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March 18, 2022

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Re: Senator Petersen's Request to Investigate pursuant to A.R.S. § 41.194.01

Dear Attorney General Brnovich and Deputy Solicitor General Catlett:

The Town of Paradise Valley (the "Town") has received your letter of March 1, 2022, transmitting Senator Warren Petersen's Request to Investigate pursuant to A.R.S. § 41.194.01 (the "Complaint"). In response, the Town submits this letter, the attached explanation,¹ and the supporting documentation referenced therein.

The Arizona legislature has not entirely precluded local regulation over short-term rentals.² Indeed, since your office first opined on local regulation over short-term rentals, the Arizona legislature has revisited the issue, with the goal of enhancing local enforcement capabilities.³ Under current state law, the authority to regulate for health and safety, the authority to enforce zoning, nuisance, and welfare laws of general applicability, the authority to require contact information and timely response, and the authority to prohibit a list of enumerated property uses have all been delegated to local government. In these delegations, the State has left key issues to the discretion of local legislative bodies.

As you will see from the attached explanation, and from the supporting documentation referenced therein, the Town has faithfully executed its delegated power, in a manner that furthers the intent of the state legislature by implementing a tailored regulatory approach to address unique local circumstances relevant to public health and safety. As the legislature has duly recognized, local

¹ Response to Senator Petersen's Request to Investigate Town of Paradise Valley Ordinance 2022-03, attached.

² AZ. AG. OPP. I18-004 (2018).

³ See Governor's Signing Statement for H.B. 2672 ("H.B. 2672 provides a straight-forward enforcement mechanism to penalize "party house" operators for not upholding existing laws on their properties").

expertise is indispensable to matters impacting the health, safety, and welfare of Arizona's neighborhoods.

As but one example, Paradise Valley is dispersed across rugged, mountainous terrain, which provides cellular coverage problems for citizens, public safety personnel, and industry experts alike. To date, no major carrier has achieved full coverage within the Town, and a person's ability to reach 9-1-1 by cell is far from guaranteed. Town Police cars are equipped with multiple modems, to access multiple networks as necessary. Based on this local circumstance, the Town has enacted a commonsense safety regulation, requiring short-term rental operators to maintain a landline telephone.

To outsiders like Senator Petersen, landline telephones may appear to be a "significant new financial burden." But to Town residents, the public safety purpose of providing landline telephone access (at the cost of a few dollars per month) to temporary, out-of-town guests who do not know the Town's "dead zones" or, in many cases, the street address of the property they have rented, could not be clearer, particularly when many cell phones lack the technology to provide a 9-1-1 operator with location data. Senator Petersen complains that "the administrative [sic] record does not contain substantial evidence that would support an argument that requiring... installing a landline phone would help to prevent any identified public health and safety concerns." This claim reveals that the senator has not reviewed the *legislative* record. As you will see in the attached explanation, the record of the Paradise Valley Town Council is replete with evidence that the Town has diligently investigated cell coverage and the public safety implications thereof.

As you review the Town's response, I believe that you will find similar diligence applied to each challenged provision, from the Town's definition of "event center," a key term that was left undefined by the legislature, to the Town's interpretation of "a timely manner... at any time of day." In each case, the Town has exercised its delegated powers in a tailored, thoughtful way, and applied them to the Town's own local circumstances. By doing so, it has furthered the State's legislative purposes through effective implementation.

Senator Petersen complains that the Town's commonsense health and safety regulations "make it more difficult and unattractive for property owners to offer their homes as STRs," but several of the largest short-term rental platforms have already partnered with the Town to implement Ordinance 2022-03.⁴ Furthermore, many of the regulations challenged in the Complaint have been successfully and voluntarily implemented by short-term rental platforms in other jurisdictions, demonstrating that the Town is not alone in recognizing the health and safety benefits of such provisions.⁵ Indeed, some of the challenged provisions are modeled directly on the policies of major short-term rental platforms;⁶ a Town safety requirement that is already required or implemented by the major short-term rental platforms is entirely reasonable.

⁴ VRBO, Trip Advisor, and Booking.com (3 of the 4 largest short-term rental platforms).

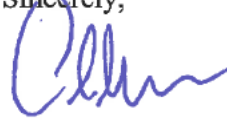
⁵ Malibu agreement with Airbnb, attached.

⁶ \$1M Liability Insurance, VRBO, <https://www.vrbo.com/liability-insurance/>.

Mark Brnovich
Arizona Attorney General
March 18, 2022
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Thank you for considering the Town's input on this matter; we will be pleased to provide any additional explanation or information you may desire.

Sincerely,



Andrew J. McGuire
Town Attorney

Attachment

ATTACHMENT 1

[Response to Senator Petersen's Request to Investigate Town of Paradise Valley Ordinance 2022-03]

See following pages.

RESPONSE TO SENATOR PETERSEN’S REQUEST TO INVESTIGATE TOWN OF PARADISE VALLEY ORDINANCE 2022-03

Introduction

On behalf of the Town of Paradise Valley (the “Town”), we respond to your letter transmitting Senator Warren Petersen’s Request for Investigation (the “Complaint”) into certain provisions of Paradise Valley Ordinance 2022-03 (the “Ordinance”). The Town Council enacted the Ordinance after months of deliberation, including several Council study sessions, and it is intended to, among other things, protect the “health, safety and welfare” of the Town—a Town Senator Petersen does not represent, and a Town in which Senator Petersen does not live. *See* Ordinance, Preamble.

Specifically, Senator Petersen complains that Paradise Valley Town Code (the “Town Code”) Sections 10-14-3(A), 10-14-3(B), 10-14-3(C), 10-14-3(D), 10-14-4(I), 10-14-5(A)(1)-(2), 10-14-5(B)(1), 10-14-5(B)(6), 10-14-5(C), and 10-14-6, as amended by the Ordinance, violate aspects of A.R.S. § 9-500.39, that Section 10-14-3(D) also violates A.R.S. § 9-841(B), and that Section 10-14-6 also violates A.R.S. § 42-1125.02. They do not.¹ As the Ordinance’s text and purpose make clear, the Town tailored its Ordinance to be consistent with and otherwise comply with these same Arizona statutes, which authorize municipalities to legislate in this space. As such, the Ordinance “[d]oes not violate” Arizona law and “the attorney general [should] take no further action” on the Complaint. A.R.S. § 41-194.01(B)(2).

Executive Summary

As explained in detail below, the Ordinance does not conflict with any state law and is, instead, authorized by A.R.S. § 9-500.39. Town Code Section 10-14-3(D) is also authorized by A.R.S. § 9-841(B). To organize the numerous allegations dispersed throughout the Complaint, the following table identifies the challenged provisions of the Ordinance, the Arizona statutes that these provisions are alleged to violate, and the reasons why no conflict exists:

¹ The Complaint and its attachment make vague reference to related to various “constitutional concerns” (e.g., free speech) and other statutory sections (e.g., “ARS 12-1131 et seq.”) with no explanation. This Office should disregard these unexplained references. As you know, this Office’s mandate is to determine whether a specific “ordinance at issue affirmatively ‘[v]iolates any provision of state law’” or the Arizona Constitution. *State ex rel. Brnovich v. City of Tucson*, 242 Ariz. 588, 592 ¶ 6, 399 P.3d 663 (2017), *as amended* (Aug. 17, 2017 (quoting A.R.S. § 41-194.01(B)(1)) (alteration in original). A legislator complaint therefore must identify what part of a specific ordinance violates a particular state law or constitutional provision. References to potential conflicts between unspecified provisions of the Ordinance and unspecified provisions of state law are not enough to “allege[]” a violation of state law under A.R.S. § 41-194.01(A), and the lack of specificity prevents this Office from analyzing such issues further. In any event, that these references are unexplained makes sense. To the extent any such arguments are discernable, they fail on their face. *See, e.g.*, A.R.S. §§ 12-1131 through 12-1138 (not prohibiting or restricting governments from regulating land and instead requiring compensation in certain circumstances not applicable here).

#	Ordinance Section	Allegedly Conflicting Statute	Reasons Why No Conflict Exists
1	10-14-4(I)	A.R.S. § 9-500.39(B)(1)-(2)	<ul style="list-style-type: none"> • Not “restricting or regulating,” as § 9-500.39(B) prohibits • Authorized by § 9-500.39(B)(1)’s “public health and safety” exemption • Authorized by § 9-500.39(B)(2)’s “zoning” exemption
2	10-14-3(A)	A.R.S. § 9-500.39(B)(1), (4)	<ul style="list-style-type: none"> • Not “restricting or regulating,” as § 9-500.39(B) prohibits • Authorized by § 9-500.39(B)(1)’s “public health and safety” exemption • Authorized by § 9-500.39(B)(4)’s “contact information” exemption
3	10-14-3(B)	A.R.S. § 9-500.39(B)(1), (4)	<ul style="list-style-type: none"> • Not “restricting or regulating,” as § 9-500.39(B) prohibits • Authorized by § 9-500.39(B)(1)’s “public health and safety” exemption • Authorized by § 9-500.39(B)(4)’s “contact information” exemption
4	10-14-3(C)	A.R.S. § 9-500.39(B)(1), (4)	<ul style="list-style-type: none"> • Not “restricting or regulating,” as § 9-500.39(B) prohibits • Authorized by § 9-500.39(B)(1)’s “public health and safety” exemption • Authorized by § 9-500.39(B)(4)’s “contact information” exemption
5	10-14-5(B)(1)	A.R.S. § 9-500.39(B)(1)	<ul style="list-style-type: none"> • Authorized by § 9-500.39(B)(1)’s “public health and safety” exemption
6	10-14-5(B)(6)	A.R.S. § 9-500.39(B)(1)	<ul style="list-style-type: none"> • Authorized by § 9-500.39(B)(1)’s “public health and safety” exemption
7	10-14-3(D)	A.R.S. § 9-500.39, A.R.S. § 9-841(B)	<ul style="list-style-type: none"> • The Ordinance is a “local law” under § 9-841(B) and, thus, authorizes these regulations • Consistent with § 9-500.39(C)’s penalty provisions • Authorized by § 9-500.39(B)(1)’s “public health and safety” exemption and subsection B’s other exemptions
8	10-14-6	A.R.S. § 9-500.39(C), A.R.S. § 42-1125.02	<ul style="list-style-type: none"> • Authorized by § 9-500.39(C)’s penalty provisions • Consistent with § 42-1125.02’s penalty provisions • Authorized by § 9-500.39(B)(1)–(4) exemptions
9	10-14-5(A)(1)-(2)	A.R.S. § 9-500.39(B)(1)	<ul style="list-style-type: none"> • Authorized by § 9-500.39(B)(4)’s “contact information” exemption • Authorized by § 9-500.39(B)(1)’s “public health and safety” exemption

10	10-14-5(C)	A.R.S. § 9-500.39(B)(1)	<ul style="list-style-type: none"> • Authorized by § 9-500.39(B)(1)'s "public health and safety" exemption
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Simply put, every provision of the Ordinance is expressly authorized by at least one Arizona statute—and some Ordinance provisions are authorized by several statutes. Accordingly, none of the Ordinance’s provisions violates Arizona law, as further explained below.

Analysis

I. The Ordinance, including the challenged provisions, does not violate state law because it is a health and safety law authorized by A.R.S. § 9-500.39(B)(1).

The Town enacted the Ordinance for the principal purpose of protecting the public’s health and safety. Its provisions fall within the scope of A.R.S. § 9-500.39(B)(1), which allows a municipality to regulate short-term rentals for the “purpose[]” of protecting the public’s health and safety. A.R.S. § 9-500.39(B)(1), which is set forth below, contains several non-exclusive examples of authorized health and safety regulations, several of which appear within the challenged provisions of the Ordinance:

Protecting the public’s health and safety, including rules and regulations relating to fire and building codes, health and sanitation, transportation or traffic control, solid or hazardous waste and pollution control, and designation of an emergency point of contact, if the city or town demonstrates that the rule or regulation is for the primary purpose of protecting the public’s health and safety.

As a threshold matter, the Town’s determination of “public health and safety,” which was delegated pursuant to A.R.S. § 9-500.39(B)(1), enjoys a presumption of validity. Regardless of this presumption, the Town’s overall purpose to protect health and safety is demonstrated in the text of the Ordinance, in contemporaneous statements of the Town Council, and in the legislative record. Moreover, the protective purpose of the Ordinance is clearly evinced by the effect of the Ordinance, and each challenged provision was developed for a specific and primary health and safety objective.

A. The Town’s determination of public health and safety is non-justiciable and, at a minimum, is entitled to considerable deference.

A.R.S. § 9-500.39(B)(1) delegated public health and safety regulation to municipalities. As such, the Town is properly charged with the determination of public health and safety; such determination may not be reasonably questioned here.

To qualify under A.R.S. § 9-500.39’s “public health and safety” exemption, the Town must “demonstrate[] that the rule or regulation is for the primary purpose of protecting the public’s health and safety.” A.R.S. § 9-500.39(B)(1). But determining the wisdom of the Town’s health and safety regulation is a non-justiciable legal issue “not susceptible to judicial resolution according to discoverable and manageable standards.” *Ariz. Sch. Bds. Ass’n, Inc. v. State*, 501 P.3d 731, 737 ¶ 23 (Ariz. 2022) (citation omitted). As the Arizona Supreme Court recently

explained, in holding that an issue was justiciable: “this matter falls within the purview of the courts because “[t]he issue here is not *what* the Legislature decided but *how* it decided what it did.” *Id.* at 738 ¶ 23. As “no mechanism is available for courts to discern the primary subject of [a legislative act],” *id.* 740 ¶ 34, no mechanism is available for courts to discern the “primary purpose” of the Ordinance, A.R.S. § 9-500.39(B)(1).

By empowering municipalities to “demonstrate” their purpose under A.R.S. § 9-500.39(B)(1), the statute delegates the determination of health and safety to municipalities like the Town. And as detailed below, the Town demonstrated its “public health and safety” purpose through the Ordinance’s text and effect, and through the legislative record. The Town’s determination is therefore entitled to, at a minimum, “considerable deference and [may be] upset . . . only if they are shown to be arbitrary and without factual justification.” *Home Builders Ass’n of Cent. Ariz. v. City of Scottsdale*, 187 Ariz. 479, 482–83 (Ariz. 1997); *cf. City of Phoenix v. Fehlner*, 90 Ariz. 13, 363 P.2d 607 (1961) (“The most that can be said [...] [is] that the reasonableness of the ordinance and its relationship to the police power are fairly debatable. The law is well settled that where there is any reasonable doubt as to the validity of the ordinance the court will not substitute its opinion for that of the legislative body”). Simply put, A.R.S. § 9-500.39(B)(1) delegated health and safety matters to the discretion of municipalities, and the Town has amply demonstrated its purpose of protecting the public health and safety.

B. In any event, the “primary purpose” of the Ordinance is protecting the public’s health and safety.

Health and safety authorizations for local lawmaking exist in several state statutes, including A.R.S. §§ 12-1134(B)(1), 9-500.39(B)(1), and 9-841(A). In interpreting such statutes, at least one court has held that the burden is on the local legislative body to demonstrate that purpose by a preponderance of the evidence. *See, e.g., Sedona Grand, LLC v. City of Sedona*, 229 Ariz. 37, 42, 270 P.3d 864 (Ct. App. 2012). Even under this framework of analysis, the Town has more than done so with respect to the Ordinance.

1. The primary purpose of the Ordinance was clearly stated by the legislative body and is clearly demonstrated by the legislative record.

The purpose of the Ordinance is evident from its text and from the legislative record. The Ordinance was enacted “for purposes related to protecting the public’s health and safety,”² and Town Code Article 14 contains the following statement of purpose:

This Article is adopted to protect the peace, health, safety, and welfare of the Town’s residents and visitors by enacting reasonable regulations that mitigate the harmful abuses common to the short-term rental of residential property within the Town while preserving property owners’ rights to rent their property in a manner that does not disturb the peace or harm public health, public safety, or general public welfare. Such harmful abuses deplete law enforcement and public safety resources and can leave other areas of the Town with compromised levels of police protection so as to create a

² *See* Ordinance, page 1.

significant threat to the safety of both citizens and police officers alike. The inclusion of a specific regulation or reference to the Town Code in this chapter does not imply the exclusion of any other applicable law.

These legislative declarations of purpose are supported by an extensive legislative record, developed over months of deliberations by the Town Council and input from Town residents.

On September 9, 2021, the Paradise Valley Town Manager introduced a summary of draft provisions of the Ordinance as an effort to develop those public health and safety regulations permitted by A.R.S. § 9-500.39.³ Through presentations by key staff, the Town established genuine health and safety issues related to short-term rentals, many of which are unique to the Town.

