
12 HORNE, the Attorney General; and THE CIVIL
13 RIGHTS DIVISION OF THE ARIZONA
14 DEPARTMENT OF LAW,

14 Plaintiff,

15 &

16 CITY OF AVONDALE,

17 Defendant.

No. CV2011-004392

CONSENT DECREE
(Non-classified Civil)

(Hon. John C. Rea)

19 **I. INTRODUCTION**

20 The State Civil Rights Division brought this Complaint on its own behalf and on
21 behalf of Christopher Hurst ("Hurst"), operator of Hurst Homes, Inc. ("Hurst Homes"), an
22 Arizona corporation that operates group homes for persons with intellectual disabilities under
23 a contract with the State of Arizona Department of Economic Security, Division of
24 Developmental Disabilities, for alleged violations of the Arizona Fair Housing Act
25 ("AFHA"), A.R.S. 41-1491 et seq. The Civil Rights Division's Complaint challenged the
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1 City of Avondale's application of its zoning ordinances and practices that made housing
2 opportunities unavailable to individuals with disabilities living in group homes and other
3 community-based homes and required individuals with disabilities (through their group home
4 or foster care providers) to register, apply, and meet certain conditions, such as installation of
5 cost prohibitive fire suppression systems, that were not required in other single family
6 residence uses. The Civil Rights Division alleged this constituted discriminatory practices, in
7 violation of the AFHA. The City of Avondale ("City") responded that these requirements
8 were imposed to protect people with disabilities living in group homes and particularly those
9 who were not ambulatory. The Civil Rights Division alleged that additional health and safety
10 requirements were imposed without any individualized assessment of their need. The City
11 denies the truth of the allegations made by the Civil Rights Division as set forth above and
12 denies that any of its acts or ordinances violates the law. However, without admitting any
13 liability or wrongdoing whatsoever and in order to avoid the cost of litigation, the City has
14 agreed to settle this matter and does not object to the entry of this Consent Decree. This
15 Agreement does not constitute an admission by the City that an act or practice made unlawful
16 by the Arizona Fair Housing Act or Fair Housing Act Amendments et seq. occurred, nor
17 should any such inference be drawn.

18 **II. BACKGROUND**

19 For the foregoing reasons, the parties agree that the Consent Decree will further the
20 objectives of the Arizona Fair Housing Act, and that the Decree preserves fair housing
21 opportunities for people with disabilities where disability requires that unrelated persons
22 reside together because of disability in group living arrangements.

23 Based on the foregoing, the Civil Rights Division and the City desire to resolve the
24 issues regarding the City's zoning restrictions that apply to Hurst Homes and to other group
25 living arrangements where disability requires that unrelated persons reside together. The
26 Civil Rights Division and the City acknowledge that this Decree is the compromise of
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1 disputed claims and that there was no adjudication of any claim. The parties agree to be
2 bound by this Consent Decree and not to contest that it was validly entered into in any
3 subsequent proceeding to implement or enforce its terms. The parties have therefore
4 consented to the entry of this Consent Decree, waiving trial, findings of fact, and conclusions
5 of law.

6 **III. ORDER**

7 It appearing to the Court that entry of this Decree will further the objectives of the
8 Arizona Fair Housing Act ("AFHA") and is in the best interest of the public with respect to
9 the matters within the scope of this Decree, **IT IS HEREBY ORDERED, ADJUDGED**
10 **AND DECREED** as follows:

11 **JURISDICTION**

12 1. This Court has jurisdiction over the subject matter of this action and over the
13 parties under A.R.S. 41-1491.34(A).

14 **RESOLUTION OF THE COMPLAINT**

15 2. This Consent Decree resolves all issues and claims set forth in the State's
16 Complaint.

17 **RELEASE**

18 3. Except for the obligations of the City that are expressly set forth in this Decree,
19 the City of Avondale, its agents, officers, board members, employees, successors, assigns and
20 all persons in active concert or participation with Defendant, are released from any and all
21 civil liability to the State for the counts alleged in the State's Complaint.

22 **INDIVIDUAL RELIEF**

23 4. Within 14 days of the effective date of this Consent Decree, the City of
24 Avondale will a) deliver written notice of approval for Hurst and Hurst Homes to operate
25 Morning Star, Western Star, North Star or any of its other group homes that offer housing to
26 people with disabilities within any single family residential zoning district in the City, b)

1 rescind any and all notices requiring Hurst and Hurst Homes to comply with additional
2 requirements that are not imposed upon other single family residences, and c) rescind any and
3 all fines regarding prior unapproved use of any of these existing group homes.

4 5. Within 14 days of the effective date of this Consent Decree and receipt of an
5 executed release in the form attached to this Agreement as Ex. A, the City will pay \$49,999 to
6 Christopher Hurst for settlement of any and all claims for compensatory damages. The City
7 will mail a check by certified mail, return receipt requested, in the amount of \$49,999 made
8 payable to Christopher Hurst and David Burnell Smith, Esq. c/o Smith Law Firm, 4310 North
9 75th Street, Suite A, Scottsdale, Arizona 85251. On that same date, the City will mail a copy
10 of the check to the Civil Rights Division.

11 6. The City will not retaliate against Hurst Homes, Inc. or otherwise discourage or
12 hinder its operation as a group home provider for persons with disabilities, in violation of
13 A.R.S. § 41-1491.18.

14 **REMEDIAL ACTION**

15 7. **Zoning Ordinance Revision.** On December 5, 2011, the City amended the
16 applicable provisions of its Zoning Ordinance ("Ordinance), as outlined in Ex. B. to this
17 Consent Decree, so that individuals with disabilities living in group living arrangements will
18 not be required to petition, apply, or experience a process to obtain approval to live in any
19 residential zoning district in the City that is not also required of all families, including but not
20 limited to complying with higher safety requirements than apply to single family residences
21 or meeting minimum separation requirements. As reflected in Ex. B, the City amended its
22 existing Zoning Ordinances to: a) revise its definitions of *family, dwelling or dwelling unit,*
23 *and group home;* b) strike its definition of *handicapped* and replace with a definition for
24 *disability;* c) strike the definitions of *group recovery home* and *residential care home* to be
25 included in the definition for *group home;* d) change the purpose and use matrices to reflect
26 that *group homes* are permitted without conditions; and e) delete Section 203(E) that set forth
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1 numerous conditions for group homes for persons with disabilities that did not apply to all
2 families. The City agrees to retain and adhere to the revised zoning ordinance provisions as
3 set forth in Ex. B during the term of the Consent Decree.

4 8. **Adherence to Revised Zoning Ordinance.** Effective December 5, 2011, the
5 City will apply its effective Zoning Ordinance in a manner that persons with disabilities living
6 in housing arrangements that satisfy the definition of “family,” as stated in ¶ 7 of this Decree,
7 will not be required to petition, apply, or experience a process to obtain approval to live in
8 any residential zoning district in the City, and will not be treated less favorably than other
9 families, including but not limited to complying with higher safety requirements than apply to
10 all single family residences or meeting minimum separation requirements.

11 9. **Training.** Within 120 days after the effective date of this Consent Decree, the
12 City will provide training for the individuals serving on the Planning Commission, the Board
13 of Adjustment, and each management-level employee of the Planning and Zoning
14 Department, the Zoning Specialist(s), and the Building Inspectors about the Arizona Fair
15 Housing Act and the federal Fair Housing Amendments Act of 1988. The training will
16 address the general requirements of the federal and state fair housing laws and Title II of the
17 Americans with Disabilities Act and the laws’ specific application to zoning and other land
18 use regulation affecting group homes and other similar living arrangements for people with
19 disabilities. The training will also cover the portions of the City’s Zoning Ordinance, revised
20 in accordance with ¶ 7 of the Consent Decree, and the other requirements of the Consent
21 Decree relevant to the duties of the individuals being trained. The training will be conducted
22 by a qualified trainer. For purposes of this provision, a qualified trainer means an individual
23 who is knowledgeable about the legal requirements of the Arizona Fair Housing Act, the
24 Federal Fair Housing Act, and Title II of the Americans with Disabilities Act as applied to
25 zoning and land use regulation of housing opportunities for people with disabilities. During
26 the time that the Consent Decree is effective (“term of the Consent Decree”), the City will
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1 train the individuals in positions hired or appointed after the original training on these same
2 subjects within 60 days of the date of hire or appointment. Subsequent training may be
3 provided through a video of the original presentation(s). The City will maintain training
4 records, including attendance sheets that indicate the name, position, and department of the
5 individuals attending training as well as the date of training.