First, the Town established that the short-term rental market in the Town is significant and rapidly expanding. On November 18, 2021, the Town Manager reported that between January 2015 and September 2021, the number of active short-term rentals in the Town increased by more than 300% and that the average rental rate increased from about \$300 to over \$1,000 per night.⁴ The Town also showed a dramatic increase in calls-for-service at short-term rentals, with short-term rentals accounting for 19% of all noise complaints in 2019, and more than 40% of all noise complaints in 2020 and 2021.⁵

Next, the Town established that the short-term rental market in the Town is unique, due to the size, location, and value of the average Town home.⁶ This results in a uniquely high incidence of using short-term rentals for non-residential uses—including as banquet spaces and event centers.⁷ The Ordinance simply helps to ensure that short-term rentals are only used for the kinds of things short-term rental proponents testified were occurring and not for those they believed should be prohibited.⁸

³ See Town Council meeting, Sept. 9, 2021, at 00:44:00, https://paradisevalleyaz.granicus.com/player/clip/773?view_id=1&redirect=true.

⁴ Town Council meeting, Nov. 18, 2021, at 01:13:00, https://paradisevalleyaz.granicus.com/player/clip/796?view_id=1&redirect=true.

⁵ *Id.* at 01:19:55.

⁶ See Town Council meeting, Dec. 2, 2021, at 01:20:00, https://paradisevalleyaz.granicus.com/player/clip/798?view_id=1&redirect=true (Paradise Valley homes are of such size that they are regularly used as event centers and banquet spaces); see also Town Council meeting, Nov. 18, 2021, *supra*, note 4, at 02:49:18 (Resident reporting that his neighborhood has experienced over two dozen calls to police regarding issues at short-term rentals, such as noise, trespassing, public urination, trash in the street, and street fights).

⁷ *Id.*; see also Town Council meeting, Sept. 9, 2021, *supra*, note 3, at 00:44:20 (Short-term rentals being used for weddings and other large gatherings).

⁸ Town Council meeting, Dec. 2, 2021, *supra*, note 6 (The Banquet Space and Event Center definitions ensure short-term rentals are used for the kinds of things that would normally occur in a single-family home); Rep. John Kavanagh, 02/21/2019 - House Government Part 1, at 00:13:00, <https://www.azleg.gov/videoplayer/?eventID=2019021394&startStreamAt=495> (Explaining that the 2019 amendments to A.R.S. § 9-500.39 were intended to prevent party houses like those in large Paradise Valley homes from being used as event venues).

Moreover, the Town established an alarming lack of compliance by short-term rental owners with the previous Town Code Section 10-14-2. The previous Section 10-14-2 required contact information for the short-term rental's owner or owner's designee, as expressly authorized by A.R.S. 9-500.39(B)(4); however, in 2021, of the 271 properties advertised as short-term rentals in the Town, only 62 had provided the Town with the required contact information.⁹

Finally, the Town established a record of numerous "real-life" health and safety threats encountered at Town short-term rentals, including sexual assault, robbery, aggravated assault, burglary, theft, and motor vehicle theft, each of which had occurred at Town short-term rentals within a two-year period, according to the Paradise Valley Police Department.¹⁰ Additional health and safety issues reported by Town residents throughout the course of the legislative process included sex trafficking and sexually-oriented parties, apprehension of armed felons, public sexual indecency, and renters mistakenly attempting to enter neighboring properties.¹¹

Having established these unique characteristics of the short-term rental market in the Town, the Town considered the strain on public resources represented by such events, and the resulting impact on residents outside the short-term rental properties. The Paradise Valley Police Department presented examples of unruly gatherings at short-term rentals and explained the high demand on police resources presented by such gatherings. Police leaders then identified specific challenges that had arisen under then-current provisions of the Town Code and explained the impact of those challenges on the department's ability to respond to other calls for service.¹²

The Town also examined health and safety issues encountered by other jurisdictions, and solutions implemented by such jurisdictions.¹³

For a closer examination of the Town's primary health and safety purpose in enacting the Ordinance, the Town refers to the recorded public meetings of the Paradise Valley Town Council on September 9, 2021, September 23, 2021, November 18, 2021, December 2, 2021, January 13,

⁹ Town Council meeting, Jan. 13, 2022, at 00:46:46, https://paradisevalleyaz.granicus.com/player/clip/809?view_id=1&redirect=true.

¹⁰ Town Council meeting, Nov. 18, 2021, *supra*, note 4, at 01:17:00; *see* Town Council meeting, Jan. 27, 2022, starting at 03:04:00, https://paradisevalleyaz.granicus.com/player/clip/814?view_id=1&redirect=true (Extended public testimony by both residents and nonresidents regarding the frequent health and safety issues they have experienced due to short-term rentals, ranging from gunshots and parking issues blocking emergency access to trespassing and home invasion).

¹¹ *Id.*; Town Council meeting, Sept. 23, 2021, at 01:08:40, https://paradisevalleyaz.granicus.com/player/clip/777?view_id=1&redirect=true; Town Council meeting, Nov. 18, 2021, *supra*, note 4, at 02:41:35; Town Council meeting, Jan. 27, 2022, *supra*, note 10, at 03:07:00.

¹² Town Council meeting, Nov. 18, 2021, *supra*, note 10.

¹³ Town Council meeting, Nov. 18, 2021, *supra*, note 4, at 01:19:30; Town Council meeting, Jan. 27, 2022, *supra*, note 10, at 02:59:13 (Scottsdale resident shares his experience with a 20-minute "gun battle" at a nearby short-term rental; 168 rounds were fired, 17 of which hit his home while he and his family were inside).

2021, and January 27, 2022, and to the minutes, agendas and supporting materials presented to the Town Council, all of which are available on the Town’s website. Also note that this item was addressed by the Council in executive sessions on September 9, 2021, September 23, 2021, October 14, 2021, October 28, 2021, November 4, 2021, November 18, 2021, December 2, 2021, January 13, 2022, and Jan 27, 2022, as reflected on the relevant agendas. The Town further refers to the additional supporting documents, which have been placed in the custody of the Town Clerk and are available at <https://www.paradisevalleyaz.gov/DocumentCenter/View/9597/Selected-Additional-Documents-Supporting-Ordinance-2022-03> in conjunction with this response. The Town reserves the right to provide further documents and evidence in the event this matter proceeds to litigation.

2. The primary purpose of the Ordinance is clearly demonstrated by its overall effect.

An ordinance’s health and safety purposes can be self-evident. *Sedona Grand, LLC*, 229 Ariz. at 42–43. For instance, in *State v. Watson*, 198 Ariz. 48, 6 P.3d 752 (Ct. App. 2000), an ordinance prohibited accumulations of garbage, debris, and visual blight “if the result is a health or safety hazard.” 198 Ariz. at 50. There, the court held that the ordinance plainly evinced its health and safety goals in that it focused on accumulations of garbage or debris “in which, ‘insects, rodents, snakes or other harmful pests may live, breed or multiply or which may otherwise create a fire hazard.’” *Id.* at 53. “The public health and safety purpose was self-evident—insects, rodents, snakes and fire threaten human health and safety. No further evidentiary showing was necessary there because the harms to be avoided fell squarely within the core meaning of public health.” *Sedona Grand, LLC*, 229 Ariz. at 42–43 (citing *Watson*, 198 Ariz. at 53).

Similarly, in *Smith v. Beesley*, 226 Ariz. 313, 247 P.3d 548 (Ct. App. 2011), the court looked to the purpose statement of a floodplain ordinance in relation to a statewide statute. The *Beesley* ordinance had a commonsense, self-evident nexus—the logical steps from uncontrolled flood waters or improperly blocked waterways to death and destruction of property, and from stagnant waters to disease and ill-health, are easily made without an additional evidentiary showing. *Sedona Grand, LLC*, 229 Ariz. at 43 (citing *Beesley*, 226 Ariz. at 323). “In other words, the protective purpose is clearly evinced by the effect of the ordinance alone.” *Id.*

The Complaint addresses a small subset of the Ordinance while ignoring the substantial public health and safety issues addressed throughout the Ordinance. Provisions of the Ordinance not mentioned in the Complaint include those related to smoke alarms, fire extinguishers, evacuation routes, air filters, pandemic safety disinfection, pest and infestation control, sex offenders, illegal drugs, and public indecency. The Ordinance also includes rules of general applicability related to unruly gatherings, excessive noise, weapons violations, and felonious conduct. The health and safety focus of the Ordinance is overwhelming, particularly when the Ordinance is read in its entirety.

The core focus of the Ordinance, as demonstrated by the legislative record, is to address the depletion of law enforcement and public safety resources consumed by short-term rentals, which can leave other areas of the Town with compromised levels of police protection, thus creating a significant threat to the safety of both citizens and police officers. This focus plainly evinces the Ordinance’s health and safety goals by focusing on mitigating the harmful abuses common to the

short-term rental of residential property within the Town. The Ordinance has a commonsense, self-evident nexus: the logical steps from not knowing how many out-of-town renters may be hosting large events within residential neighborhoods of the Town, to a life-threatening strain on public safety resources, are easily made. Law enforcement and public safety resources simply cannot be everywhere at once; they must plan accordingly, and that is what the Ordinance allows.

For the reasons set forth below, each of the challenged provisions similarly highlights that the Ordinance falls within the exception of A.R.S. § 9-500.39(B)(1) because each was crafted in response to specific health and safety issues and otherwise does not violate state law.

II. Town Code Sections 10-14-3(A)-(D) do not violate state law for multiple reasons.

First, certain aspects of Town Code Section 10-14-3(A)–(C) do not even implicate, and thus cannot violate, A.R.S. § 9-500.39. A.R.S. § 9-500.39(B) limits municipalities’ authority only narrowly: they may “not restrict the use of or regulate” short-term rentals in certain ways. Municipalities thus still may legislate when that legislation does not “restrict the use of or regulate” the rental—meaning to limit how that rental is used or to require it be used in certain ways. Falling outside those legislative limits are laws requiring a person to provide or verify certain information.

Here, many of the Ordinance’s provisions do not limit how a short-term rental may be used; they simply seek information or verifications from the rental’s owner. This information includes the owner’s “name and contact information,” the rental’s “physical address” and “landline” number, and the “emergency contact” and “designated local contact person.” Town Code Sections 10-14-3(A)(1)(a)–(e); *see also id.* 10-14-3(B)(1) and (C)(1)–(2) (requiring similar information). The Ordinance similarly establishes a procedure by which the Town can verify these and the Ordinance’s other requirements (e.g., by requiring owners to “register” on “a form or platform specified by the Town”). *Id.* 10-14-3(A); *see also id.* 10-14-3(B)(1)–(3), (C)(3)–(4) (requiring similar information and verifications). By soliciting or verifying this information—rather than limiting or mandating the rental’s use in certain ways—these requirements do not qualify as “restrict[ing] the use of or regulat[ing] [these rentals],” as A.R.S. § 9-500.39(B) prohibits. *See Raven Rock Const., L.L.C. v. Bd. of Sup’rs of Maricopa Cty.*, 207 Ariz. 135, 140, 83 P.3d 613 (Ct. App. 2004) (“[W]e disagree with [the plaintiff] that these requirements [requiring the plaintiff to submit information to Maricopa County] constitute a regulation of property. . . because an insistence on a verification of the classification of the property does not constitute a restriction on the property but is a matter of procedure only”). Therefore, because A.R.S. § 9-500.39(B) does not bar these requirements, these provisions of Town Code Sections 10-14-3(A)–(C) do not conflict with A.R.S. § 9-500.39.

Second, Town Code Sections 10-14-3(A)–(C) cannot violate A.R.S. § 9-500.39(B)(4), as the Complaint implies. Subsection (B)(4) allows the Town to “regulate” short-term rentals for the “purpose[]” of “[r]equiring the owner of a vacation rental or short-term rental to provide the city or town with contact information for the owner or the owner’s designee who is responsible for responding to complaints in a timely manner in person, over the phone or by email at any time of day before offering for rent or renting the vacation rental or short-term rental.”

The Ordinance does exactly that. It requires owners of short-term rentals, while registering their rental, to provide “[t]he name and contact information of the Owner” or its “statutory agent,” the

short-term rental’s “physical address,” “[t]he name, address, and contact information of the Owner or Owner’s designated local contact person who is responsible for responding to complaints,” and “[t]he name, address, and contact information of the person the Owner designated as an emergency contact.” Town Code Sections 10-14-3(A)(1)(a)–(d); *see also id.* (B)(1). These provisions fall squarely within A.R.S. § 9-500.39(B)(4)’s “contact information” exemption.

Further, the Town has implied powers to implement those powers delegated by the State. Delegation of powers by legislature—Municipal powers under Dillon’s Rule, 2 McQuillin Mun. Corp. § 4:11 (3d ed.); *see also Maricopa Cty. v. Maricopa Cty. Mun. Water Conservation Dist. No. 1*, 171 Ariz. 325, 328, 830 P.2d 846 (Ct. App. 1991) (“The general rule is that municipal corporations possess and can exercise those powers expressly conferred, those necessarily or fairly implied in or incident to the powers expressly conferred, or those essential to the accomplishment of the corporation’s declared objectives and purposes.”); *see also Home Builders Ass’n of Cent. Arizona v. City of Apache Junction*, 198 Ariz. 493, 498, 11 P.3d 1032 (Ct. App. 2000) (observing generally that municipalities have the powers that arise by “necessary implication out of those that are expressly granted”).

Implied in A.R.S. § 9-500.39(B)(4) is the Town’s power to implement a registration process through which such owners or their designees may provide to the Town the information required. Surely, the state expected local governments to implement registration systems to facilitate the information collection process, which information is not limited to the narrow focus of A.R.S. § 9-500.39(B)(4).¹⁴

Third, Town Code Sections 10-14-3(A)-(D) were enacted with the primary purpose of protecting the public’s health and safety by ensuring an effective point of contact and providing the police department with sufficient information to allocate manpower effectively. The sections provide the Town the information necessary to the Town to carry out its public safety mission as permitted by A.R.S. § 9-500.39(B)(1).

As established in the legislative record, short-term rental activity in the Town has increased by more than 300% over the last few years, and now represents hundreds of rentals per month. The average price of such rentals is now more than \$1,000 per night, and the number used for nonresidential purposes including concerts and large parties is significant. In 2020, the average time on-scene for police officers responding to problems at a short-term rental was 394 minutes, and some responses required the presence of every on-duty officer in the Town.¹⁵ In each of the last two years, short-term rentals were responsible for more than 40% of noise complaints.

As these facts clearly demonstrate, short-term rentals have a significant impact on public safety resources. Town Code Section 10-14-3 merely provides advance information regarding how many

¹⁴ Rep. John Kavanagh, 02/21/2019 - House Government Part 1, *supra*, note 8, at 00:22:00, (Opining about the need to be able to directly contact short-term rental owners to deal with problems arising on their property, which necessitates having all of the relevant information needed to make such contact).

¹⁵ Arizona Capitol Time, December 3, 2021, <https://azcapitoltimes.com/welcome-ad/?retUrl=/news/2021/12/03/parties-at-short-term-rentals-can-be-risky/>.

short-term rentals will be occupied at a given time, allowing the Town to appropriately mobilize and allocate its limited public safety resources.

III. Town Code Section 10-14-5(B)(1) does not violate state law; its primary purpose is to protect the public’s health and safety.

Town Code Section 10-14-5(B)(1) was enacted to protect the public’s health and safety by ensuring appropriate insurance coverage for rental properties within the Town, where average home size and value are high, with median home prices well over three million dollars.¹⁶

Town Code Section 10-14-5(B)(1) contains two requirements—both with the purpose of public health and safety. *First*, Section 10-14-5(B)(1)(a) requires owners of short-term rentals to have, either directly or indirectly, a minimum amount of liability insurance. By requiring this insurance coverage, the Ordinance is seeking to protect persons at short-term rentals who may be harmed while on the property and who may require medical treatment.

Second, Section 10-14-5(B)(1)(b) requires owners to “[e]nsure their [s]hort-[t]erm [r]ental meets the requirements of this subsection B.” This subsection also contains other provisions clearly intended for the purpose of public health and safety, like satisfying “the minimum standards for habitable structures” and providing a working smoke alarm and carbon monoxide alarm system,” a “fire extinguisher,” “a map” showing “safe routes of egress in the event of a fire or other emergency,” and a “landline telephone or modern equivalent with the ability to call 911.” Town Code Sections 10-14-5(B)(2)–(4), (6). All these provisions are for the purpose of keeping guests safe and healthy. *See City of Golden Valley v. Wiebesick*, 899 N.W.2d 152, 166–67 (Minn. 2017) (“As the City’s code states, housing inspections protect public health, safety, and welfare by ensuring that rental units meet the minimum standards of safety and functionality. The public has a strong interest in preventing dangerous conditions from developing, even unknown or unintentionally, that would be hazardous to the tenants, their neighbors, and the citizens of the City as a whole.” (citation omitted)). As such, all these provisions are consistent with A.R.S. § 9-500.39(B)(1)’s “public health and safety” exemption.

Insurance coverage is an objectively reasonable requirement and has been recognized as such within the short-term rental industry. In fact, some of the larger hosting platforms include this insurance as part of the service they provide.¹⁷ Not all short-term rentals are hosted through platforms that offer such services. Therefore, the Town has elected to require insurance to protect the public health and safety, in much the same way Airbnb and VRBO have elected to protect the health and safety of their hosts and guest with very similar insurance requirements.

IV. Town Code Section 10-14-5(B)(6) does not violate state law; its primary purpose is to protect the public’s health and safety.

¹⁶ See Redfin report on home values in Paradise Valley, attached hereto as Exhibit A, (Median home price \$3.2M); *see also* Realtor.com report on recently sold homes within the Town, attached hereto as Exhibit B, (Median listing price \$3.7M).

¹⁷ Host liability insurance, Airbnb, <https://www.airbnb.com/help/article/937/host-liability-insurance>; \$1M Liability Insurance, VRBO, <https://www.vrbo.com/l/liability-insurance/>.

Town Code Section 10-14-5(B)(6) was enacted to protect the public’s health and safety by ensuring a reliable means of emergency communication, given the Town’s uniquely dispersed layout and unreliable cell coverage.¹⁸

The Town is characterized by large, expensive homes,¹⁹ large lots,²⁰ rugged terrain,²¹ and objectively terrible cell coverage.²² Town Police vehicles are each equipped with two modems, from separate carriers, to enhance connectivity; the carriers are changed every three years, after analysis of then-current coverage maps.²³ Town Police commonly encounter visitors at short term-rentals who do not know the address or street location of the property.²⁴ Emergency dispatchers are frequently unable to identify the location of a call based on cell phone tower data alone.²⁵

The Town has been working to improve cell coverage for many years and has operated a “Cell Coverage Task Force” to look into the issue since 2018.²⁶ After years of working closely with major network operators, third-party consultants, and community groups, significant, persistent coverage gaps continue to affect subscribers on every major network.²⁷

This creates two primary health and safety concerns: (1) A renter may not be able to get cell service to call for emergency services; and (2) A renter may not be able to direct emergency services to the location of the rental.

These health and safety concerns, as applied to Town visitors staying at short-term rental properties, were thoroughly considered by the Town, and that consideration is well-documented in the legislative record of the Town Council. Based on this record, the Ordinance requires “every floor of the [s]hort-[t]erm [r]ental” to be equipped with a “landline telephone or modern equivalent with the ability to call 911 and receive inbound calls.” Town Code Sections 10-14-5(B)(6). By requiring a telephone that can be used for emergency calls, the Ordinance seeks to protect guests in the case of an emergency. This protection is particularly important in the Town, as detailed above, where many areas receive little to no cellphone coverage. As such, Town Code Section 10-14-5(B)(6) is for the primary purpose of public health and safety and, thus, does not violate A.R.S. § 9-500.39(B)(1).

¹⁸ Cell Phone Coverage, <https://www.paradisevalleyaz.gov/683/Cell-Phone-Coverage> (Showing weak cell signal and inadequate coverage).

¹⁹ *Supra*, note 16.

²⁰ Lot size comparison, *Town v. Maricopa County*, and livable sq. ft. comparison, *Town v. Maricopa County*, attached hereto as Exhibit C.

²¹ Topographical maps of the Town, attached hereto as Exhibit D.

²² *Supra*, note 18.

²³ *See* Town Council meeting, Nov. 18, 2021, *supra*, note 4, at 01:35:00; *see also* Town Council meeting, Dec. 2, 2021, *supra*, note 6, at 01:03:00, and Town Council meeting, Jan. 27, 2022, *supra*, note 10, at 02:05:00.

²⁴ *See* Town Council meeting, Nov. 18, 2021, *supra*, note 4, at 01:33:00 and 01:52:30; *see also* Town Council meeting, Dec. 2, 2021, *supra*, note 6, at 01:20:00.

²⁵ *See* Town Council meeting, Nov. 18, 2021, *supra*, note 4, at 01:33:00.

²⁶ Cell Coverage Task Force Update, December 6, 2018, attached hereto as Exhibit E.

²⁷ TOPV: Wireless Service Provider Coverage Benchmark Results, May 10, 2021, attached heret as Exhibit F.

V. Town Code Section 10-14-4(I) also does not violate state law; it is consistent with A.R.S. § 9-500.39(F) by prohibiting nonresidential use.

Town Code Section 10-14-4(I) does not violate state law. Instead, it is consistent with—and nearly identical to—state law and other pre-existing Town laws, which uniformly prohibit the use of short-term rentals (and all residentially zoned property in the Town) for “nonresidential uses” absent a permit. Town Code Section 10-14-4(I) thus does not and cannot run afoul of A.R.S. § 9-500.39(B), because it does not “restrict the use of or regulate vacation rentals or short-term rentals” at all; it simply restates or incorporates other rules that already apply.

To begin, Section 10-14-4(I) is nearly identical to A.R.S. § 9-500.39(F). That statute provides that: “A vacation rental or short-term rental may not be used for nonresidential uses, including for a special event that would otherwise require a permit or license pursuant to a city or town ordinance or a state law or rule or for a retail, restaurant, banquet space, or other similar use.” (emphasis added). Similarly, Town Code Section 10-14-4(I) provides that “Except when permitted by a Special Event permit under Article 8-8, no Short-Term Rental or Vacation Rental may be used for any Nonresidential Uses, including but not limited to, an event that requires a permit or license pursuant to a Town ordinance or State law or rule; a retail, restaurant, Banquet Space, Event Center, or other similar use, such as weddings and pop-up bars; or any use prohibited in a residentially-zoned district pursuant to the Zoning Ordinance.” (emphasis added). Surely, this provision of the Ordinance—which essentially repeats A.R.S. § 9-500.39(F)—does not “violate” that very statute.

Nonetheless, the Complaint implies that the Town has improperly defined the term “Event Center” for the purposes of prohibiting non-residential uses. But the Complaint cites to no case or provision of the statute that prohibits the Town Council from specifying the meaning of “Event Center” consistent with the statute. To the contrary, it is necessarily implied by the lack of statutory definition that the Town should provide for a definition to inform renters of the limitations on use of a single-family residence.

Testimony by Rep. Kavanagh during consideration of HB 2672, First Regular Session of the Fifty-Fourth Legislature (“HB 2672”) makes it clear that the very purpose of the amendments in that bill were to address the problems of homes, including those in the Town, that were essentially serving as event centers.

You literally have some homes that are now nothing but event venues – hundreds of people show up, busses pull up, there’s a couple places [in] **Paradise Valley** ...where the neighbors are being tormented because they have massive parties, much of it outdoors in the backyard; they even advertise on social media, you know, come there. They started actually selling alcoholic beverages before they had to turn it into bring your own booze, because they were violating liquor laws.

Chairman John Kavanagh, Regular Meeting of the House Committee on Government, 02/21/2019 (emphasis added).²⁸

HB 2672 added A.R.S. § 9-500.39(F) to specifically prohibit use of vacation rentals or short-term rentals for nonresidential uses. Importantly, the statutory definition of “vacation rental or short-term rental” does not include “a unit that is used for any nonresidential use, including retail, restaurant, banquet space, event center or another similar use.” By Rep. Kavanagh’s testimony, it is clear the legislature understood that large homes in the Town were (and are) substituting for commercial event centers, and HB 2672 was intended to enhance the tools available to municipalities to prohibit those non-residential uses. Town Code Section 10-14-4(I) simply builds upon the language of A.R.S. § 9-500.39(F) in a manner specifically allowed and intended.

Moreover, the definition of “Nonresidential Use” as used in Town Code Section 10-14-4(I), simply incorporates other Town Code sections, which apply to residential properties regardless of short-term-rental or vacation-rental status. Specifically, “Nonresidential Use” means a use already prohibited by the Town Zoning Code, by Town Code Section 8-8-4 (governing special events), or by Town Code Article 10-13 (governing unruly gatherings). And the very definition of “Vacation Rental” or “Short Term Rental” excludes Event Centers, independent of Section 10-14-4(I).

Accordingly, by simply repeating rules that already apply under state or other Town law, Section 10-14-4(I) does not “restrict the use of or regulate vacation rentals or short-term rentals” at all. A.R.S. § 9-500.39(B). But even if it did, Section 10-14-4(I) treats short-term rentals on the same basis as similarly classified residential property, and therefore is permissible under A.R.S. § 9-500.39(B)(2). It does this through the defined term “Nonresidential Use.” As a defined term, “Nonresidential Use” consolidates three types of use, each of which is a prohibited use of any similarly classified property. See AZ. AG. OP. I18-004 (explaining that “the plain language of [A.R.S. § 9-500.39(B)(2)] explicitly provides that counties and municipalities can regulate vacation and short-term rentals in their jurisdictions by enforcing residential use and zoning ordinances”). Just as a person is not allowed to rent her primary residence as a commercial event center for the purpose of holding weddings and other events, a person is not allowed to rent her short-term rental for the purpose of holding weddings and other events.

Finally, Section 10-14-4(I) also is authorized under A.R.S. § 9-500.39(B)(1)’s public health and safety exemption. Again, this exemption authorizes a “town [to] regulate [STRs] for the” “purpose[.]” of “[p]rotecting the public’s health and safety.” A.R.S. § 9-500.39(B)(1). Here, Section 10-14-4(I) does exactly that. It stops short-term rentals from being used for “Nonresidential Uses,” meaning “any use that is not permitted in a residential zoning district pursuant to the Zoning Ordinance, any use that constitutes an Unruly Gathering, as used in Article 10-13, and any use for which entrants pay an entry fee.” Town Code Section 10-14-2. Prohibiting these uses thus serves the purpose of public health and safety. See *State v. Watson*, 198 Ariz. 48 (App. 2000) (concluding that an ordinance prohibiting accumulations of garbage or debris was for the purpose of public health and safety).

²⁸ Rep. John Kavanagh, 02/21/2019 – House Government Part 1, *supra*, note 8, at 00:13:30.

VI. The penalty provisions of Town Code Sections 10-14-3(D) and 10-14-6 do not violate A.R.S. § 9-500.39(C) and A.R.S. § 42-1125.02.

The provisions of A.R.S. § 9-500.39(C) and A.R.S. § 42-1125.02 do not prohibit enforcement action by a local jurisdiction; to the contrary, these statutes make explicit allowances for such enforcement. *See Jett v. City of Tucson*, 180 Ariz. 115, 121, 882 P.2d 426 (1994) (local provisions are effective when “capable of peaceful coexistence” with state law). The penalty provisions of Town Code Sections 10-14-3(D) and 10-14-6 thus do not violate A.R.S. § 9-500.39(C) and A.R.S. § 42-1125.02.

A.R.S. § 9-500.39(C) works in tandem with A.R.S. § 42-1125.02, to provide a supplemental, state-level enforcement mechanism following Town enforcement. The relevant language reads as follows:

C. Within thirty days after a verified violation, a city or town shall notify the department of revenue and the owner of the vacation rental or short-term rental of the verified violation of the city's or town's applicable laws, regulations or ordinances and, if the owner of the vacation rental or short-term rental received the verified violation, *whether the city or town imposed a civil penalty on the owner of the vacation rental or short-term rental and the amount of the civil penalty, if assessed*. If multiple verified violations arise out of the same response to an incident at a vacation rental or short-term rental, those verified violations are considered one verified violation for the purpose of assessing civil penalties pursuant to section 42-1125.02, subsection B.

A.R.S. § 9-500.39(C) (emphasis added).

B. If an online lodging operator received a verified violation, the online lodging operator shall pay the following civil penalty:

1. For a first verified violation received for a property, either:

(a) *If the city, town or county did not impose a civil penalty on the online lodging operator for the verified violation, \$500.*

(b) *If the city, town or county imposed a civil penalty on the online lodging operator for the verified violation, the difference between the amount prescribed in subdivision (a) of this paragraph and the amount of the civil penalty the city, town or county imposed on the online lodging operator for the verified violation.*

A.R.S. § 42-1125.02 (B)(1) (emphasis added) (similar if-then language applied to second and third violations by A.R.S. §§ 42-1125.02(B)(2) and (B)(3)).

As explained below, these provisions were intended to enhance local enforcement efforts. Indeed, A.R.S. § 9-500.39(C) (and therefore, A.R.S. § 9-500.39(D) and A.R.S. § 42-1125.02(B)) cannot operate without local enforcement, because the provisions of those statutes are predicated upon

“verified violation of the city’s or town’s applicable laws.” Without Town enforcement, A.R.S. §§ 9-500.39(C) and 42-1125.02(B) would be of no effect within the Town.

The Ordinance’s enforcement provisions also are authorized by A.R.S. § 9-500.39(B)’s exemptions. These exemptions, again, authorize the Town to regulate short-term rentals for certain purposes. *See* A.R.S. § 9-500.39(B)(1)–(4). To give these regulations teeth and allow the Town to enforce them, the Ordinance thus enacted reasonable enforcement measures. These measures similarly qualify under the statutory exemptions. Town Code Sections 10-14-3(D) and 10-14-6(D) therefore are authorized by A.R.S. § 9-500.39(B)(1)–(4).

VII. Town Code Section 10-14-3(D) is not prohibited by A.R.S. § 9-841(B).

With little explanation, the Complaint also argues that Town Code Section 10-14-3(D) violates A.R.S. § 9-841(B). The prohibition contained in A.R.S. § 9-841(B) is subject to the exception “unless authorized by federal, state or local law.” The Ordinance is local law. *See* Local Law, Black’s Law Dictionary (11th ed. 2019) (defining “local law” in part as a “statute that relates to or operates in a particular locality rather than the entire state” and “[t]he law of a particular jurisdiction, as opposed to the law of a foreign state”). So, by authorizing these regulations, the Ordinance does not violate A.R.S. § 9-841(B).

Even assuming this statute is applicable, under A.R.S. § 9-841(B), “a city or town may not apply a regulation to a qualified marketplace platform *if the purpose of that regulation is to regulate a business that provides goods or services directly to the customer.*” (emphasis added). Here, the Town enacted Town Code Section 10-14-3(D) “to protect the peace, health, safety, and welfare of the Town’s residents and visitors” Town Code Section 10-14-1 (expressly stating the purpose for which the Town adopted Article 10-14, Short-Term Rentals Responsible Party Requirements and Other Violations). The Town’s expressed purpose is sufficient to establish that it was not enacted for the purpose of regulating a business that provides goods or services directly to the customer. *See Salib v. City of Mesa*, 212 Ariz. 446, 452, 133 P.3d 756 (Ct. App. 2006), as corrected (May 5, 2006) (*citing Get Outdoors II, LLC v. City of San Diego*, 381 F. Supp. 2d 1250, 1266 (S.D. Cal. 2005), *aff’d sub nom. Get Outdoors II, LLC v. City of San Diego*, Cal., 506 F.3d 886 (9th Cir. 2007) (holding that a statement of purpose accompanying a regulation which clearly states that the regulation’s purpose was aesthetics is sufficient to show that the regulation directly advances the governmental interest)).

VIII. Town Code Section 10-14-5(A)(1) does not violate local law; among other things, it faithfully implements A.R.S. § 9-500.39(B)(4).

Town Code Section 10-14-5(A)(1) is consistent with A.R.S. § 9-500.39(B)(4). Again, A.R.S. § 9-500.39(B)(4) authorizes municipal laws for the “purpose[.]” of requiring an owner ‘to provide the city or town with contact information for the owner or the owner’s designee who is responsible for responding to complaints *in a timely manner* in person, over the phone or by email *at any time of day* before offering for rent or renting the vacation rental or short-term rental. (emphasis added)

Read together, the ordinary meanings of the words “in a timely manner” and “at any time of day” imply a clear goal of immediacy. *See, e.g., Timely*, Black’s Law Dictionary (11th ed. 2019) (defining timely as “[w]ithin a specified deadline; in good time”). Read alone, a “timely manner”

implies that time is of the essence but allows some room for interpretation. The additional language “at any time of day” narrows the scope of that timeliness, by eliminating the possibility of “next-day,” “business hour,” “earliest convenience,” or similar interpretations. *See Any*, Oxford English Dictionary (any is “used to refer to a member of a particular group or class without distinction or limitation,” e.g., “any time”). Together, this language clearly contemplates an immediate response, or a response timeframe dictated by the triggering circumstance, including immediate response to pressing public safety issues.