6 10. **Notice of Changes Regarding Treatment of Group Homes under Zoning**
7 **Ordinance.** Within 120 days after the effective date of this Consent Decree, the City will
8 undertake the following steps to provide written notice about the revised provisions of the
9 Zoning Ordinance affecting group living arrangements for people with disabilities, including
10 group homes. The written notice will contain, at a minimum, the City's continuing
11 commitment to fair housing practices, the new definition of "family," and the elimination of
12 the requirement that group homes for persons with disabilities must satisfy previously-
13 imposed conditions not generally applicable to other single family residence. The City agrees
14 to publish this written notice on the City of Avondale's Planning and Zoning website and in
15 the two issues of the Avondale Now newsletter. The City will also deliver a letter containing
16 the same information as in the written notice to the Arizona Department of Behavioral Health
17 Services, Offices of Special Licensing and the Arizona Department of Economic Security,
18 Division of Developmental Disabilities.

19 **REPORTING REQUIREMENTS**

20 11. The City will submit reports to the Civil Rights Division outlining its
21 compliance with the terms of the Consent Decree within six months of the effective date of
22 the Decree and, thereafter, at annual intervals. The report(s) will include sufficient detail for
23 the Division to review compliance with the terms of the Consent Decree and will provide
24 supporting documentation regarding amendment of the Zoning Ordinances; training,
25 provision of written notices, and compliance with the revised Ordinance.

1 12. All notices, reports, training attendance sheets, or other such documents
2 required by this Decree will be delivered via mail, electronic transmission, or fax (with
3 original reports to follow) to the following:

4 For notices to the Civil Rights Division: Rose Daly-Rooney or her successor(s),
5 Arizona Attorney General's Office, Civil Rights Division, 400 West Congress, Suite S-215,
6 Tucson, Arizona 85701, 502.628.6765 (facsimile), rose.daly-rooney@azag.gov.

7 Notices to the City: c/o Andrew McGuire, Gust Rosenfeld PLC, One East Washington,
8 Suite 1600, Phoenix, Arizona 85004.

9 13. If the Civil Rights Division believes that this Consent Decree or any portion of
10 it has been violated, it will initially raise its concern(s) in writing with the City and the parties
11 will attempt to resolve the concern(s) in good faith. The Civil Rights Division will allow the
12 City at least 30 days from the date it notifies it of any alleged breach of this Consent Decree
13 to cure the breach or otherwise resolve the alleged breach, prior to instituting any court action
14 to enforce the Consent Decree.

15 **DURATION OF THE CONSENT DECREE**

16 14. The Consent Decree will be in existence for three years from the date it is
17 signed by the Court and filed. The Consent Decree resolves the lawsuit brought by the State.

18 **CONTINUING JURISDICTION OF THE COURT**

19 15. The Court shall retain jurisdiction over both the subject matter of this Consent
20 Decree and the Civil Rights Division and the City for three years from the date of entry of the
21 Decree to effectuate and enforce this Decree. The Civil Rights Division may, for good cause
22 shown, petition this Court for compliance with this Decree at any time during the period that
23 this Court maintains jurisdiction over this action after complying with the requirements in ¶

24 13. Should the Court determine that the City has not complied with this Consent Decree,
25 appropriate relief, including extension of this Decree for such period as may be necessary to
26 remedy its non-compliance, may be ordered. In the event either the Civil Rights Division
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1 does not submit any petitions for compliance with the Decree or the Decree automatically
2 expires, the Court shall lose jurisdiction over this action on the date three years after entry of
3 the Decree.

4 **MISCELLANEOUS PROVISIONS**

5 16. This Decree shall be governed in all respects by the laws of the State of
6 Arizona.

7 17. This Decree shall be binding on the defendant, its agents, employees,
8 successors, officers, council members, assigns and all persons in active concert or
9 participation with them.

10 18. The Civil Rights Division and the City represent that they have read this Decree
11 in its entirety and are satisfied that they understand and agree to all its provisions, and
12 represent that they have freely signed this Decree without coercion.

13 **EFFECTUATING CONSENT DECREE**

14 19. As reflected in the executed Consent to Decree forms, the parties agree to the
15 entry of this Decree upon final approval by the Court.

16 20. The effective date of this Decree shall be the date that it is entered by this Court.

17 ENTERED AND ORDERED this ___ day of _____ 2011.

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19 _____
20 Honorable John C. Rea
21 Judge of the Superior Court
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Granted

Signed on this day, January 9, 2012



/s/ John Rea

Judicial Officer of Superior Court

Exhibit B

Amended Provisions
City of Avondale Zoning Ordinance

CITY OF AVONDALE

ZONING ORDINANCE

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Definitions

Words used in the present tense include the future; words in the masculine gender include the feminine and the neuter, and the singular number includes the plural, and the plural the singular; the word “shall” is mandatory and not permissive; the word “person” includes individuals, partnerships, corporations, clubs and associations. The following words or terms, when applied in this Ordinance, shall carry full force when used interchangeably: lot, plot, parcel, premises or site; used, arranged, occupied, or maintained; adjoining, abutting, contiguous to, bordering, or adjacent to; sold or dispensed; construct, reconstruct, erect, alter (structurally or otherwise) but not the term maintenance. The word “used” shall be deemed also to include designed, intended or arranged to be used. “Board” shall mean Board of Adjustment; “Commission” shall mean the City of Avondale Planning Commission; “Council” shall mean the City of Avondale City Council.

Abutting: Adjacent to.

Accessory Building: A detached subordinate building containing an accessory use and situated on the same lot as the main building.

Accessory Use: A subordinate use of a building, other structure, or tract of land that is both: (A) clearly incidental and customary to the use of the principal building or other structure or use of land and (B) located on the same zoned lot with the principal building, other structure or use of land.

Adult Day Care: A facility providing care for the elderly and/or functionally impaired adults in a protective setting for a portion of a 24-hour day in a place other than the adults’ own home. No overnight sleeping facilities are provided.

Alley: A right-of-way, dedicated to public uses, that gives a primary or secondary means of vehicular access to the rear or side of properties otherwise abutting a street.

Amusement Park: An outdoor facility, which may include structures and buildings, where there are various devices for entertainment, including, but not limited to, rides, booths for the conduct of games or sale of items and buildings for shows and entertainment.

Analogous Use: A land use deemed by the Zoning Administrator to be similar enough to another use as to not have a significantly different effect on surrounding properties.

Apartment: An individual dwelling unit within an apartment building.

Apartment Building: Four or more attached dwellings, each of which has its own private sleeping, sanitation and cooking facilities, that are typically rented or leased on a monthly basis. For the purposes of this Ordinance, an apartment or apartment building shall be considered a Multi-Family Dwelling.

Apiary: A structure where bees are kept.

Archeological Resources: Any material of past human life, activities, or habitation that are of historic or prehistoric significance. Such material includes, but is not limited to, pottery, basketry, bottles, weapon projectiles, tools, structures, pit houses, rock paintings, rock carvings, graves, skeletal remains, personal items, clothing, household or business refuse, printed matter, manufactured items, or any piece of the foregoing items.

Arizona Nursery Association (ANA): The professional trade organization dedicated to the promotion and advancement of the nursery industry for its members and the public they serve.

A.R.S.: The Arizona Revised Statutes, as amended.

Assisted Living Facility: A facility served by a common kitchen that provides living quarters and assistance to residents for daily living activities such as bathing, dressing, taking medications and transportation, and is not licensed by the State of Arizona as a nursing home.

Auto Service and Diagnostic Facility: A facility designed to provide limited servicing of automobiles, including but not limited to brakes, oil changes, and tune ups, excluding any facility which performs body work, engine repair, transmission overhauls, or other major repair or reconditioning.

Automobile, Boat, Recreational Vehicle, or Motorcycle Sales and/or Leasing: The display, sales and/or rental of new or used automobiles, boats, recreational vehicles and motorcycles, where service and repair may occur as an accessory use within a fully enclosed building.

Aviary: An enclosure for confining birds and fowl.

Bar: An establishment, including but not limited to a cocktail lounge, discotheque or tavern, the main use of which is to serve beer, wine and liquor for on-site consumption. Such facility may serve food, as well as, provide dancing and entertainment.