The statute also expressly allows municipalities to make laws for the “purpose[.]” of requiring response “in person, over the phone, or by email.” This language is included within the same clause as the language dictating immediacy of responses. So, the statute expressly allows the Town to make laws to require immediate responses, in person or otherwise. *See Nicaise v. Sundaram*, 245 Ariz. 566, 568 ¶ 11 (2019) (“We interpret statutory language in view of the entire text, considering the context and related statutes on the same subject.”).

In Town Code Section 10-14-5(A)(1), the Town has implemented this statutory provision through a two-tiered response requirement, whereby “timeliness” and response method are each dictated by exigency. When public safety personnel are required at a short-term rental, a “timely response” must be in person and within one hour, as the Town’s public safety personnel should not be delayed from returning to their duties because of a slow response by the representative. In other situations, a “timely response” must occur within 24 hours and may occur by any of the statutorily authorized means (in person, by telephone, or by email).²⁹ As a result, Town Code Section 10-14-5(A)(1) is expressly permitted by A.R.S. § 9-500.39 and does not conflict with it.

IX. Town Code Sections 10-14-5(A)(2), and 10-14-5(C) are reasonable, enacted within the scope clearly authorized by A.R.S. § 9-500.39, to give effect to the health and safety provisions of the Ordinance.

The transient residents of short-term rentals are, by definition, not regular residents of the Town, and cannot be expected to know all Town regulations. Town Code Sections 10-14-5(A)(2) and 10-14-5(C) implement the Town’s expressly delegated authority to protect health and safety, to prohibit the housing of sex offenders, and to enforce nuisance, welfare, and zoning laws of general application, by informing renters of the relevant and statutorily authorized Town law.

Again, towns have broad power to exercise rights expressly granted by the state. *City of Flagstaff v. Associated Dairy Products Co.*, 75 Ariz. 254, 255 P.2d 191 (1953). Here, the state expressly conferred upon the Town the power to regulate vacation rentals or short-term rentals for “purpose[s]” of the protection of health and safety, the prevention of sex offender housing, and the enforcement of nuisance, welfare, and zoning laws of general application.

Town Code Sections 10-14-5(A)(2) and 10-14-5(C) were enacted to protect the public’s health and safety by ensuring that renters are reliably apprised of the rules and regulations applicable to their use of the short-term rental—rules related to public health and safety. As established above,³⁰

²⁹ For the same reasons, Town Code Section 10-14-5(A)(1) is authorized by A.R.S. § 9-500.39(B)(1) because its primary purpose is to “protect[] the public’s health and safety.”

³⁰ *Supra*, notes 6, 9, and 11.

parking, noise, trash, Special Event and Nonresidential Uses, and emergency access to residential properties have all been issues the Town has faced with short-term rental properties. While renters of such properties might be generally aware of what might usually be required of them at a short-term rental, it has become evident that people do not know local rules and regulations.³¹ Accordingly, the Town adopted this two-step approach to inform renters of some requirements upfront, such as meeting the owner in person and not using the property to house sex offenders, and then inform them of everything else upon arrival, such as, but not limited to, parking restrictions, restrictions on noise and amplified sound, trash collection schedules, Special Event and Nonresidential Use restrictions, and fire evacuation routes.

Furthermore, Town Code Section 10-14-5(A)(2) was enacted to protect the public's health and safety by helping renters locate short-term rentals and preventing them from mistakenly trespassing on private property. As discussed above, and as is thoroughly documented in the legislative record, the Town is characterized by rugged, mountainous terrain. It is also characterized by large lots, upon which houses are set far back from the road and often blocked by vegetation. It is also characterized, in many areas, by a complete lack of streetlights. Under these local circumstances, lost renters are more than a hypothetical possibility; they are a frequent occurrence within the Town. Public input to the Ordinance included one resident who "almost shot" two women attempting to enter his home, having mistaken it for their neighboring short-term rental.³²

In the end, the requirements of Sections 10-14-5(A)(2) and 10-14-5(C) inherently further the Town's public health and safety goals, as the harms to be avoided fall squarely within the core meaning of public health and safety. *See Sedona Grand*, 229 Ariz. at 42–43.

X. The Ordinance furthers the intent of the Arizona legislature.

Overall, Senator Petersen vaguely complains that the Ordinance has, somehow, violated "S.B. 1350," which is codified at A.R.S. § 9-500.39. But as explained above, each of the Ordinance's provisions is carefully designed to comply with and complement A.R.S. § 9-500.39. This conclusion is further bolstered by the legislative intent of A.R.S. § 9-500.39 and its supporting statutes, including more recent amendments and updates. In particular, the Complaint ignores the significance of HB 2672.

HB 2672 included three significant amendments to the State's short-term rental provisions:

- Adding A.R.S. § 9-500.39(B)(4), requiring a "timely" response "at any time of day;"
- Adding A.R.S. § 9-500.39(C), (D), and A.R.S. § 42-1125.02 (B), together establishing the concept of a "verified violation," by which additional state-level penalties might apply to violations established by municipalities; and

³¹ Town Council meeting, Nov. 18, 2021, *supra*, note 4, at 02:41:35 and 02:49:18; Town Council meeting, Jan. 27, 2022, *supra*, note 10.

³² *See* Washington Post, March 16, 2022,

<https://www.washingtonpost.com/travel/2022/03/16/airbnb-miami-guest-wrong-house/>
(Short-term rental guest entering wrong Miami Airbnb location).

- Adding A.R.S. § 9-500.39(F), prohibiting nonresidential uses including special events, or use as a retail space, restaurant, or banquet space.

These were purposeful amendments by the Arizona legislature, aimed at a persistent problem recognized by Arizona municipalities, including the Town. In his May 21, 2019 signing statement, Governor Ducey summarized these provisions as “a straight-forward enforcement mechanism to penalize ‘party house’ operators for not upholding existing laws on their properties.” And as the legislative record reveals, many of the “party houses” targeted by these amendments were *located in the Town*:

You literally have some homes that are now nothing but event venues – hundreds of people show up, busses pull up, there’s a couple places [in] **Paradise Valley** ...where the neighbors are being tormented because they have massive parties, much of it outdoors in the backyard; they even advertise on social media, you know, come there. They started actually selling alcoholic beverages before they had to turn it into bring your own booze, because they were violating liquor laws.

Chairman John Kavanagh, Regular Meeting of the House Committee on Government, 02/21/2019 (emphasis added).³³

The fact that these provisions were enacted to improve enforcement, and specifically to help Towns, *including Paradise Valley*, combat “party houses,” provides important context for the Ordinance, and in particular for Town Code Sections 10-14-4(I), 10-14-5(A)(1), and 10-14-6.

As described above, Town Code Section 10-14-4(I) parrots the “special events, retail spaces, restaurants, and banquet spaces,” language in A.R.S. § 9-500.39(F), and interprets “similar uses” to include “Event Centers, weddings, and pop-up bars.” Understanding that A.R.S. § 9-500.39(F) is aimed at “party houses” confirms this interpretation; the common understanding of a “party house” would include homes rented to be used for non-residential events, wedding celebrations, or events based around the consumption of alcohol.

What [S.B. 1350] basically does is it creates commercial business operations in residential communities. There’s zoning that says you can’t operate businesses like event houses in a residential neighborhood. I purchased a property in a residential neighborhood, I didn’t expect there’d be a catering hall or an event venue next to me with parties every weekend. So it was the legislature which changed the character of communities by exempting these types of businesses from local zoning ordinances and now [with H.B. 2672] we’re coming in not to reverse that and restore the original character but at least to get rid of the really bad players so it’s not unbearable to some people.

Chairman John Kavanagh, Regular Meeting of the House Committee on Government, 02/21/2019 (emphasis added).³⁴

³³ Rep. John Kavanagh, 02/21/2019 – House Government Part 1, *supra*, note 8, at 00:13:30.

³⁴ Rep. John Kavanagh, 02/21/2019 – House Government Part 1, *supra*, note 8, at 00:22:11.

Similarly, as described above, Town Code Section 10-14-5(A)(1) implements A.R.S. § 9-500.39(B)(4), by interpreting the words “timely manner... at any time of day” to describe an immediate response to public safety matters, which the Town has encoded as “within one (1) hour” for incidents requiring public safety presence at a short-term rental. Section 10-14-5(A)(1) further clarifies that the owner is expected to help “abate” such incidents upon arrival. Understanding that A.R.S. § 9-500.39(B)(4) was enacted to help combat “party houses” confirms this interpretation; the requirement of a “timely response . . . at any time of day” is intended as a tool to help disperse wild parties. A next-day response by email, for example, would not serve this legislative purpose.

Finally, as described above, Town Code Section 10-14-6 works together with A.R.S. § 500.39(C) and A.R.S. § 42-1125.02, the provisions of which account for municipal enforcement. Understanding that A.R.S. § 9-500.39(B)(4) was enacted to help combat “party houses” confirms this interpretation; as the Governor explained, an “enforcement mechanism” was necessary because “party house” property owners fail “to uphold existing laws on their properties.” HB 2672 thus solidified the legislature’s intent to provide municipalities with additional tools to prevent “party house” owners from continuing to flout the law.

In sum, there no conflict between the Ordinance and A.R.S. § 9-500.39. To the contrary, the Ordinance intentionally implements and closely tracks the intent of A.R.S. § 9-500.39, including its recent amendments.

Conclusion

For the reasons discussed above and supported by the documentation referenced herein, no part of the Ordinance conflicts with any cited provision of State law. Therefore, the Town respectfully requests that you “take no further action” on the Complaint. A.R.S. § 41-194.01(B)(3).

EXHIBIT A

[Redfin report on home values in Paradise Valley]

See following pages.



City, Address...



Buy ▾

Sell ▾

Mortgage ▾

Real Estate Agents ▾

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Paradise Valley Housing Market

Homes for Sale

Trends

Demand

Recent Sales

School

In February 2022, Paradise Valley home prices were up 37.4% compared to last year, selling for a median price of \$3.2M. On average, homes in Paradise Valley sell after 81 days on the market compared to 79 days last year. There were 54 homes sold in February this year, down from 63 last year.

Paradise Valley Housing Market Trends

Median Sale Price

All Home Types

Median Sale Price (All Home Types)

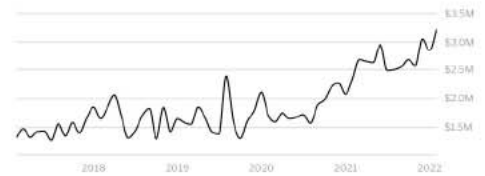
\$3,230,000

+37.4% YoY | Feb 2022

1y

3y

5y



Share

Embed

Location

Data
Feb 2022

Growth
% YoY

Paradise Valley,
AZ

\$3,230,000

+37.4%

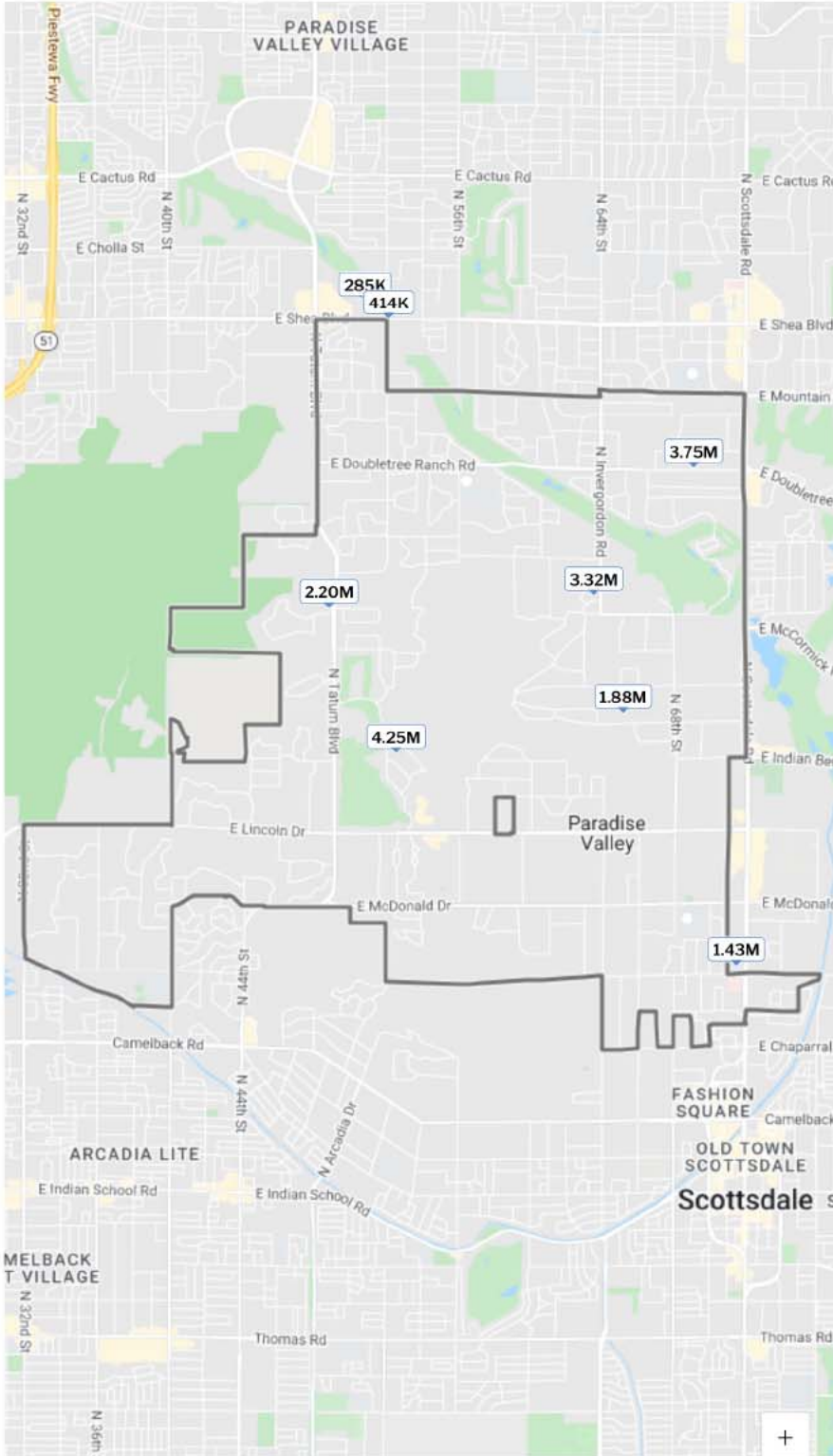
United States



Add Location



Compare to US housing market trends



Layers ^



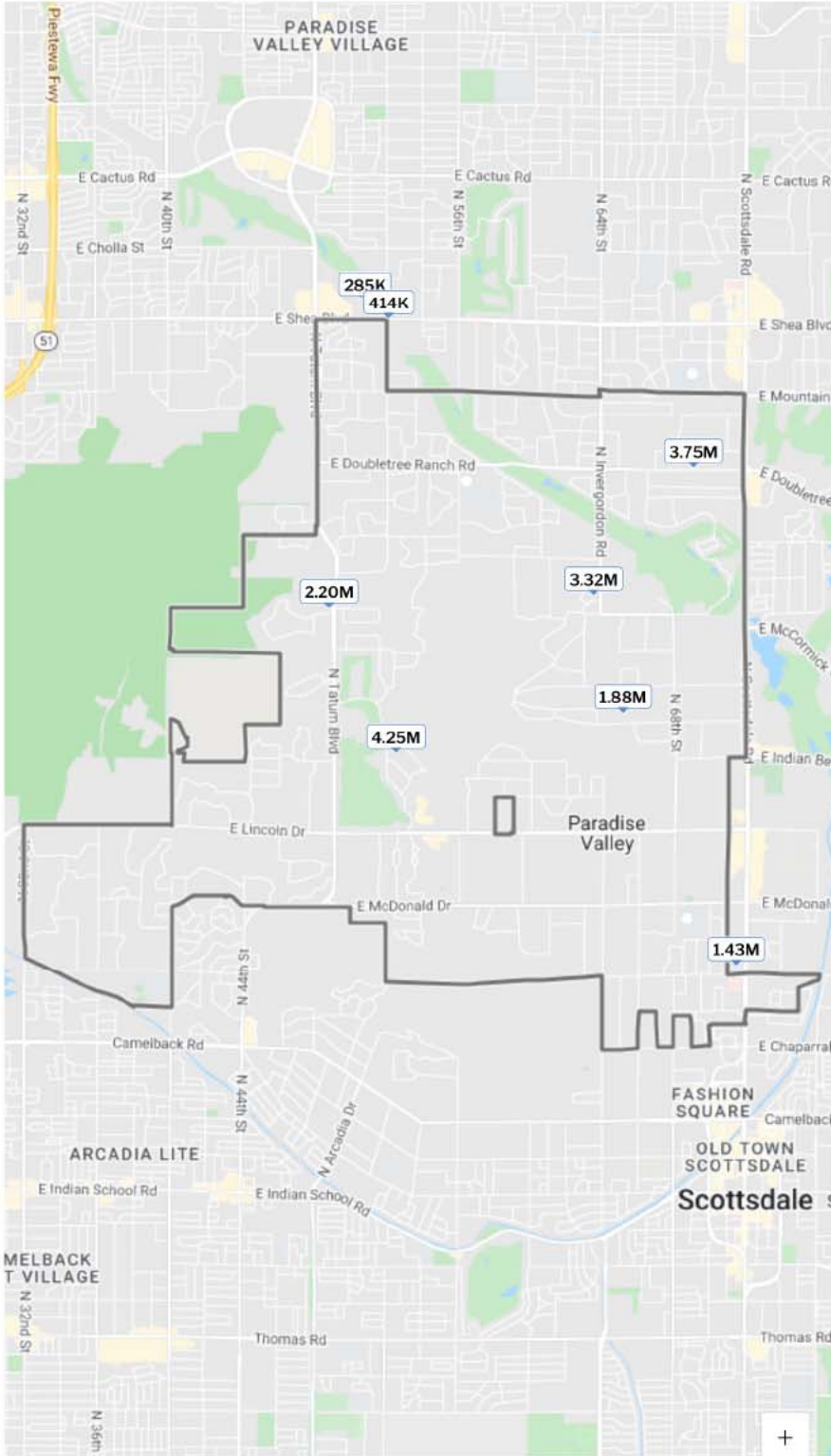
Map data ©2022 Google



worth? Track your home's value and compare it to nearby sales.



See my estimate



How hot is the Paradise Valley housing market?

25 Not Very Competitive Redfin Compete Score™

0 100

- Multiple offers are rare.
- The average homes sell for about 2% below list price and go pending in around 68 days.
- Hot homes can sell for around list price and go pending in around 22 days.

Compare to nearby cities

Sale-to-List Price

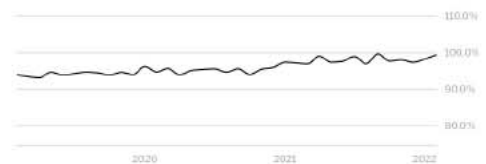
All Home Types

Sale-to-List Price (All Home Types)

99.4%

+2.3 pt YoY | Feb 2022

1y 3y 5y



Share

Embed

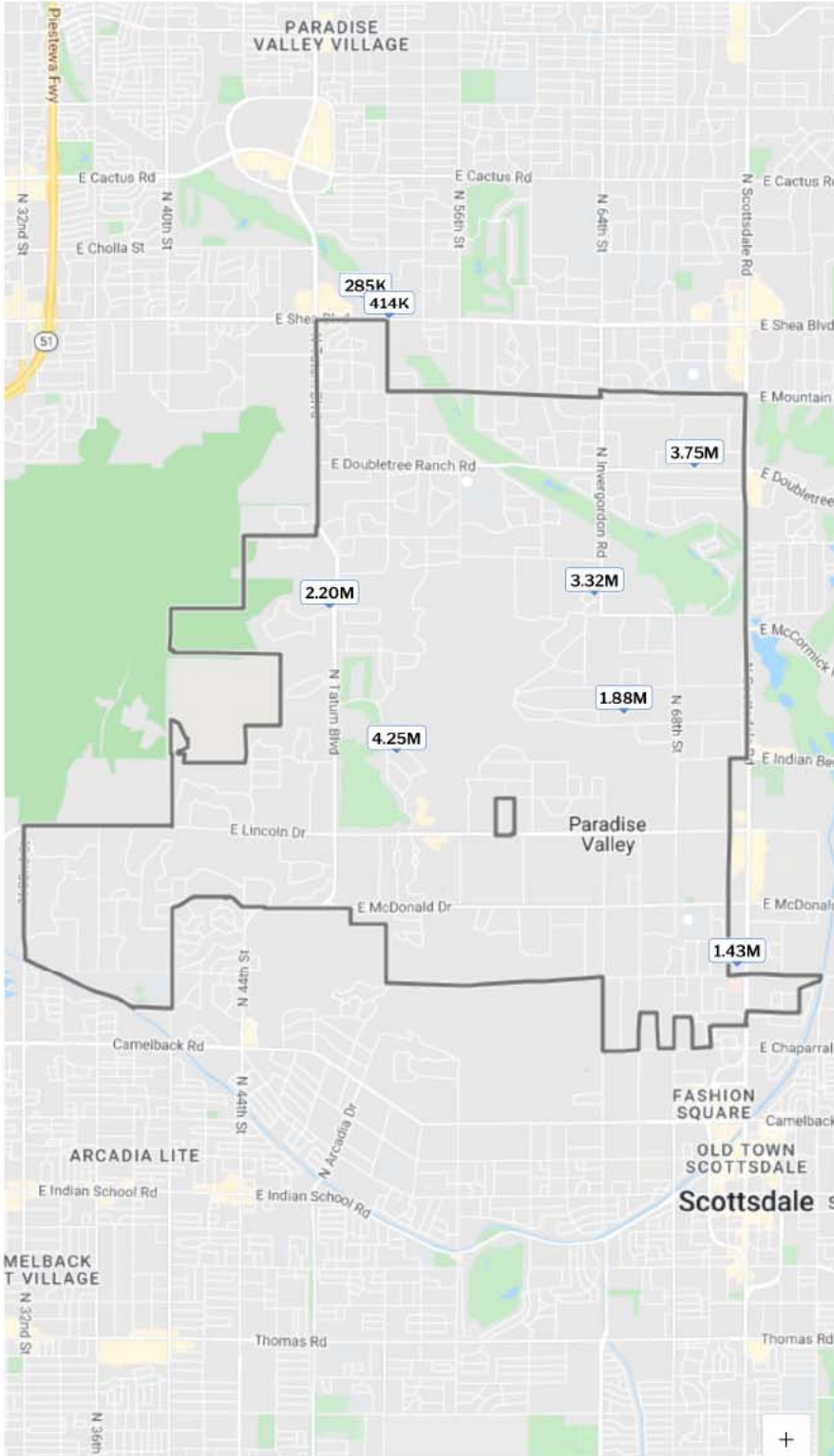
Layers



Paradise Valley, AZ 99.4% +2.3 pt

United States

Add Location



View houses in Paradise Valley that sold recently

Click the home prices on the map to see photos and home values

SOLD MAR 17, 2022



\$2,199,000
4744 E FOOTHILL Dr
Paradise Valley, AZ 85253

5 Beds
4.5 Baths
4,043 Sq. Ft.

List Price: \$1,999,000
Sale to List: 10% over list
Days on Market: 1 day

Schools in Paradise Valley

Learn about schools in the Paradise Valley area

Climate's impact on Paradise Valley housing

Learn about natural hazards and environmental risks, such as floods, storms, fires, droughts and heat risks that could impact homes in Paradise Valley.

Layers ^



More Real Estate Resources for Paradise Valley

New Listings in Paradise Valley

[5101 N CASA BLANCA Dr #2](#)

[5134 E Beryl Ave](#)

[6107 N PALO CRISTI Rd](#)

[7053 E MCDONALD Dr](#)

[6229 E MOUNTAIN VIEW Rd](#)

[6911 E JACKRABBIT Rd](#)

[Show More ▾](#)

Nearby City Housing Markets

[Avondale Housing Market](#)

[Queen Creek Housing Market](#)

[Cave Creek Housing Market](#)

[Goodyear Housing Market](#)

[Tempe Housing Market](#)

[Peoria Housing Market](#)

[Show More ▾](#)

Neighborhood Housing Markets

[McCormick Ranch Housing Market](#)

[South Scottsdale Housing Market](#)

[Central Phoenix Housing Market](#)

[Arcadia Housing Market](#)

[Gainey Ranch Housing Market](#)

Zip Code Housing Markets

[85028 Housing Market](#)

[85250 Housing Market](#)

[85016 Housing Market](#)

[85253 Housing Market](#)

[85018 Housing Market](#)

Nearby City Listings

[Avondale Real Estate](#)

[Queen Creek Real Estate](#)

[Cave Creek Real Estate](#)

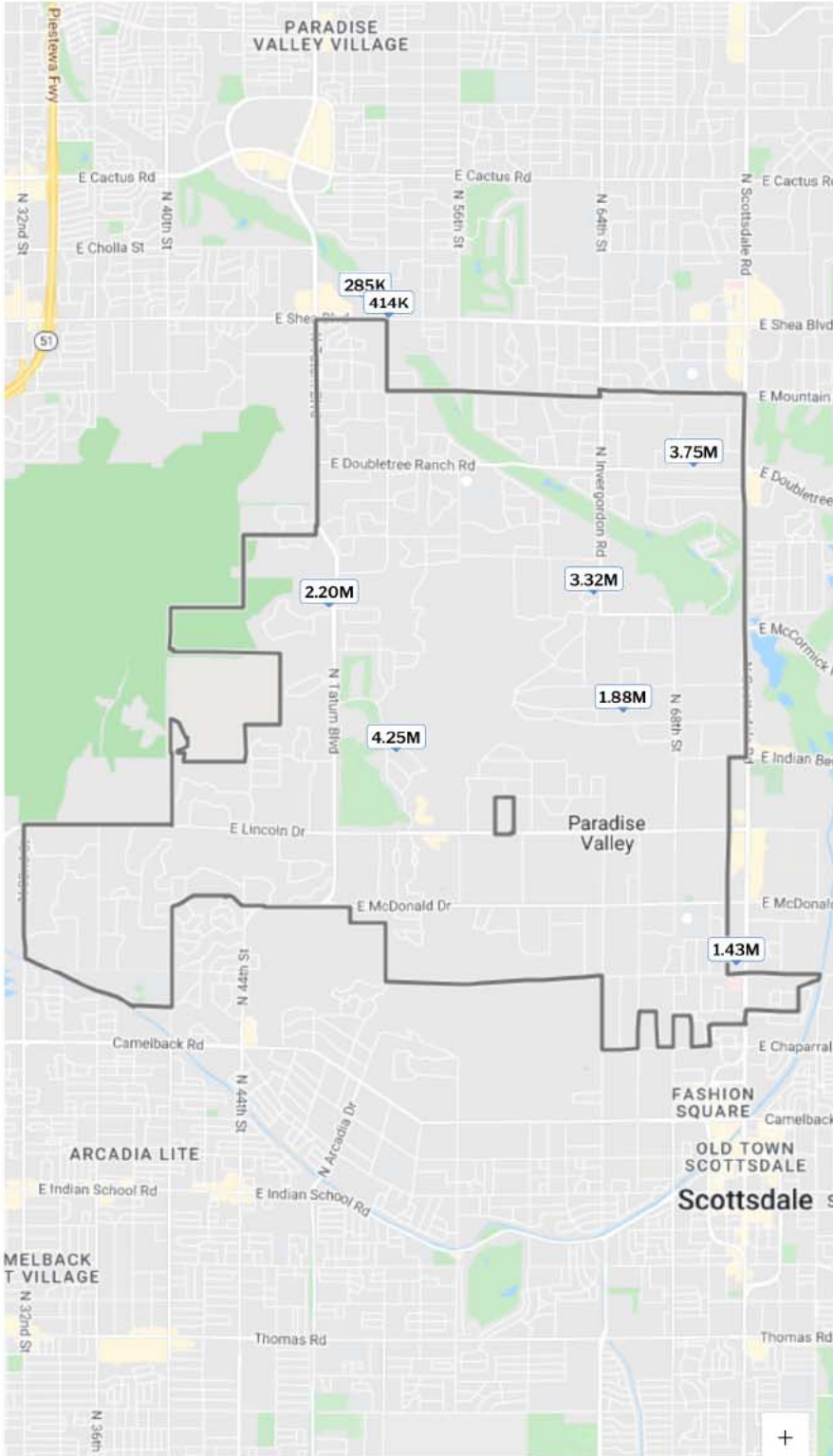
[Goodyear Real Estate](#)

[Tempe Real Estate](#)

[Peoria Real Estate](#)

[Show More ▾](#)

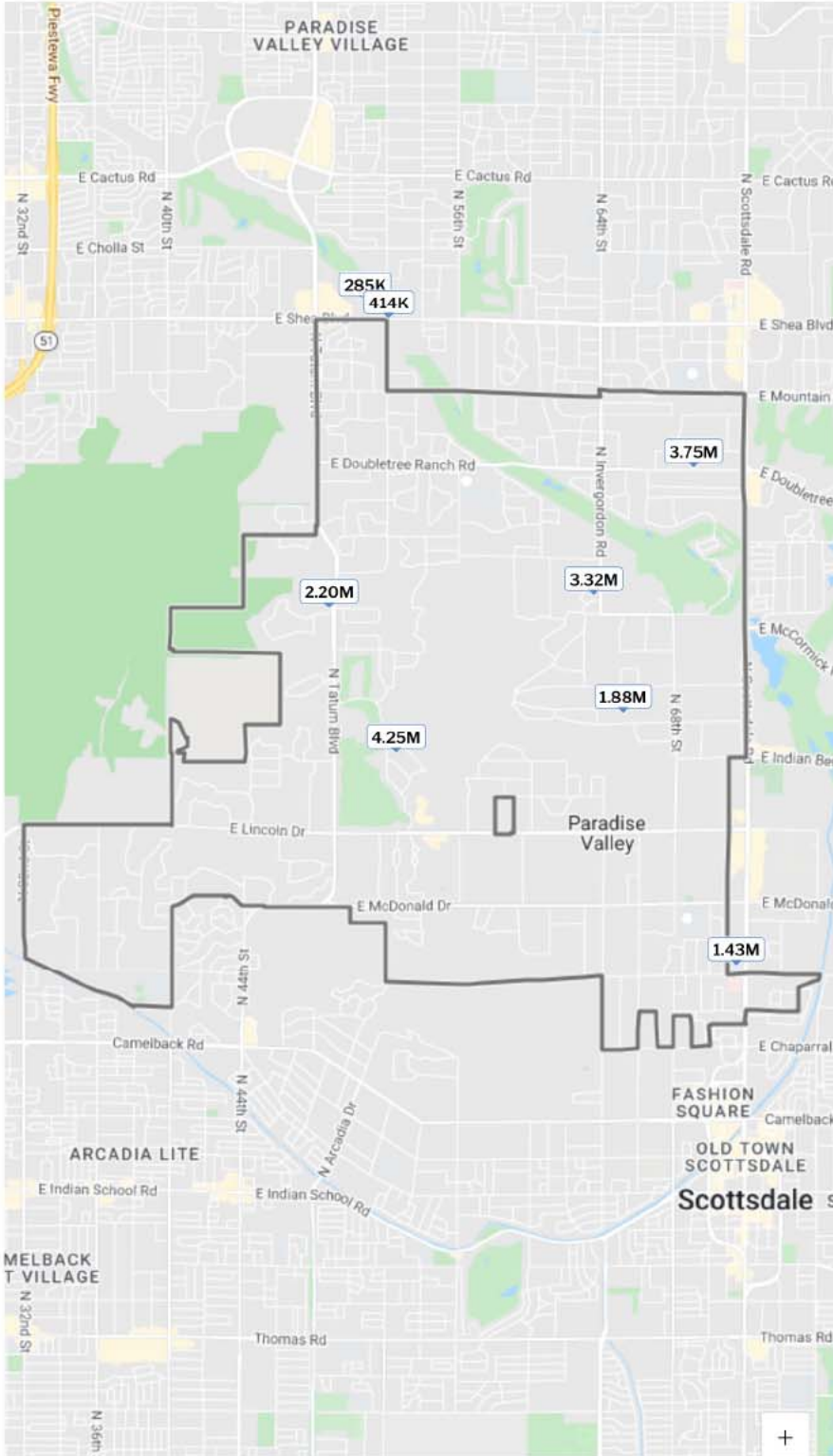
Neighborhood Listings



Layers ^ -

[Central Phoenix Real Estate](#)[Arcadia Real Estate](#)[Gainey Ranch Real Estate](#)

Zip Code Listings

[85028 Real Estate](#)[85250 Real Estate](#)[85016 Real Estate](#)[85253 Real Estate](#)[85018 Real Estate](#)

The Paradise Valley housing market is not very competitive. Homes in Paradise Valley receive 2 offers on average and sell in around 68 days. The average sale price of a home in Paradise Valley was \$3.23M last month, up 37.4% since last year. The average sale price per square foot in Paradise Valley is \$616, up 27.3% since last year.