Bed and Breakfast Inn: A private residence that provides lodging and meals for guests at which: (A) the host or hostess resides in the principal residence; (B) no more than four (4) guest rooms are used for lodging at the same time; (C) the host or hostess may advertise and accept reservations, but shall not hold itself out to the public to be a restaurant, hotel or motel; and (D) food and spirited beverages are served only to overnight guests. Any dwelling in which more than four (4) guest rooms are provided shall be deemed a hotel/motel.

Block: That property abutting one side of a street and lying between the two nearest intersecting streets, or nearest intersecting street and railroad right-of-way, unsubdivided land, waterways, but not an alley, of such size as to interrupt the continuity of development on both sides thereof.

Boarding House: A single-family detached or attached dwelling unit in which any of the rooms are rented or leased to persons on a transient basis, but which does not include group homes for persons with a disability, dormitories, group recovery homes, convalescent homes, nursing homes,

substance abuse detoxification centers or substance abuse treatment centers.

Brewery Ancillary to a Restaurant or Brewpub: A restaurant that includes the brewing of beer on-site as an accessory use.

Buffer: An area of land, that may include landscaping, berms, walls, fences, building setbacks, or a combination thereof, that is located between land uses of a different character and is intended to mitigate negative impacts of the more intense use.

Buffer, Landscape: A landscaped area located on the perimeter of a site that serves to screen the visual impacts caused by the differences in use.

Building: Any structure, either temporary or permanent, having a roof and used or built for the shelter and enclosure of persons, animals, chattels, or property of any kind. This shall include tents, awnings, or vehicles situated on private property and used for purposes of a building.

Building Addition: Any extension or increase in floor area or height of a structure.

Building, Closed: A structure completely enclosed by a roof and walls of approved construction.

Building Coverage: That portion of a lot occupied by any building or structure, including those buildings or structures not intended for human occupancy, calculated by dividing the total building ground floor area by the net site area. Open carports within parking lots in multi-family, commercial, and employment districts shall not count toward the building coverage calculation.

Building Façade: The exterior elevation of a building structure excluding any porches, overhangs, covered walkways, drive through covers or similar appendages.

Building Footprint: The outline of the total area covered by a building's perimeter at the ground level.

Building Ground Floor Area: The total area of the largest floor under roof, measured from the exterior faces of exterior walls, and not including the sum of the several floors of a multi-story building. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above.

Building Height: The vertical distance measured from the adjacent grade level to the highest level of the roof surface of flat roofs, to the deck line of mansard roofs or to the mean height between eaves and ridge for gable, gambrel or hip roofs.

Building, Main: A building, or buildings, in which is conducted the principal use of the lot on which it is situated. In any residential district, the primary dwelling shall be deemed to be the main building of the lot on which the same is situated.

Building Permit: A permit issued by the duly designated building official authorizing the erection, construction, reconstruction, alteration, repair, conversion or maintenance of any building, structure or portion thereof, where required by the City's adopted building codes.

Cacti: Any family of plants that have fleshy stems and branches with scales or spines instead of leaves and that is capable of storing water and requiring no supplemental irrigation.

Caliper: A standard measurement for trees based on the diameter of a tree trunk as measured a specific distance above the ground based on the type of tree.

Caretaker's Quarters: An accessory dwelling on non-residential premises that is occupied by the person who oversees the nonresidential operation 24 hours a day, and his or her family.

Carport: A covered parking space open on one or more sides that is intended and available for use at an automobile shelter.

Child Care: The care, supervision and guidance of children, unaccompanied by the parent, guardian or custodian, on a regular basis for less than twenty-four (24) hours per day, in a place other than the child's own home.

Child Care Center: Any building or portion thereof used primarily for child care for compensation including nursery schools, preschools and day care centers.

Cigar Bar or Tobacco Lounge: An establishment that specializes in the sale of cigars and other tobacco-related items, and allows patrons to smoke tobacco products on-site. The consuming of tobacco products shall occur entirely indoors and conform to the Arizona law.

Clinic: A building in which one (1) or more physicians work including supplying pharmaceutical and optical needs, conducting medical tests, or other common ancillary uses to a medical office, without overnight patient occupancy.

Club or Social/Private Club: An association of persons (whether or not incorporated), religious or otherwise, for social purpose, but not including groups that are organized primarily to render a service carried on as a business for profit.

Commercial Center: Any property with a minimum land area of ten (10) acres developed with a multi-tenant office or retail development.

Commercial Sporting Complex: An indoor facility, with or without seating for spectators, and providing accommodations for a variety of individual, organized, or franchised sports. Such facility may also provide other regular organized or franchised events, health and fitness club facilities, swimming pool, snack bar, restaurant and other support facilities. Such a facility may be publicly or privately owned and publicly or privately operated.

Commercial Vehicle: Any motor vehicle with a manufacturer's chassis rating greater than one (1) ton.

Conditional Use Permit: A permit issued that allows the City to impose additional development standards on that proposed use after consideration of adjacent uses and their functions and the special impacts that the proposed use may cause.

Condominium: Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by owners of the separate portions.

Consignment Shop: A retail establishment where previously-owned merchandise, such as clothing, jewelry or furniture is consigned to a dealer who collects a fee and pays the seller after the merchandise is sold, but shall not include stores selling consigned vehicles, auto parts, scrap or waste. Consignment shops are distinct from thrift stores, pawn shops and non-consignment secondhand retail stores.

Convalescent Home: A facility served by a common kitchen that provides living quarters and medical care to non-elderly residents recovering from non-chronic illness or injury, and which is licensed by the State of Arizona as a nursing home.

Corral: A fenced area or enclosure intended for the confinement of livestock for feeding, shelter, or other purposes, not to be confused with a pasture used for the grazing of livestock.

Crown: The branches, twigs and leaves that make up the foliage portion of the tree.

Curb Line: The line at the face of the curb nearest the street or roadway. In the absence of a curb, the curb line shall be established by the City Engineer.

Day Labor Hiring Center: A for-profit or non-profit facility at which job seekers congregate to be hired by the day or by the job for short periods of time by third parties.

Day Spa: A business establishment that provides professionally administered personal care treatments such as manicures, pedicures, massages and facials.

Density: The number of dwelling units permitted per net acre of land.

Design Guidelines: See Design Manuals.

Design Manuals: The adopted Avondale Design Manual for Commercial, Industrial, and Multi-Family Residential Development and Avondale Design Manual for Single-Family Residential Development, as amended.

Development Review Committee: See Section 105 below.

Development Services Director: The person designated by the Avondale City Manager to oversee the planning and development related services for the City.

Disability: The term “disability” means, with respect to an individual-(A) a physical or mental impairment that substantially limits one or more major life activities of such individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment. For purposes of this definition, a qualified individual with a disability shall not include an individual who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use, except as provided in 42 U.S.C. § 12210. The term “illegal use of drugs” means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act, 21 U.S.C. § 812. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law. The term, disability, shall be interpreted in a manner consistent with the definition of disability in the Americans with Disabilities Amendment Act of 2008.

Distribution: Receipt, temporary storage and redistribution of goods.

Dormitory: A structure specifically designed for a long-term stay by students of a college, university, institute or nonprofit organization for the purpose of providing rooms or apartments for living purposes, and may include one common kitchen and some common gathering rooms for social purposes.

Drive Aisle: A paved surface that connects a driveway with a parking lot aisle.

Drive-Through Lane: A paved surface assigned to a specific drive-through use which is used for the purpose of conducting a business transaction without requiring a driver to exit a vehicle, and which is designed of sufficient length to accommodate vehicular queuing.

Driveway: An unobstructed paved area directly connecting a public or private street with vehicle parking, loading or maneuvering areas.

Dwelling or Dwelling Unit: A building or portion of a building designed or used by one (1) family, as that term is defined by this section, for residential purposes as a single housekeeping unit, but not including convalescent homes, hospices, assisted living facilities, hospitals, hotels, motels, and other accommodations for the transient public. ~~but including group homes for the handicapped.~~

Dwelling, Attached: Single-family dwellings attached in groups of two (2) or more by common vertical walls.

Dwelling, Detached: A single-family dwelling that is not attached to any other dwelling by any means.

Dwelling, Duplex: A building containing two (2) single-family dwelling units totally separated from each other by an unpierced wall extending from the ground to the roof.

Dwelling, Multi-Family: A building containing four (4) or more dwelling units.

Dwelling, Single-Family: A building containing one (1) single-family dwelling unit.

Dwelling, Triplex: A building containing three (3) dwelling units.