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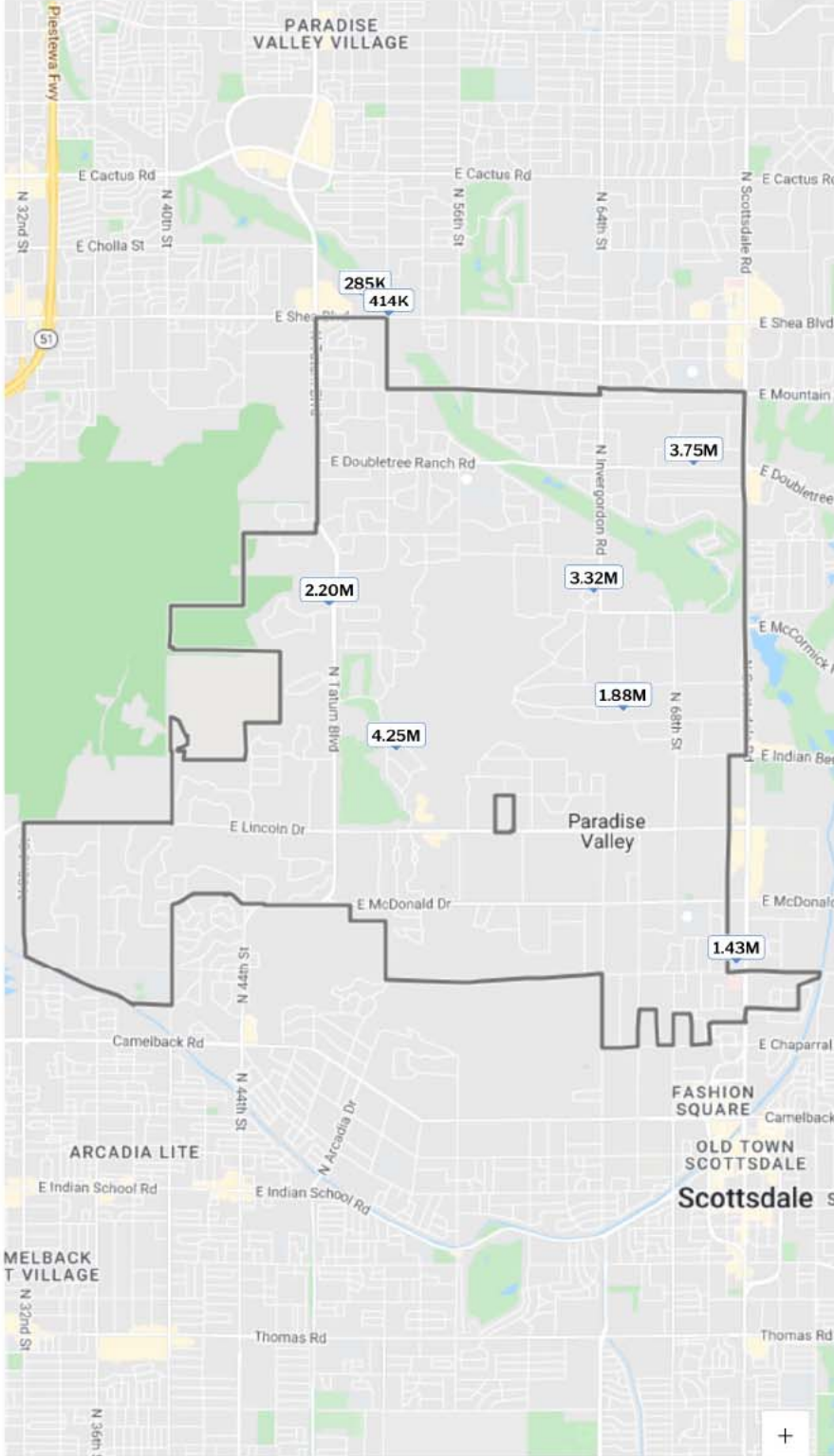
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🏠 California DRE #01521930

[TREC: Info About Brokerage Services, Consumer Protection Notice](#)

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Layers ^



Map data ©2022 Google

EXHIBIT B

[Realtor.com report on recently sold homes within the Town]

See following page.

Paradise Valley, AZ × 🔍

Paradise Valley, AZ Real Estate Market

How do I find the perfect home in Paradise Valley?

To find the perfect home in Paradise Valley, you can research the current market trends and home values, what schools and school districts are in the area, and what homes are on the market all on realtor.com®.

185 Homes for Sale

74 Homes for Rent

Home values in Paradise Valley, AZ ⓘ

Paradise Valley is a city in Arizona. There are 185 homes for sale, ranging from \$320K to \$33.7M.

\$3.7M

Median Listing Home Price


\$720

Median Listing Home Price/Sq Ft

\$3.1M

Median Sold Home Price

Real Estate Highlights in Paradise Valley, AZ

<p>SMALLEST SIZE</p>  <p>\$320,000</p> <p>2 bed 2 bath 917 sqft 7008 E Gold Dust Ave Apt 237, P...</p>	<p>LARGEST SIZE</p>  <p>\$14,000,000</p> <p>7 bed 15 bath 26,393 sqft 6659 E Indian Bend Rd, Paradise ...</p>	<p>MOST AFFORDABLE</p>  <p>\$320,000</p> <p>2 bed 2 bath 917 sqft 7008 E Gold Dust Ave Apt 237</p>
--	---	---

Paradise Valley, AZ Housing Market ⓘ

In February 2022, the median listing home price in Paradise Valley, AZ was \$3.7M, trending up 32% year-over-year. The median listing home price per square foot was \$720. The median home sold price was \$3.1M.

Median Listing Home Price vs. Median Home Sold Price



EXHIBIT C

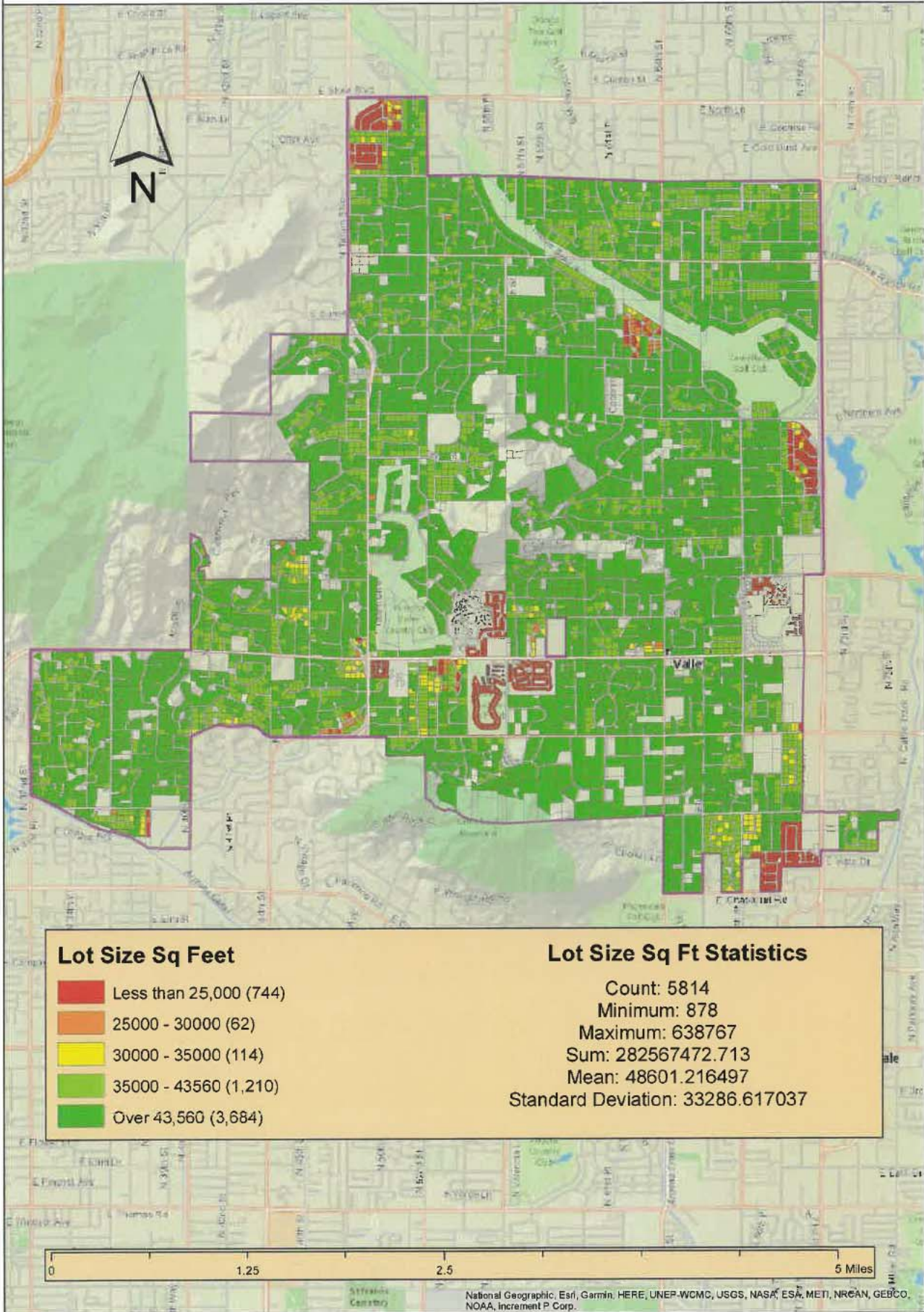
[Lot size comparison, Town v. Maricopa County, and livable sq. ft. comparison, Town v. Maricopa County]

See following pages.



Town of Paradise Valley, AZ

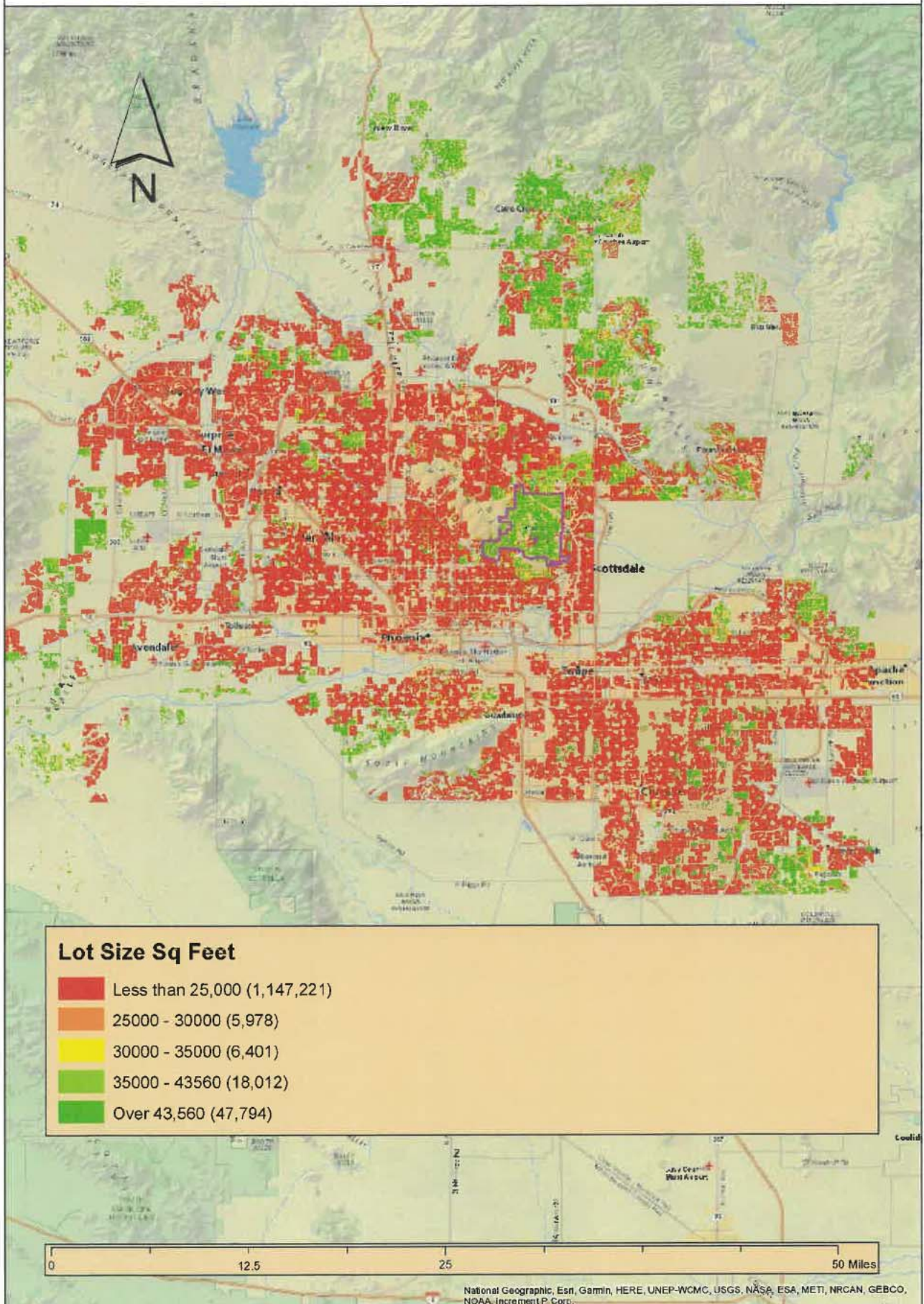
Livable Lot Size Sqft Overview





Maricopa County, AZ

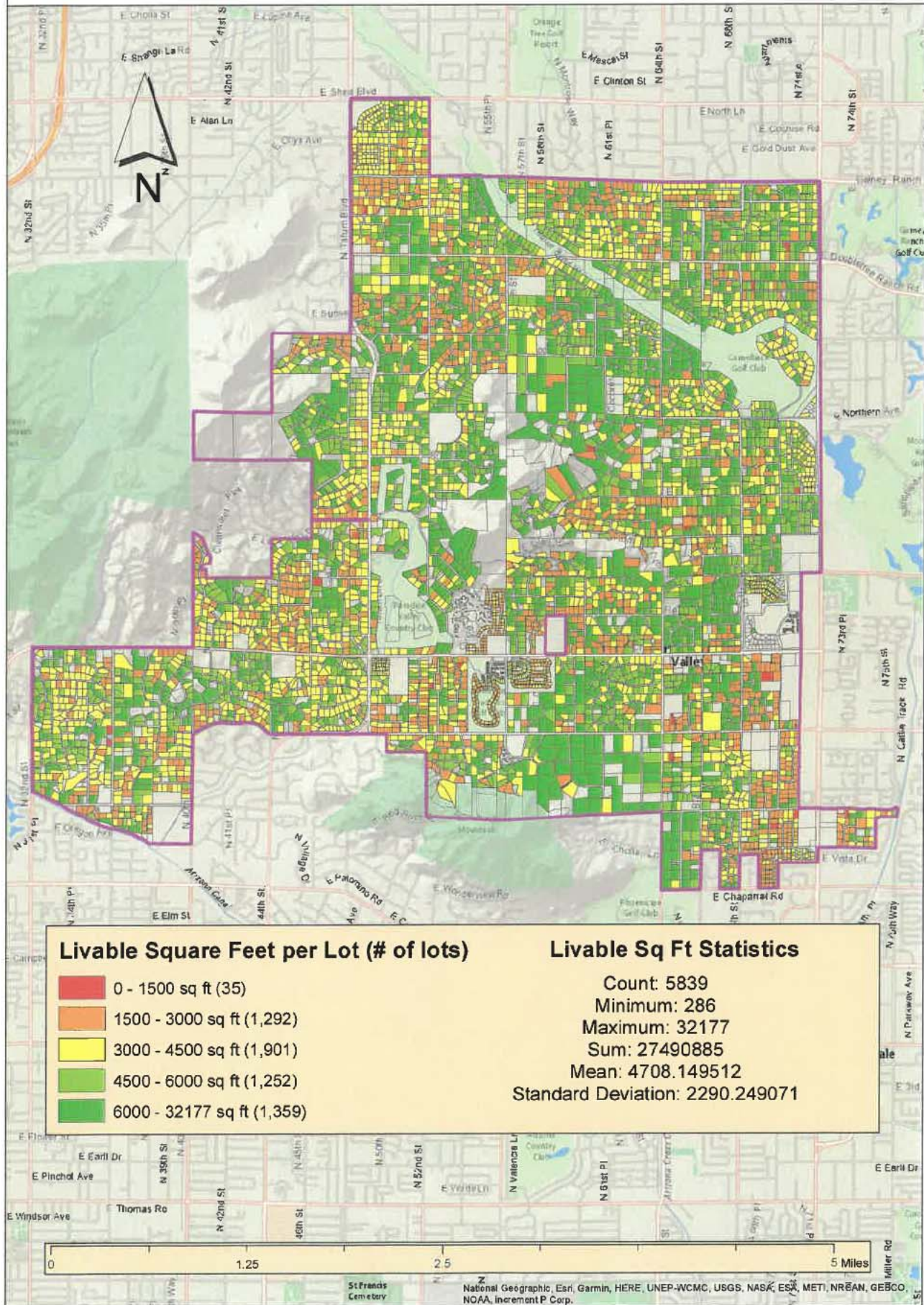
Livable Lot Size Sqft Overview





Town of Paradise Valley, AZ

Livable Sq Feet Map

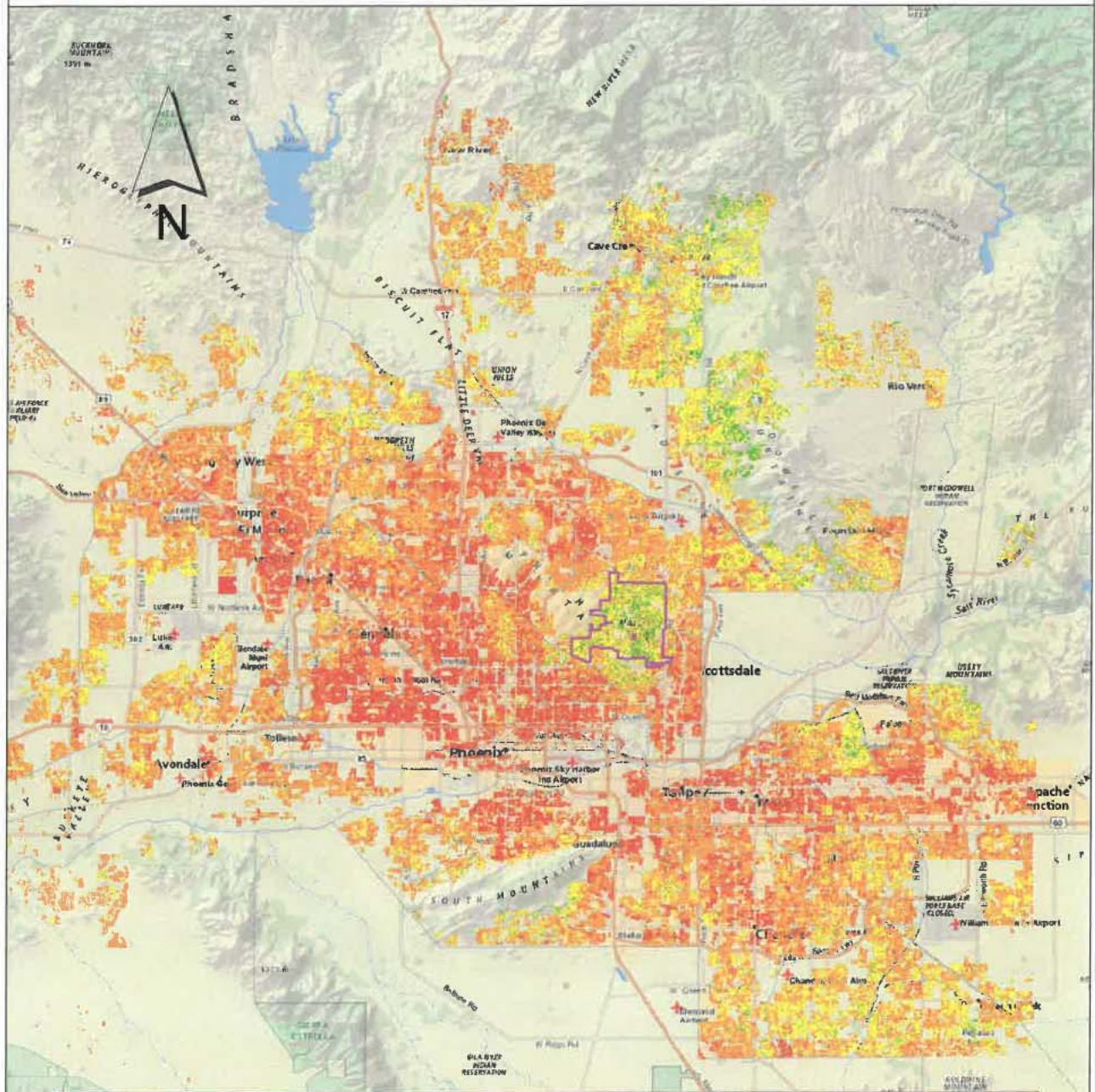


Livable Square Feet per Lot (# of lots)	Livable Sq Ft Statistics
0 - 1500 sq ft (35)	Count: 5839
1500 - 3000 sq ft (1,292)	Minimum: 286
3000 - 4500 sq ft (1,901)	Maximum: 32177
4500 - 6000 sq ft (1,252)	Sum: 27490885
6000 - 32177 sq ft (1,359)	Mean: 4708.149512
	Standard Deviation: 2290.249071





Maricopa County, AZ Livable Sq Feet Map



Livable Square Feet per Lot (# of lots)	Livable Sq Ft Statistics
■ 0 - 1500 sq ft (478,364)	Count: 1355823
■ 1500 - 3000 sq ft (706,753)	Minimum: 140
■ 3000 - 4500 sq ft (121,955)	Maximum: 32177
■ 4500 - 6000 sq ft (16,239)	Sum: 2607144345
■ 6000 - 32177 sq ft (5,333)	Mean: 1922.923822
	Standard Deviation: 904.63646

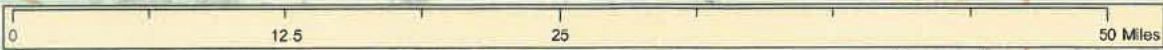


EXHIBIT D

[Topographical maps of the Town]

See following pages.

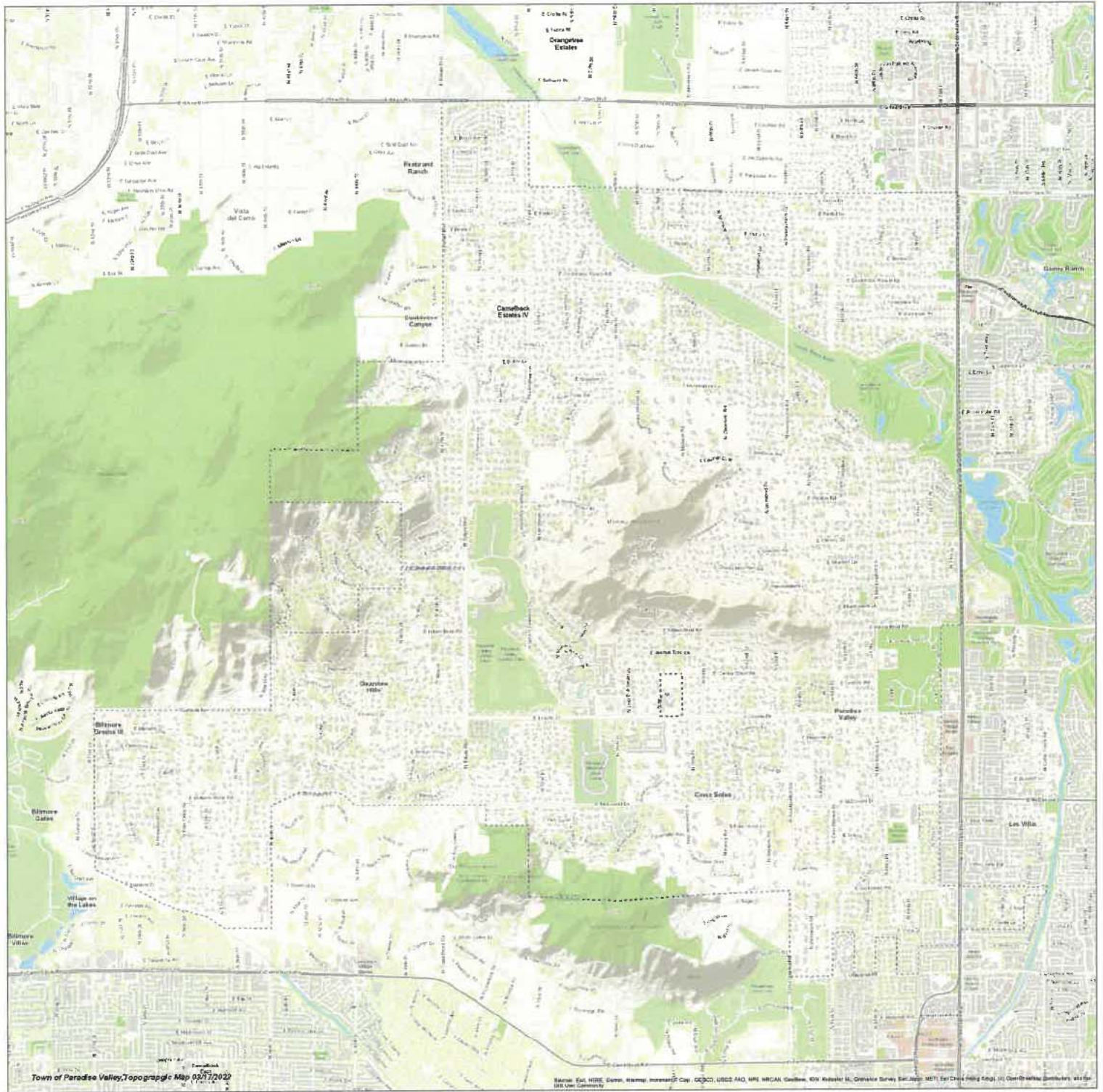




EXHIBIT E

[Cell Coverage Task Force Update, December 6, 2018]

See following pages.

TOWN OF PARADISE VALLEY

Cell Coverage Task Force Update

December 6, 2018



Agenda

- Overview and background
- Radio Frequency (RF) study
- Request for Information (RFI)
 - Findings and observations
- In-building coverage education and outreach
- Next steps



Overview and background



3

Overview and background

- ☑ Desire to improve cell coverage throughout PV, both in-building and general coverage
- ☑ Identified as Quality of Life initiative January 2016
- ☑ Meetings with industry led by previous manager throughout 2016 - 2018:
 - ☑ Verizon/Triadvocates
 - ☑ Coal Creek
 - ☑ AT&T
 - ☑ Ghost Networks
 - ☑ Engineering Wireless Services (EWS)
 - ☑ American Tower
 - ☑ Crown Castle
 - ☑ T-Mobile
- ☑ Creation of Task Force spring 2018
- ☑ EWS "drive study" of PV Radio Frequency strength and quality May 2018 (sought by Task Force)
- ☑ Updated inventory and contact information for Special Use Permit (SUP) properties
 - ☑ GIS: fiber inventory, SUP properties overlaid on RF study map
- ☑ Request for Information (RFI) issued July 30, 2018
 - ☑ Town "listening sessions" with respondents
- ☑ In-building coverage education and outreach



4

Task Force Resident Volunteers

- Drew Smith
- Doug Jordan
- Eric Liebermann
- Dayna Kully



5

Radio Frequency (RF) study



6

Description of Testing and Results

The table to the right shows the channels that were tested for each carrier's technologies and frequency bands deployed in the town. The results for LTE (FDD & TDD) are shown as RSRP for power and CINR & RSRQ for quality. For 3G technologies (WCDMA/CDMA/EvDo) these results are measured as Ec and Ec/Io for power and quality respectively.

It is important to note that testing was completed on the streets of the town. A drop in signal power will be seen when comparing indoor vs. outdoor measurements. That drop will vary depending on the frequency band of the signal. The effect of this drop is important since the goal of this project is to improve coverage indoors.

Carrier	Technology	Frequency Band	Channels	Bandwidth
AT&T	FDD LTE	700MHz	5780	10MHz
AT&T	WCDMA	PCS	687	5MHz
AT&T	FDD LTE	PCS	1050	20MHz
AT&T	FDD LTE	AWS	2000 & 4700	10MHz (each)
AT&T	FDD LTE	WCS	9820	10MHz
Verizon	FDD LTE	700MHz	5230	10MHz
Verizon	CDMA	800MHz	384	1.25MHz
Verizon	FDD LTE	PCS	775	5MHz
Verizon	FDD LTE	AWS	2125	15MHz
T-Mobile	FDD LTE	700MHz	5035	5MHz
T-Mobile	WCDMA	PCS	9662	5MHz
T-Mobile	FDD LTE	PCS	700	10MHz
T-Mobile	FDD LTE	AWS	2300	20MHz
Sprint	CDMA	800MHz	476	1.25MHz
Sprint	CDMA	PCS	675 & 650	1.25MHz (each)
Sprint	EvDo	PCS	625	1.25MHz
Sprint	FDD LTE	PCS	8665	5MHz
Sprint	TDD LTE	BRS	41374, 41176, 40978, 40270, 40072, & 39674	20MHz (each)

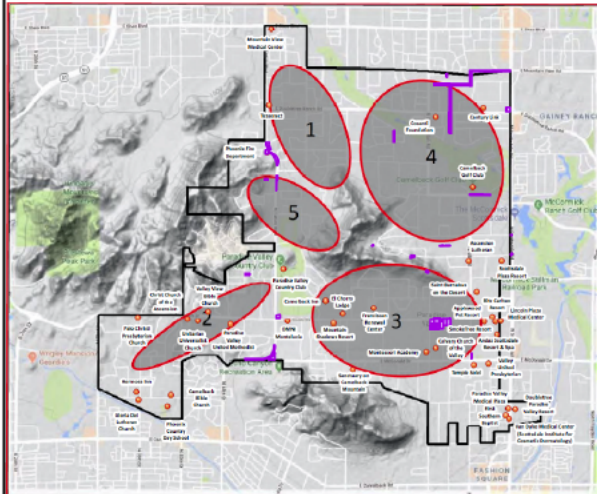
AREAS OF CONCERN

As a general overview of the Paradise Valley cellular coverage and performance, all signals are weak and not providing adequate coverage indoors and inside vehicles.

During the drive test it was observed that the areas with weakest RF coverage are concentrated along following markers:

- 1 - Tatum Blvd. and South of Doubletree Ranch Rd. Weak coverage seen for 3 out of 4 carriers (Verizon, AT&T & T-Mobile)
- 2 - Lincoln Dr. West of Tatum Blvd. to 32nd Str. Weak Coverage seen for all 4 carriers.
- 3 - Lincoln Dr. South of Mummy Mountain. Weak coverage seen for all 4 carriers.
- 4 - Area around Camelback Golf Course South and North of canal. Weak coverage seen for 3 out of 4 carriers (AT&T, T-Mobile & Sprint)
- 5 - East and West of Tatum Road and Road Runner Road all 4 carriers.

These areas are of general description since not all frequencies behave the same way and are dependent of the carrier's amplification, orientation and modulation.

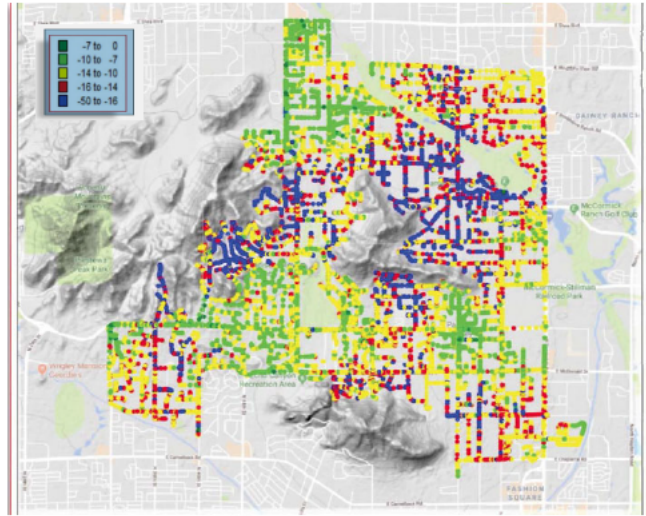


RF Example Results

EWS returned data points for both strength and quality of signal with a separate map of results for each:

- Vendor
- Technology
- Bandwidth
- Frequency

Each map was a variation of the one to the right, which is included here for illustrative purposes only. Green areas were the strongest and/or highest quality signal, while red, blue, or black were the lowest.