Emergency Medical Care Facility: A facility providing medical care to human beings by licensed medical personnel on an outpatient basis. No sleeping facilities or provisions for overnight stays are provided. Commonly known as “urgent care centers.”

Employee: With respect to Section 10 only, a person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

Employment Agency: A business that charges a fee for providing information and placement services to candidates seeking employment and/or clients looking for qualified candidates through which candidates register with the agency, but do not wait on-site or at a central location for full time, part time, or temporary assignments and at which vocational guidance, employment counseling, resume writing, executive recruitment, payroll processing and similar personnel services may also be offered.

Entertainment: An engaging or diverting presentation of, or participation in, activities including but not limited to, live singing, dancing, musical instrumentation, dramatic or prosaic presentations or poetic activities, but excluding adult live entertainment.

Event: A commercial, promotional, motorsports, sports or entertainment activity taking place at or on a major sports and entertainment district zoned property. Events may occur within the major sports and entertainment venue, within the surrounding parking areas, or both.

Event Day: Any day upon which an event is scheduled to take place in advance at or in a major sports and entertainment venue.

Evergreen Tree or Shrub: A tree or shrub of a species that normally retains its leaves/needles throughout the year.

Extended Stay Hotel: Any building, other than a boarding house, containing four or more guest rooms that are used, rented or hired for sleeping purposes by transient guests and contain kitchen facilities for food preparation including, but not limited to, such facilities as refrigerators, stoves and

ovens.

Family: One or more persons occupying a single dwelling unit, provided that unless all members are related by blood, marriage, or legal adoption, no such family contain more than six (6) non-transient unrelated persons, except where disability requires that more than six (6) unrelated person reside together. This definition shall not include any society, club, coterie or organization that is not a recognized religious order nor does it include any group of individuals whose association is temporary or seasonal or similar to a resort, boarding house, motel, hotel or whose association is for an anticipated limited duration or for a determinable period such as a school term.

Farm Animals: Domesticated animals traditionally raised and kept for food, fiber, feathers, labor or riding. This includes horses, cattle, sheep, goats, swine, fowl, rabbits and other similar animals and birds.

Fence: A barrier that serves to enclose an area intended to prevent intrusion or maintain inclusion at the boundary's limits. A fence shall not be considered or used in place of a required landscape screen wall.

Floor Area Ratio: The ratio of gross floor area to the net site area of the building site.

Fowl: Chickens, turkeys, ducks, geese, guinea fowl and peafowl.

Freeway: For the purposes of this Ordinance, freeway shall mean Interstate-10 or other limited access highway, including all traffic lanes, ramps, appurtenances and undeveloped or unpaved land within the associated Arizona Department of Transportation right-of-way.

Garage: A fully enclosed structure, or part thereof, used for the parking and storage of vehicles.

Garage Sale: A general sale, open to the public, conducted on a premises on which a residential dwelling is located, for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage," "lawn," "yard," or "rummage" sale.

Gas Station: A place of business having pumps and/or storage tanks from which motor vehicle fuel is dispensed at retail into a motor vehicle or an approved container with accessory activities that may include the retail sale and installation of minor automobile parts and accessories, retail sales of food, drink and other convenience items, automobile washing, inspections or other routine vehicle maintenance, but shall not include major automotive repair work such as engine overhauling, body and fender repair, or painting.

Grade: The top of curb, or top of crown of a street where no curb exists, as established at the midpoint of the front of the lot used for establishing building heights.

Gross Floor Area: The sum of the gross areas of all floors of a building or buildings, measured from the exterior faces of exterior walls or from the centerlines of walls separating two buildings,

but not including underground parking spaces, uncovered stairwells or exterior balconies.

Groundcover, Non-Vegetative: Landscape materials that are not living. These materials include, but are not limited to, decomposed granite, gravel, crushed rock, boulders, river rock or other similar materials. Pavement shall not be considered groundcover for the purposes of landscaping.

Groundcover, Vegetative: Living landscape materials characterized by horizontal as well as vertical growth but which generally do not exceed eighteen (18) inches in height. The intent of groundcover plants, when properly installed, is to form a continuous cover over the ground.

Group Home for Persons with a Disability: A dwelling shared by up to ten (10) physically or developmentally disabled persons who reside together as a single housekeeping unit and who receive care, supervision or counseling from one (1) or more support staff. This use includes homes for the mentally ill, group care agencies and similar living arrangements for the handicapped. It does not [18] include boarding houses, nursing homes, shelter care facilities, community correctional facilities, substance abuse detoxification centers, substance abuse treatment centers, group recovery homes, or other uses that are not subject to the Federal Fair Housing Act and the Arizona Fair Housing Act. Housing occupied by unrelated persons who live in a dwelling because of disability and may include staff persons, who may or may not be domiciled in the dwelling, who provide support services, including but not limited to domestic, medical, habilitation, rehabilitation, or other similar services.

Group Recovery Home: A residential facility that provides residence and treatment for two (2) or more persons who are in the process of recovery and adjustment from alcoholism or drug abuse and who receive care, supervision or counseling from one (1) or more support staff.

Guest House: A building used to house guests of the occupants of the main building, which is not rented or leased separately from the main building.

Handicapped: A person who (A) has a physical or mental impairment that substantially limits one (1) or more major life activities to the extent that the person is incapable of living independently; or (B) has a record of having such impairment; or (C) is regarded as having such impairment. Handicapped does not include a person who is illegally using or addicted to a controlled substance as defined in Section 102 of the Controlled Substance Act [21 United States Code 802].

Historic Building: Any building that is listed on the National Register of Historic Places, the Arizona Register of Historic Places, or that has been determined eligible for inclusion on the National Register of Historic Places by the Arizona State Historic Preservation Office.

Home Child Care: Any dwelling in which child care is provided as an accessory use, with or without compensation.

Home Occupation: Any occupation or profession carried on by a member of a family residing on the premises that is clearly incidental to the use of the structure for dwelling purposes and which

does not change the exterior character of the premises in any way. **Home occupation does not include the operation of group homes.**

Horse Ranch: A facility at which the breeding and raising of horses for sale is conducted.

Hospice: A facility or service that provides care for the terminally ill patient and support to the family. The care, primarily for pain control and symptom relief, can be provided in the home or in an inpatient setting. A hospice shall be considered an assisted living facility for the purposes of this Ordinance.

Hospital: An institution licensed by the State of Arizona that provides medical, surgical, or psychiatric treatment and care to humans by State licensed medical personnel for the sick and injured on an on-going basis 24 hours a day, 365 days a year.

Hotel: An establishment, other than a boarding house, containing five (5) or more guest rooms that, for a fee, provides temporary sleeping accommodations and customary lodging services, including maid service, the furnishing and upkeep of furniture, bed linens, telephone and desk service, as well as related ancillary uses including, but not limited to, conference and meeting rooms, restaurants, bars and recreational facilities. For the purposes of this Ordinance, a motel shall be considered a hotel.

Household Pets: Small animals that are generally suited for residences and customarily kept for home companionship, hobbies or personal enjoyment. This includes, but is not limited to, cats and dogs.

Impound Lot: A facility that provides temporary outdoor storage of motor vehicles that are (A) to be claimed by titleholders or their agents, (B) not stored at said facility for more than 45 days and (C) operable and licensed at all times during such storage.

Incidental Commercial Sales: Commercial sales operated in conjunction with, upon the same premises as, and solely in support of similar uses located or planned within a business park development or conducive and subordinate to future business park and industrial uses.

Independent Living Facility: An Apartment Building designed to be occupied by elderly or retired persons of a specific age, generally over the age of 55. Independent Living Facilities may include common dining areas, but, because the dwelling units have individual kitchens, residents are typically not required to use these dining facilities.

Indoor Commercial Recreation/Entertainment Use: An indoor facility, with or without seating for spectators, and providing accommodations for a variety of individual, organized, or franchised sports. Such facility may also provide other regular organized or franchised events, health and fitness club facilities, swimming pool, snack bar, restaurant, retail sales of related sports, health, or fitness items, and other support facilities.

Interior Property Line: A recorded property line of a parcel or lot that is located within the area circumscribed by a recorded plat but not abutting public right-of-way.

Joint Use Parking: Use of the same parking spaces by adjacent uses that have staggered peak periods of demand, thereby reducing the amount of land consumed by parking. Also known as “shared parking.”

Kennel: Any commercial establishment at which dogs and cats are bred or raised for sale, boarded or cared for, exclusive of dental, medical or surgical care.

Laboratory: A building, or portion thereof, used or intended to be used for scientific experimentation, observation, testing or analysis.

Landscape Architect: A person registered to practice landscape architecture in the State of Arizona.

Landscape Maintenance: The process of keeping a landscape healthy, clean, safe and attractive by landscape irrigation management and general care of landscape areas, including but not limited to weeding, erosion control and revegetation, turf care maintenance, ornamental pest control, seasonal flower color programs, professional tree care and water feature maintenance.

Landscape Maintenance Schedule: A submitted and approved document describing the planting and irrigation protection plan that will cover a planting installation’s short term and long term maintenance requirements.

Landscape Material: Any materials, vegetative and non-vegetative, used for the purpose of landscape improvements which may include, but shall not be limited to, the following: trees, shrubs, groundcovers, turfs, vines, berms, non-vegetative groundcover materials, irrigation equipment, fences and walls.

Landscape Plan: A graphic representation of the development site depicting the locations of all existing and proposed landscape improvements to be present on the site at the completion of project construction.

Landscaping: An exterior improvement of property in accordance with an approved landscape plan and utilizing approved landscape materials.

Licensee: With respect to Section 10 only, a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.

Livestock: Cattle, horses, sheep, goats and similar animals, excluding swine.

Lot: A parcel of land created legally through a minor land division or plat, or two (2) or more contiguous parcels legally created to be used as a unit under the provisions of this ordinance, as shown in the records of the Maricopa County Recorder’s Office, and having its principal frontage

on a street. In any district where a half-street has been dedicated not less than twenty-five (25) feet in width, lots facing on such half-street shall be deemed to have frontage on a street.

Lot, Corner: A lot located at the intersection of two (2) or more streets. A corner lot shall be considered to be on the block that the lot fronts.

Lot, Interior: A lot having only one (1) side on a street.

Lot, Internal: A lot within a planned shopping center having no street frontage but accessible to public streets through private infrastructure and access easements.

Lot, Key: An interior lot, one side of which is contiguous to the rear line of a corner lot.

Lot Length: The length (or depth) of a lot shall be determined as follows:

A. If the front and rear lines are parallel, the shortest distance between such lines.

B. If the front and rear lines are not parallel, the distance between the midpoint of the front lot line and the midpoint of the rear lot line.

C. If the side lot lines are not parallel, the shortest distance between the front lot line and a line parallel to the front lot line, not less than ten (10) feet long lying wholly within the lot.

Lot Line, Front: The front lot line of a lot shall be determined as follows:

A. Corner lot: The front lot line of a corner lot shall be the property line abutting the lower adjacent street classification. If both abutting streets are the same classification, the front property line shall be the shorter of the two (2) lines adjacent to the streets. Where the lines are equal, the front lot line shall be that line which is obviously the front by reason of the prevailing custom of the other buildings on the block. If such front is not evident, then either may be considered the front of the lot, but not both.

B. Interior lot: The front property line of an interior lot shall be the line bounding the street frontage.

C. Through lot: The front property line of a through lot shall be that line which is obviously the front by reason of the prevailing custom of the other buildings on the block. Where such front property line is not obviously evident, the Board of Adjustment shall determine the front property line.

Lot Line, Rear: The rear property line of a lot is that lot line opposite to the front property line. Where the side property lines of a lot meet in a point, the rear property line shall be assumed to be a line of not less than ten (10) feet long, lying within the lot and parallel to the front property line. In the event that the property line is a curved line, then the rear property line shall be assumed to be a line not less than ten (10) feet long, lying within the lot and parallel to a line tangent to the front property line at its midpoint.

Lot Line, Side: The side property lines of a lot are those lot lines connecting the front and rear property lines of a lot.

Lot, Through: A lot contiguous to two (2) parallel or approximately parallel streets.

Lot Width: The width of a lot shall be determined as follows:

- A. If the side property lines are parallel, the shortest distance between these sidelines.
- B. If the side property lines are not parallel, the width of a lot shall be the length of a line at right angles to the axis of the lot at a distance equal to the front setback required for the district in which the lot is located. The axis of a lot shall be a line joining the midpoints of the front and rear property lines.

Maintenance, Building or Site: The replacing of a part or parts of a building or site that have been made unusable by ordinary wear and tear, or by the weather.

Maintenance, Landscaping: The process of keeping a landscape healthy, clean, safe and attractive by landscape irrigation management, general care of landscape areas including but not limited to weeding, erosion control and revegetation, turf care maintenance, ornamental pest control, seasonal flower color programs, professional tree care and water feature maintenance.

Major Sports and Entertainment Venue: A commercial structure consisting of tiered seats around a field, court or racetrack, intended to be used for the viewing of sporting events but which may also be used for entertainment and other public gathering purposes and which may also include food service facilities and other accessory uses customarily associated with the operation of the venue.

Manufactured Home: A mobile home manufactured or constructed in accordance with the Federal Manufactured Home Construction and Safety Standards (42 USC 5403), as amended.

Manufactured Home Park: Any area or tract of land designed for the parking or other type of installation of manufactured or mobile homes on spaces or lots offered for lease or rent, including all improvements, buildings, structures, recreation areas or other facilities for the use of the residents of such development.

Manufacturing and Assembly, Heavy: The manufacturing, assembly, fabrication, packaging or other industrial processing of products primarily from extracted or raw materials whose process typically produces noise, dust, odors and/or vibrations detectable outside of the building.

Manufacturing and Assembly, Light: Manufacturing from predominantly previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging, but excluding basic industrial processing and taking place entirely within doors and producing no detectable noise, dust, odors or vibrations outside the building.

Marquee: A permanent roof-like structure extending from part or all of the building facade over a walkway either within or outside the public right-of-way and constructed of some durable material such as metal, glass or plastic.

Massage: The manipulation of body muscle or tissue by rubbing, stroking, kneading or tapping, by hand or mechanical device.

Massage or Day Spa: An establishment where massage is administered by someone other than a medical practitioner, chiropractor, physical therapist or similar person licensed by the State of Arizona.

Massage Therapy: Massage administered for medical purposes by a medical practitioner, chiropractor, physical therapist or similar person licensed by the State of Arizona.

Master Planned Development: A self-contained development under unified ownership, often with a mixture of land uses, planned and developed as a whole in a single phase or programmed in a determined series of phases, and in which the subdivision and zoning controls are applied to the project as a whole rather than to individual lots.

Medical Marijuana: “Marijuana” for “medical use” as those terms are defined in A.R.S. § 36-2801, as amended.

Medical Marijuana Cultivation Location: Any of the following: (A) a medical marijuana dispensary at which cultivation occurs for sale at that medical marijuana dispensary, (B) the one additional location, if any, duly identified pursuant to A.R.S. § 36-2806(E), as amended, during the process of registering a medical marijuana dispensary, where marijuana will be cultivated for sale at a medical marijuana dispensary, (C) any location identified pursuant to A.R.S. § 36-2804.02(A)(3)(f), as amended, for cultivation of medical marijuana by a designated caregiver or qualifying patient (as defined in A.R.S. § 36-2801, as amended) for a qualifying patient’s medical use or (D) a facility that incorporates or processes medical marijuana into a consumable or edible product.

Medical Marijuana Dispensary: A nonprofit medical marijuana dispensary (as defined in A.R.S. § 36-2801, as amended) duly registered and certified pursuant to A.R.S. § 36-2804, as amended.

Medical Office: A room or group of rooms used exclusively by physicians, dentists or similar personnel for the treatment and examination of patients solely on an out-patient basis, provided that no overnight patients shall be kept on the premises.

Mini-Storage Warehouse: A facility that leases space to individuals or to small businesses wherein the rented spaces, known as “units”, are secured by the tenant’s own lock and key.

Mobile Home: A structure at least eight (8) feet in width and thirty-two (32) feet in length, built on a permanent chassis and designed to be used as a dwelling unit.

Motor Vehicle: Defined as set forth in A.R.S. § 28-101, as amended.

Multiple Trunk Tree: A tree with more than one main trunk. To be considered a multiple trunk tree, additional trunks should originate either from the soil line or no higher than twelve (12) inches above ground. Any tree that has additional trunks (scaffold branches) higher than twelve (12) inches

is not considered a multiple trunk tree.

Multi-Tenant Non-Residential Development: A development site for a shopping center, office park or commerce park whereupon a number separate commercial and/or employment activities are located and in which there are appurtenant shared facilities, such as parking and pedestrian walkways. Distinguishing characteristics of a multi-tenant non-residential development may, but need not, include common ownership of the real property upon which the development is located, common wall construction, and multiple-occupant commercial use of a single structure.

Natural Screen Walls: A uniform, double row of evergreen plants planted closely together to create a consistent visual barrier. Natural screen walls shall only be used in conjunction with parking lot screens.

Net Floor Area: The total square footage of interior floor areas, interior courtyards, outdoor storage areas, and outdoor dining areas, exterior walkways, parking areas and landscaped areas, excluding the thickness of exterior walls.

New Urbanism: The process of reintegrating the components of modern life (i.e. housing, workplace, shopping, and recreation) into compact, pedestrian-friendly, mixed-use neighborhoods served by transit and set in a larger regional open space framework.

Night Club: A place of entertainment open at night usually serving food, beer, wine and liquor and providing music and space for dancing and often having a floor show.

Non-Chartered Financial Institution: A business, other than a state or federally chartered bank, credit union, mortgage lender or savings and loan association, that offers check cashing services and loans for payment of a percentage fee. Specifically included are check cashing businesses that charge a percentage fee for cashing a check or negotiable instrument and loan businesses that make loans upon assignments of wages to be received.

Non-Conforming Buildings, Uses, and Lots: See Subsection 101(G).

Nursing Home: A facility served by a common kitchen that provides living quarters and medical care to elderly and chronically ill residents, and which is licensed by the State of Arizona as a nursing home.

Office: A room or group of rooms used for conducting the affairs of a business, profession, service industry or government.

Off-Street Parking Space: A paved and properly drained area, enclosed or unenclosed (unless specified), permanently reserved for parking one (1) automobile.

Open Space: Areas within a development that are either improved or unimproved, and are designated and intended for the common use or enjoyment of the residents, guests and patrons for leisure time activities or for aesthetic enhancement of the development. Said areas are comprised

active and passive recreation areas, and improvements as are necessary and appropriate for the intended users.

Open Space, Active: Open space that is improved and set aside, dedicated, designated, or reserved for recreational facilities such as swimming pools, play grounds, ball fields, court games, picnic tables or other activities.

Open Space, Passive: Passive open spaces are unimproved areas used for recreation activities typically undertaken on an individual or small group basis. Passive recreation may include activities such as hiking, bird watching, nature observation, canoeing, jogging, bicycling, horseback riding or other non-motorized trail-oriented activities requiring only limited modifications to the natural landscape. Non-trail oriented activities such as boating, fishing, environmental education, and picnicking are also considered passive recreation.

Parapet: The portion of a wall that extends above the roof line.

Parcel: A lot or a contiguous group of lots under common ownership and/or control that are considered a single development site.

Palm Tree: A vertical palm that can reach twenty (20) feet or greater in height upon maturity.

Park Tree: Any tree, shrub, bush and all other woody vegetation in public parks and all other public lands owned by the city, or to which the public has free access as a park.

Parking Lot: A parcel of land upon which members of the general public may park their vehicles at no cost for the purpose of utilizing a use or facility.

Parking Lot Aisle: The areas immediately adjacent to parking stalls that permit maneuvering of cars entering and leaving the parking stalls, and which connect the parking stalls to the driveway or drive aisle.

Parking Lot, Commercial: A parcel of land upon which members of the general public may park a vehicle by paying a charge or fee for said usage to the landowner or his agent.

Patio Home: An attached or detached single-family dwelling constructed with no side yard on one (1) or more sides of the lot.

Paved Surface: A surface of masonry, concrete or asphalt. Permeable or decorative surfaces, such as pavers, stamped/colored concrete (Bomanite), porous concrete, or porous asphalt may be considered a paved surface if approved by the City Engineer.

Pawn Shop: An establishment where money is loaned on security of personal property left in pawn and pledged as collateral, and where the pledged property may be sold to the public if not redeemed by the pledgor within a fixed amount of time.

Person: An individual, proprietorship, partnership, corporation, association or other legal entity.

Personal Wireless Service Facility (PWSF): An unmanned facility for the provision of personal wireless services as defined by the Telecommunications Act of 1996, and any amendments thereto. Personal wireless service facilities are composed of three (3) or more of the following components: (A) antennae; (B) mount; (C) cables; (D) support structure; (E) equipment cabinet/shelter; and (F) wall or security barrier. A PWSF is also commonly referred to as a “cell tower.”

Personal Wireless Service Facility, Alternative Structure: A PWSF that is either:

- A. Virtually invisible to the casual observer, such as an antenna behind louvers on a building, or located inside a clock tower, steeple, or similar structure; or
- B. Camouflaged with stealth design to blend in with surroundings to the extent that it is indistinguishable by the casual observer from the structure on which it is placed or the surroundings in which it is located, such as structures commonly referred to as “monopoles,” “monopines,” or “flag pole” designs.

Personal Wireless Service Facility, Freestanding: A self-supported structure, to include monopoles, lattice cell towers, and alternative structures, designed for use as a PWSF. For the purpose of this zoning ordinance, guyed PWSFs shall also be considered freestanding.

Personal Wireless Service Facility, Guyed: A cell tower that is supported by the use of cables (guy wires) that are permanently anchored to the ground and designed to support PWSF antennas. Guyed PWSFs shall not be considered Alternative Structures for the purpose of this zoning ordinance.

Personal Wireless Service Facility, Lattice: A tower that is self-supporting with multiple legs and cross-bracing of structural steel and that is designed to support PWSF antennas. Lattice PWSFs shall not be considered Alternative Structures for the purpose of this zoning ordinance.

Personal Wireless Service Facility, Monopole: A single, upright pole, engineered to be self-supporting and requiring no guy wires or lateral cross-members and that is designed to support City Of Avondale Zoning Ordinance – Section 1, Administration and Procedures [26] PWSF antennas. Monopoles shall not be considered Alternative Structures for the purpose of this zoning ordinance.

Pet Boarding and Day Care Facility: A commercial establishment where domestic pets are temporarily housed within separate indoor units. This does not include the breeding, raising, or sale of animals. Pet grooming, training, veterinary care, or the sale of pet products may occur as accessory uses.

Place of Worship: A permanently located building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body to sustain public worship and related uses.

Planning Division: The Division within the City of Avondale Development Services Department responsible for planning, zoning and development related activities.

Plant Material: All vegetative landscaping material.

Plate Line: The point at which any part of the roof structure first touches or bears upon an external wall.

Primary Elevation: The side of a commercial, office, or industrial building or tenant suite that contains the main entrance. In instances where there is no singular main entrance, the primary elevation shall be the building's most significant side as determined by the Zoning Administrator.

Profession: An occupation involving the dispensation of a service that involves either some skill or knowledge, or that requires connections to other business not easily or readily available to the general public (examples are lawyers, architects, financial services, stockbrokers, detective agencies, engineers, land use planners, etc.) A distinction is made between purveyors of professions and purveyors of merchandise or repair of articles.

Property Line: See "Lot Line".

Public Art: Any work of art created by visual artists or public context designers that is sited in a public place for people to experience and encounter on a daily basis in the public sphere. Public art can include murals, outdoor sculptures or infrastructure such as public fixtures, furniture and other functional elements.

Public Art, Exterior: Art displayed in the region that is outside and in front of a building.

Public Art, Interior: Art displayed in the inner part of a building, including foyers and internal courtyards, that is accessible to the general public during all hours.

Public Service: A service performed for the benefit of the public, typically by a governmental entity or nonprofit organization.

Public Uses: Public use includes, but is not limited to: streets, highways, government buildings, parks, water reservoirs and treatment facilities, flood control, public theaters, safety facilities, bridges, public utilities, and canals.

Queuing Space: A temporary waiting area for motor vehicles generally associated with a drivethrough use or egress from a site. Also known as "stacking space."

Recreational Vehicle: A vehicle designed and/or used for living or sleeping and/or recreational purposes and equipped with wheels to facilitate movement from place to place, including automobiles when used for living or sleeping purposes and including pick-up coaches (campers), motorized homes, boats, travel trailers and camping trailers, none of which meet the specifications required for a manufactured home.

Recreational Vehicle Park: Any lot, tract, or parcel of land used or offered for use in whole or in part for the rental of sites for the parking of three (3) or more recreation vehicles, but not including mobile home parks or subdivisions.

Residential Care Home: ~~A private residence that typically serves residents who live together and receive care from live-in caregivers. These homes offer assisted care services for seniors who want a more private, home-like community. Assistance with activities of daily living such as bathing and dressing are typically provided. Also known as: Board & Care Homes, Group Homes, Adult Family Homes.~~

Definitions from Resort-Zoo (excluded from exhibit because there are no definitions affected by these revisions).

202 Land Use Matrices

The following land use matrices shows the uses, which are permitted outright (P), permitted with a conditional use permit (C), permitted with conditions (PC), permitted as accessory uses (A) or prohibited (-) in specific residential zoning districts in the City of Avondale. The land use matrix is intended to serve as a guide for the convenience. Where the text of this zoning ordinance differs from the land use matrix, the text shall prevail.

A. Single Family Districts

LAND USE	AG	RR-43	RR-18	R1-35	R1-15	R1-8	R1-6	R1-5
Accessory uses and buildings, agricultural	P	-	-	-	-	-	-	-
Accessory uses and buildings, rural residential	P	P	P	-	-	-	-	-
Accessory uses and buildings, suburban & urban residential	P	P	P	P	P	P	P	P
Apiary	PC	PC	-	-	-	-	-	-
Bed and breakfast inn	-	C	-	C	-	-	-	-
Child care in the home for four (4) or fewer children not related to the residents	P	P	P	P	P	P	P	P
Child care in the home for five (5) to ten (10) children not related to the residents	C	C	C	C	C	C	C	C
Child Care Center in conjunction with a Place of Worship	C	C	C	C	C	C	C	C
Dairy farm	PC	-	-	-	-	-	-	-
Farm animals, the raising and keeping of	P	PC	PC	PC	-	-	-	-
Farming, including all types of agriculture and horticulture	P	P	-	-	-	-	-	-
Feed lot for cattle	PC	-	-	-	-	-	-	-
Greenhouse, for propagation, cultivation, retail and wholesale distribution of plants sold on premises	P	P	-	-	-	-	-	-
Group Home ^{for a Person with a Disability}	P	P	P	P	P	P	P	P
Guest house	PC	PC	PC	C	C	-	-	-
Home Occupation	PC	PC	PC	PC	PC	PC	PC	PC
Kennel for boarding and breeding dogs and cats with dog runs	C	C	-	-	-	-	-	-
Nursery for plants, for propagation, cultivation, retail and wholesale distribution of plants sold on premises	P	P	-	-	-	-	-	-

LAND USE	AG	RR-43	RR-18	R1-35	R1-15	R1-8	R1-6	R1-5
Park and recreation areas, public	P	P	P	P	P	P	P	P
Place of Worship	C	C	C	C	C	C	C	C
Public utility facility required for local service	PC	PC	PC	PC	PC	PC	PC	PC
Public utility facility with the exception of those allowed as a Use Permitted with Conditions above	C	C	C	C	C	C	C	C
Ranch for horses, commercial and guest	P	C	-	-	-	-	-	-
Retailing farm products produced on the premises	P	P	-	-	-	-	-	-
School, private	-	C	C	C	C	C	C	C
School, public	P	P	P	P	P	P	P	P
Single-family detached dwelling	P	P	P	P	P	P	P	P
Stable for horses, commercial	P	C	-	-	-	-	-	-
Wholesaling farm products produced on the premises	P	-	-	-	-	-	-	-

- P = Permitted Use
C = Conditional Use Permit required.
PC = Permitted with Conditions
A = Accessory Use
- = Not Permitted

**B. Multiple Family Districts and Manufactured Home Park
Land Use Matrix**

LAND USE	R-2	R-3	R-4	MH
Accessory uses and buildings, manufactured home park	-	-	-	P
Accessory uses and buildings, multiple family	P	P	P	-
Assisted Living Facility	C	C	C	-
Boarding House	C	C	C	-
Child care in the home for four (4) or fewer children not related to the residents	P	P	P	-
Child care in the home for five (5) to ten (10) children not related to the residents	C	C	C	-
Child Care Center in conjunction with a Place of Worship	C	C	C	C
Convalescent Home	C	C	C	-
Group Home for Persons with a Disability (change to P-permitted)	P	P	P	P
Group Recovery Home (subsumed within Group Home)	€	€	€	-
Home Occupation	PC	PC	PC	PC
Manufactured or Mobile Home	-	-	-	P
Multi-family dwelling	-	P	P	-
Nursing Home	C	C	C	-
Park and recreation areas, public	P	P	P	-

Place of Worship	C	C	C	C
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LAND USE	R-2	R-3	R-4	MH
Public utility facility required for local service	PC	PC	PC	-
Public utility facility with the exception of those allowed as a Use Permitted with Conditions above	C	C	C	-
School, public	P	P	P	-
Single-family attached dwelling	P	P	P	-
Single-family detached dwelling	P	P	-	-

- P = Permitted Use
- C = Conditional Use Permit required.
- PC = Permitted with Conditions
- A = Accessory Use
- = Not Permitted

203 Uses Permitted With Conditions

The following land uses are listed in the land use matrix as Permitted with Conditions. These uses are permitted by right only if the conditions listed below for the individual uses are met. Based on site plan review, staff may add additional conditions of approval deemed necessary to protect the health, safety and public welfare.

A. Apiary is allowed in certain residential zoning districts provided that:

1. In the AG District, hives shall have a minimum separation of two-hundred (200) feet from any adjacent residences.
2. In the RR-43 District, hives shall have a minimum separation of seventy-five (75) feet from any adjacent residence.

B. Dairy Farm is allowed in certain residential zoning districts provided that the minimum site area is forty (40) acres.

C. Farm Animals. Raising and keeping farm animals is allowed in certain residential zoning districts, subject to the following:

1. In the RR-43 District:
 - a. The keeping of livestock such as cattle and horses shall be allowed at a ratio of one (1) animal per 21,780 square feet of lot area.
 - b. Small livestock such as goats and sheep shall be allowed at a ratio of two (2) animals per 21,780 square feet of lot area.
 - c. No more than two (2) swine per lot shall be allowed, excluding potbelly pigs.
 - d. Farm animals under the age of six (6) months shall not be limited to an animal per square footage ratio.
 - e. Structures for fowl shall not be located closer than seventy-five (75) feet to any neighboring residence.
2. In the RR-18 District:
 - a. All farm animals shall be contained on the property by an effective enclosure and shall not be allowed to run at large.
 - b. The property shall be maintained so that it does not create or contribute to a health nuisance caused by the presence of flies, mosquitoes or other vermin; objectionable odors or dust; ponded water or water runoff; the accumulation of manure, garbage, refuse or other obnoxious or putrescible material; or similar conditions.
3. In the R1-35 District:
 - a. The keeping of livestock such as cattle and horses shall be allowed at a ratio of one (1) animal per 21,780 square feet of lot area.
 - b. Small livestock such as goats and sheep shall be allowed at a ratio of two (2) animals per 21,780 square feet of lot area.
 - c. No more than two (2) swine per lot shall be allowed, excluding potbelly pigs.
 - d. Farm animals under the age of six (6) months shall not be limited to an animal per square footage ratio.
 - e. Fowl shall not be allowed.

D. Feed Lot for cattle is allowed in certain residential zoning districts provided that the minimum site is forty (40) acres.

E. Group Home for Persons with a Disability is allowed in certain residential zoning districts provided that:

1. The purpose of these regulations is to allow persons with a disability to reside in residential neighborhoods in compliance with the Federal and State Fair Housing Acts, while preserving the residential character of the community.
2. All group homes shall be registered with the City.
 - a. A completed registration form shall be submitted to the Zoning Administrator or designee.
 - b. Any registration request for a property that does not meet the minimum standards of the Zoning Ordinance shall not be approved.
 - c. Registration does not become effective until after a Certificate of Occupancy is issued for the group home.
 - d. Registration shall terminate when the group home use ceases.
3. All group homes shall be required to meet the following standards:
 - a. The minimum separation between group homes shall be one thousand three hundred (1,320) feet, measured in a straight line from the nearest property line.
 - b. The number of residents shall not exceed ten (10). This does not include staff.
 - c. Group homes shall comply with all applicable Building and Fire Safety regulations. These regulations may vary depending on the number of residents. The regulations for group homes with one or more non-ambulatory residents may also be different than those for group homes without non-ambulatory residents.
 - d. Group homes shall comply with all applicable licensing and certification requirements of other government agencies.
 - e. Parking for the group home shall be provided onsite and comply with the minimum requirements for single-family residences.
 - f. There shall be no sign or other exterior indication that the property is being used as a group home. This shall not prevent improvements that are necessary for compliance with the Americans with Disabilities Act.
 - g. A group home shall not house any person whose tenancy would constitute a direct threat to the health or safety of others or result in substantial physical damage to the property of others.
4. Any group home owner who believes these requirements prevent the establishment of a group home in an economically viable manner shall have the right to submit a request for accommodation to the Zoning Administrator.
 - a. The request shall be in writing and state the reason why the accommodation is needed. Sufficient facts shall be included to allow the Zoning Administrator to make a site-specific determination of need, assess the potential impact on the residential character of the neighborhood and ensure that the objectives of the Zoning Ordinance will be met.
 - b. The Zoning Administrator shall review the request in a timely manner and determine whether an accommodation should be made and if so, the nature of the accommodation. Accommodation shall be made only to the extent necessary to comply with the Federal and State law.

[65] 5. ~~These regulations do not apply to homes for the developmentally disabled as regulated by A.R.S. § 36-582, as amended, to the extent that the state preempts local zoning authority.~~

F. Guest House is allowed in certain residential zoning districts provided that:

1. A guest house shall not be rented, leased or sold separately from the principle residence or otherwise used for compensation.
2. A separate address, water meter, utility meter, driveway or parking area shall not be provided for the guest house.
3. The materials, colors and architectural style of the guest house shall be similar to the principal residence.
4. The livable floor area of the guest house shall not exceed fifty percent (50%) of the livable floor area of the principal residence.
5. A detached guest house shall meet the location, height and setback requirements in Section 7 of the Zoning Ordinance.
6. Prior to issuance of a building permit for the guest house, an approved site plan as required by Section 1 of the Zoning Ordinance shall be required.

G. Home Occupations are allowed in certain residential zoning districts, provided that in addition to all of the use limitations applicable in the zoning district in which the home occupation is located, no home occupation shall be permitted unless it complies with the following restrictions:

1. No more than twenty-five percent (25%) or four hundred (400) square feet of the floor area of the dwelling unit, whichever is less, shall be devoted to the home occupation.
2. The home occupation shall be conducted entirely within the principal dwelling unit or in a permitted accessory building thereto, and in no event shall such use be apparent from any public way.
3. There shall be no signs, no exterior display, no exterior storage of materials, and no other indication of the home occupation or variation from the residential character of the principal building.
4. No mechanical, electrical or other equipment that produces noise, electrical or magnetic interference, vibration, heat, glare or other nuisance outside the residential or accessory structure shall be used.
5. No home occupation shall be permitted which is noxious, offensive or hazardous by reason of vehicular traffic, generation or emission of noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare, refuse, radiation or other objectionable emissions.
6. Any need for parking generated by the home occupation shall be off-street. The Zoning Administrator shall determine the number of parking spaces required based on the parking provisions of this section.
7. No business vehicle shall be used in connection with the home occupation for delivery of goods to or from the premises. This provision does not preclude the delivery of mail or packages by the Postal Service or other private delivery service.
8. A maximum of one vehicle used in conjunction with the home occupation is permitted to be kept, garaged, or stored at the residence.

9. There shall be no merchandise or commodity sold upon the premises.
10. If the home occupation employs persons other than the family members residing in the dwelling used for the home occupation, such other employees shall not work in the dwelling used for the home occupation.
11. Such occupation shall not require internal or external alterations or construction features or equipment or machinery not customary in residential areas.
12. The activity shall not generate traffic beyond that which is normal in its district.

H. Public utility facility required for local service is allowed in certain residential zoning districts provided that:

1. It is required for local service.
2. There are no offices, maintenance facilities, outdoor storage or part-time employees related to the site.

204 Uses Permitted With a Conditional Use Permit

The land uses listed in the land use matrix as being permitted subject to a Conditional Use Permit shall, in addition to the process set for in Section 108 of this Zoning Ordinance, comply with the conditions listed below, if any, for the individual use. Based on review of the Conditional Use Permit application, the City Council may add additional conditions of approval deemed necessary to protect the health, safety and public welfare.

A. Assisted Living Facility may be permitted in certain residential zoning districts as a conditional use.

B. Bed and Breakfast Inn may be permitted as a conditional use in certain residential zoning districts provided that:

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1. The Bed and Breakfast Inn shall be owner-occupied. The guest rooms shall be part of the primary residence.
2. No more than four (4) rooms with a maximum of three (3) guests per room shall be allowed for the Bed and Breakfast Inn.
3. The Bed and Breakfast Inn shall not have more than one (1) commercial delivery or outside service in a twenty-four (24) hour period.
4. The conditional use permit is non-transferable and shall be subject to review and may be revoked if the use authorized therein has been exercised in violation of this Section or the approval conditions.
5. Meals shall be served only to overnight guests and residents.
6. No alteration to the exterior or interior of the residential dwelling, accessory building or yard that alters the residential character of the premises shall be permissible.
7. Off-street parking shall be at a rate of one (1) space per room.
8. Except as provided by city code and/or other regulations, no storage of commercial vehicles shall be allowed.
9. The Bed and Breakfast Inn shall not be used for the hosting of receptions, private parties or similar events.
10. A fire escape plan shall be developed and graphically displayed in each guest room. Such plan shall be filed with and approved by the City of Avondale Fire Department.
11. The Bed and Breakfast Inn shall comply with all other provisions of the zone in which it is located and with all other applicable ordinances, codes or regulations.

C. Boarding House may be permitted in certain residential zoning districts as a conditional use.

D. Child care in the home for five (5) to ten (10) children not related to the residents may be permitted as a conditional use in certain residential zoning districts provided that:

1. The residential character of the exterior of the structure shall be maintained.
2. Signs related to the home child care shall not be allowed.
3. All required licenses, certifications and registrations shall be obtained from the appropriate State or County agency prior to issuance of a business license.
4. All requirements of the City of Avondale Building Code, Fire Code and Zoning Ordinance as amended shall be complied with prior to issuance of a business license.

5. Existing garages, carports or driveways shall not be expanded, enclosed or otherwise modified to accommodate this accessory use.
6. All outdoor recreation areas shall be completely enclosed by a six (6) foot high masonry wall with self-closing and self-locking gates.
7. All swimming pools shall be secured by a barrier in conformance with the Arizona State Statutes and International Building Code (IBC), as amended.
8. Notification of the conditional use permit application shall be made to the subject home owners association management prior to the neighborhood meeting.

E. Child Care Center in conjunction with a Place of Worship may be permitted as a conditional use in certain residential zoning districts provided that such activities are on the same lot and share joint use of worship facilities. Independent free-standing signs and wall identification signs for the child care center are not allowed.

F. Convalescent Home may be permitted in certain residential zoning districts as a conditional use.

~~**G. Group Recovery Home** may be permitted in certain residential zoning districts as a conditional use.~~

H. Guest House may be permitted as a conditional use in certain residential zoning districts provided that:

1. A guest house shall not be rented, leased or sold separately from the principle residence or otherwise used for compensation.
2. A separate address, water meter, utility meter, driveway or parking area shall not be provided for the guest house.
3. The materials, colors and architectural style of the guest house shall be similar to the principal residence.
4. The livable floor area of the guest house shall not exceed fifty percent (50%) of the livable floor area of the principal residence.
5. A detached guest house shall meet the location, height and setback requirements in Section 7 of the Zoning Ordinance.
6. Prior to issuance of a building permit for the guest house, an approved site plan as required by Section 1 of the Zoning Ordinance shall be required.

I. Kennel for boarding and breeding dogs and cats with dog runs may be permitted as a conditional use in certain residential zoning districts provided that such structures are not closer than seventy-five (75) feet to any neighboring residence.

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J. Place of Worship may be permitted as a conditional use in certain residential zoning districts provided that it is located on an arterial street or at the intersection of two (2) collector streets.

K. Public utility facility, with the exception of those allowed as a Use Permitted with Conditions above, may be permitted in certain residential zoning districts as a conditional use.

L. Ranch for horses, commercial and guest, may be permitted in certain residential zoning districts as a conditional use.

M. School, Private may be permitted as a conditional use in certain residential zoning districts provided that it is located on an arterial street or at the intersection of two (2) collector streets.

N. Stable for horses, Commercial, may be permitted in certain residential zoning districts as a conditional use.