9

Request for Information (RFI)



10

Request for Information (RFI)

- Sought out solutions
- Reviewed efforts of other communities
 - Sedona Draft Wireless Master Plan
- Issued RFI to solicit expert perspectives
 - ☑ Issued July 30, 2018
 - ☑ Responses due September 14, 2018
 - ☑ Cellcoverage@paradisevalleyaz.gov email address established
 - ☑ Responses received from T-Mobile, AT&T, Sprint, and Crown Castle



11

Findings and observations



12

Findings and observations

- Industry appreciates our outreach – they found the “listening session” meetings unique, proactive, and refreshing.
- Industry we met with understands our needs and our desires, as set forth in RFI
- There was strong interest in working directly with SUP properties -- most familiar path for these folks; they were excited that we had been reaching out to SUP properties to assess interest and establish points of contact
- Problem areas most likely will be solved with incremental improvement to fill in gaps of service
- Industry players welcomed collaboration and will provide feedback about their work with PV



13

Findings and observations

- Crown/ATT ready to install new on-site radios – could require amendment to current deal in terms of payment and space for equipment in ROW
- Clear that some areas would benefit from further exploration:
 - Road standards – installing conduit and/or fiber
 - SUP/CUP standards – maintain aesthetic control and resident input, but avoid drawn-out process (e.g., with replacement of existing infrastructure)
 - SUP property checklist re: cell service, and possible amendments to code to require conduit or other infrastructure to ensure quality of service (public safety component)
 - May need to look at our small cell process and standards
 - Equipment size at the top of poles
 - Utilization of existing verticality, such as church steeples, etc.



14

Example of requested infrastructure



PHOTO SIMULATIONS
 PH10720B
 Valley View Church
 4222 E. Lincoln Drive
 Paradise Valley, Arizona 85253



View 1 - Looking West



In-Building Coverage

Education and outreach



In-building coverage education and outreach

- Even with good outside cell coverage, in-building coverage is a challenge
- Self help options
 - Wifi calling
 - Signal boosters
- Developing educational material
 - Dayna Kully, Town resident and co-founder, 5thGenWireless, L.L.C.
 - Town Reporter
 - Website
 - Coffee with a Cop



17

Next steps



18

Desired next steps

Continue work with status update to Council 3-6 months:

- Connect SUPs with providers and carriers
- Review SUP and Town processes and standards
- Evaluate opportunities to add conduit/fiber during ROW projects
- Evaluate and propose potential cell ordinance amendments
- Publish in-building coverage material



19

Questions/Discussion



20

EXHIBIT F

[TOPV: Wireless Service Provider Coverage Benchmark Results, May 10, 2021]

See following pages.

Town of Paradise Valley



Wireless Service Provider Coverage Benchmark Results



MAY
10
2021

Table of Contents

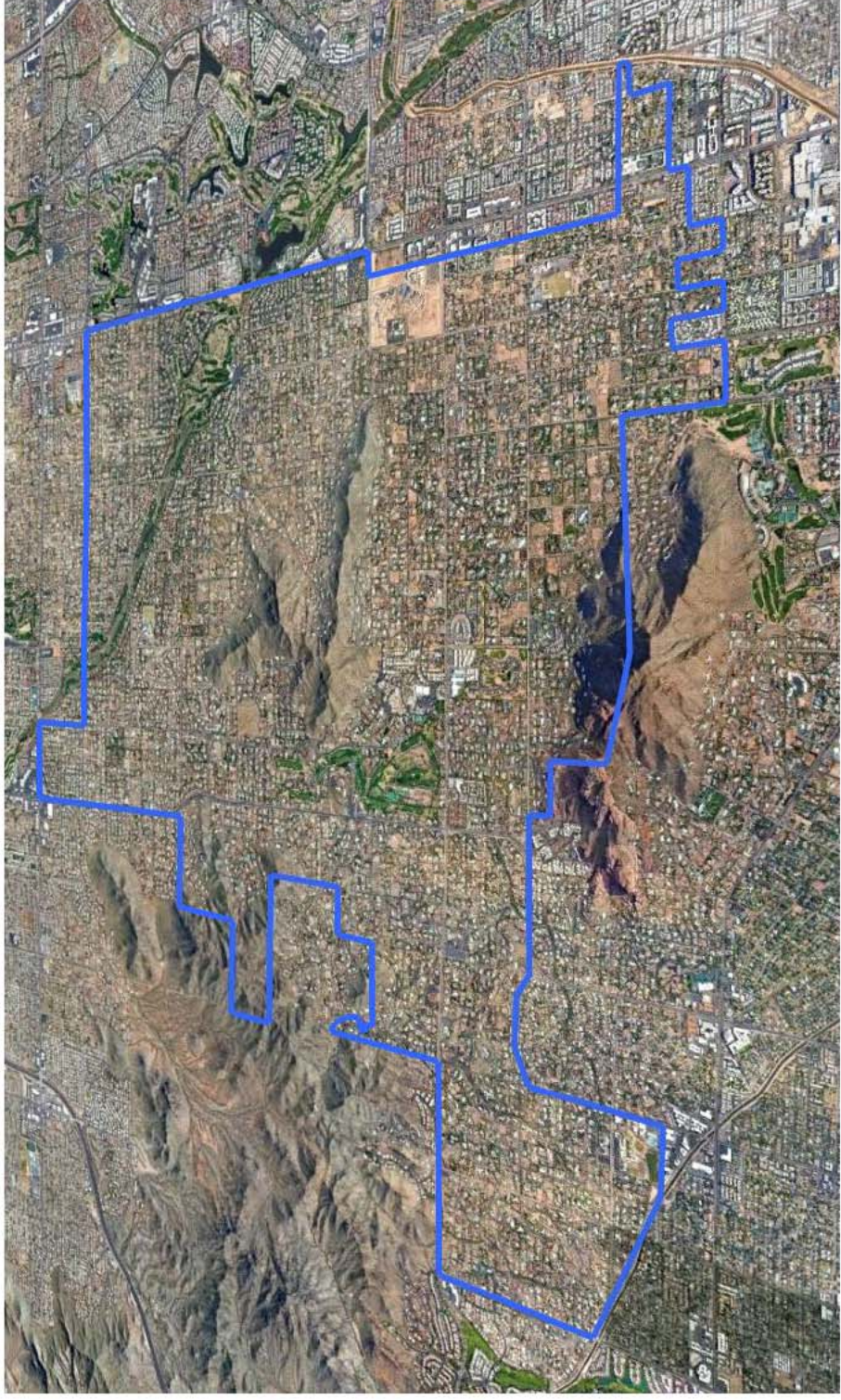
Town of Paradise Valley



Table of Contents	Slide 2
Drive Area	Slide 3
Executive Summary	Slide 4
Observations and Recommendations	Slide 5 – 7
Coverage Definition	Slide 8
Collected Network Information	Slide 9
AT&T Design Criteria Plots	Slide 10
T-Mobile Design Criteria Plots	Slide 14
Verizon Design Criteria Plots	Slide 17
Contact Info	Slide 20

Town of Paradise Valley Drive Area

Town of Paradise Valley



Executive Summary

Town of Paradise Valley



Engineering Wireless Services (EWS) is under contract with the Town of Paradise Valley to collect Wireless Service Providers (WSP) Network Information for AT&T, T-Mobile, and Verizon across the entire Town. This is the second drive EWS has completed for Paradise Valley. The first drive was completed March 2018, and identified key areas where coverage was lacking by each Wireless Carrier. Now second drive has been completed April 2021 to refresh and pursue now opportunities with each Wireless Carrier.

This second drive is necessary to repaint the wireless landscape as industry shifts have occurred in the past three years.

- AT&T has deployed FirstNet Public Safety system
- T-Mobile has purchased Sprint assets, reallocating PCS bandwidth for more capacity
- T-Mobile is now deploying N600 Low Band spectrum for coverage
- Crown Castle is in process to build and add new wireless facilities to Paradise Valley
- Each carrier has completed site adds, and system modifications to optimize their networks

The following slides provide our measured results along with Observations and Recommendations for the primary technology bands for each carrier. These are separated in two Frequency bands [Low Band] and [Mid Band].

AT&T Observations and Recommendations

Town of Paradise Valley



Low Band

Observations

- FirstNet is now deployed and is providing coverage over most of Paradise Valley. There are two areas where coverage is weaker than desired.
- Coverage is quite strong across Paradise Valley covering the main roads and residential areas. This includes the 2018 impaired area around the Camelback Inn Golf Club.

Recommendations

- Carrier to add FirstNet to missing area

Mid Band

Observations

- Coverage is strong along the main roads and entrances to most residential community's, service levels do weaken as you drive into most residential areas. One area looks to have been solved from 2018, other areas remain.

Recommendations

- Define and share friendly Landlord locations to increase site density into residential areas.

T-Mobile Observations and Recommendations

Town of Paradise Valley



Low Band

Observations

- Service levels look to have slightly improved along the northern edge of Paradise Valley. However, coverage along Tatum and Lincoln remains at weak levels.

Recommendations

- Define and share friendly Landlord locations to increase site density, add Low Band to Camelback Inn rooftop.

Mid Band

Observations

- Capacity has been increased to all sites in Paradise Valley Service along Tatum and Lincoln remains strong. Service remains weak around the Camelback Inn Golf Club, and several other residential areas in town.

Recommendations

- Define and share friendly Landlord locations to increase site density into residential areas.

Verizon Observations and Recommendations

Town of Paradise Valley



Low Band

Observations

- Remains strong across most of the town. With one weak area near Camelback Inn Golf Club.

Recommendations

- Add Small Cell near Camelback Inn Golf Course.

Mid Band

Observations

- Existing impaired areas are slightly improved from 2018. Several residential areas still remain thinly covered.
- The roads / entrances to most residential areas are covered.

Recommendations

Define and share friendly Landlord locations to increase site density into residential areas.

Coverage Definition

Town of Paradise Valley

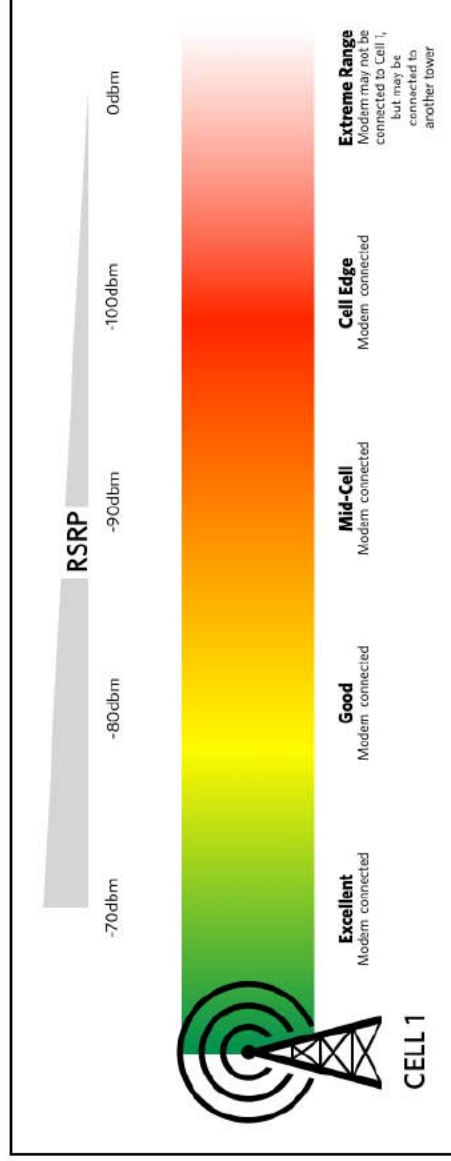


RSRP (Reference Signal Received Power)

A UE (wireless device) determines which tower to connect to on the basis of a value called **RSRP** (Reference Signal Received Power). This is the measured power of the LTE reference signals spread across the broadband and narrowband portions of the spectrum. RSRP values, presented in dBm, are always negative, and the higher the number, i.e.. the closer to zero it is, the higher the power of the signal.

RSRP Design Criteria > -100dBm **Green** < -100dBm **Red**

The threshold of -100dBm is used to show signal between indoor and outdoor.



RSRP Signal level dBm	Phone Bars
>= - 80	3 to 4
-80 to -90	2 to 3
-90 to -100	2 to 1
<= -100	0 to 1

Collected Network Information

Town of Paradise Valley



EWS has completed the Drive Test collection using Industry standard collection hardware and software. EWS drove all open roads within the Town boundary.

The channels measured for our analysis include; 3 AT&T, 2 T-Mobile, 2 Verizon.

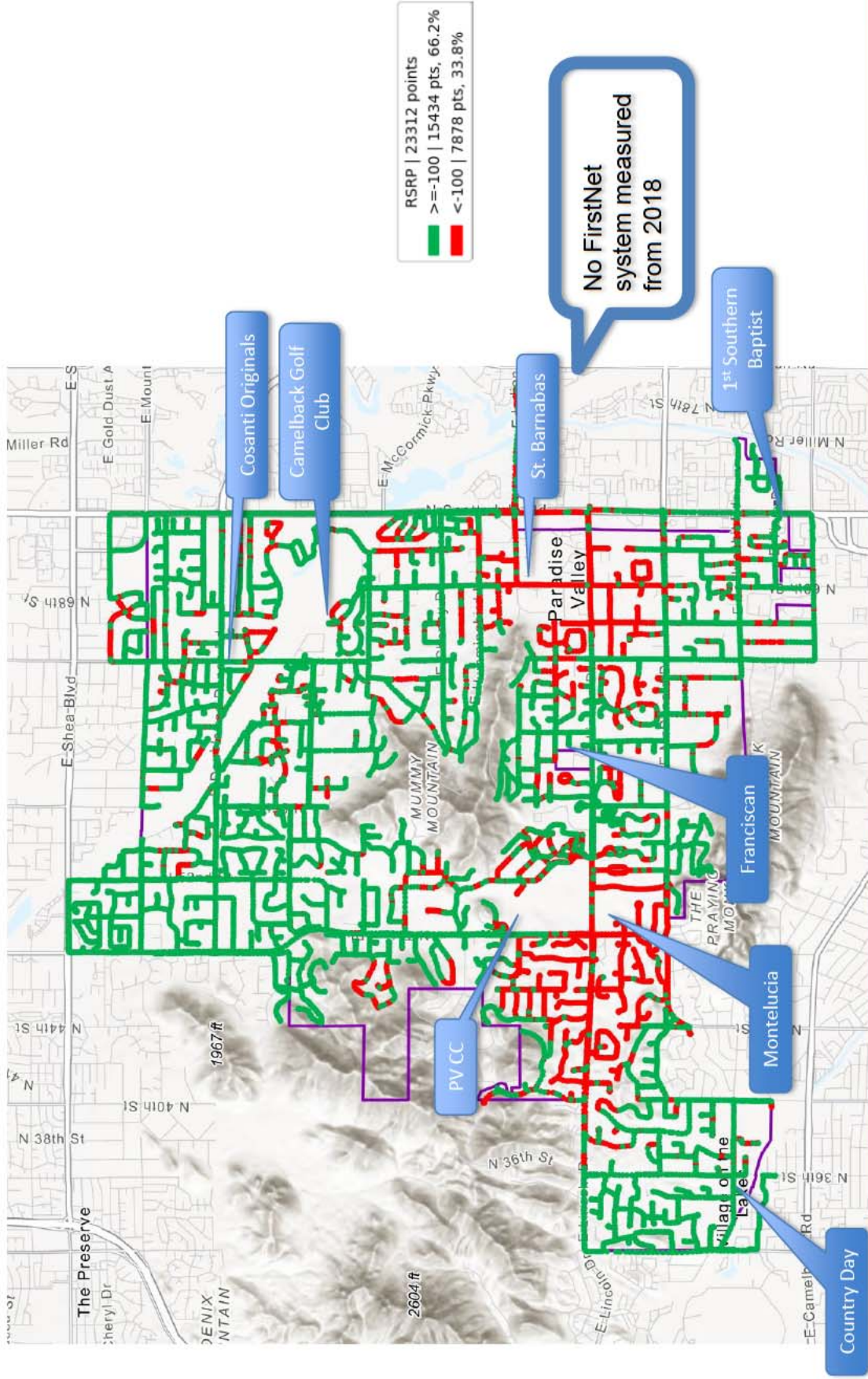
<u>Band</u>	<u>Use</u>	<u>Channel</u>	<u>Band</u>	<u>Carrier</u>
Low Band	Coverage	5330	First Net	AT&T
Low Band	Coverage	5780	L700	AT&T
Mid Band	Capacity	1050	PCS	AT&T
Low Band	Coverage	5035	L700	T-Mobile
Mid Band	Capacity	2300	AWS	T-Mobile
Low Band	Coverage	5230	L700	Verizon
Mid Band	Capacity	2125	AWS	Verizon



AT&T Design Criteria Plots

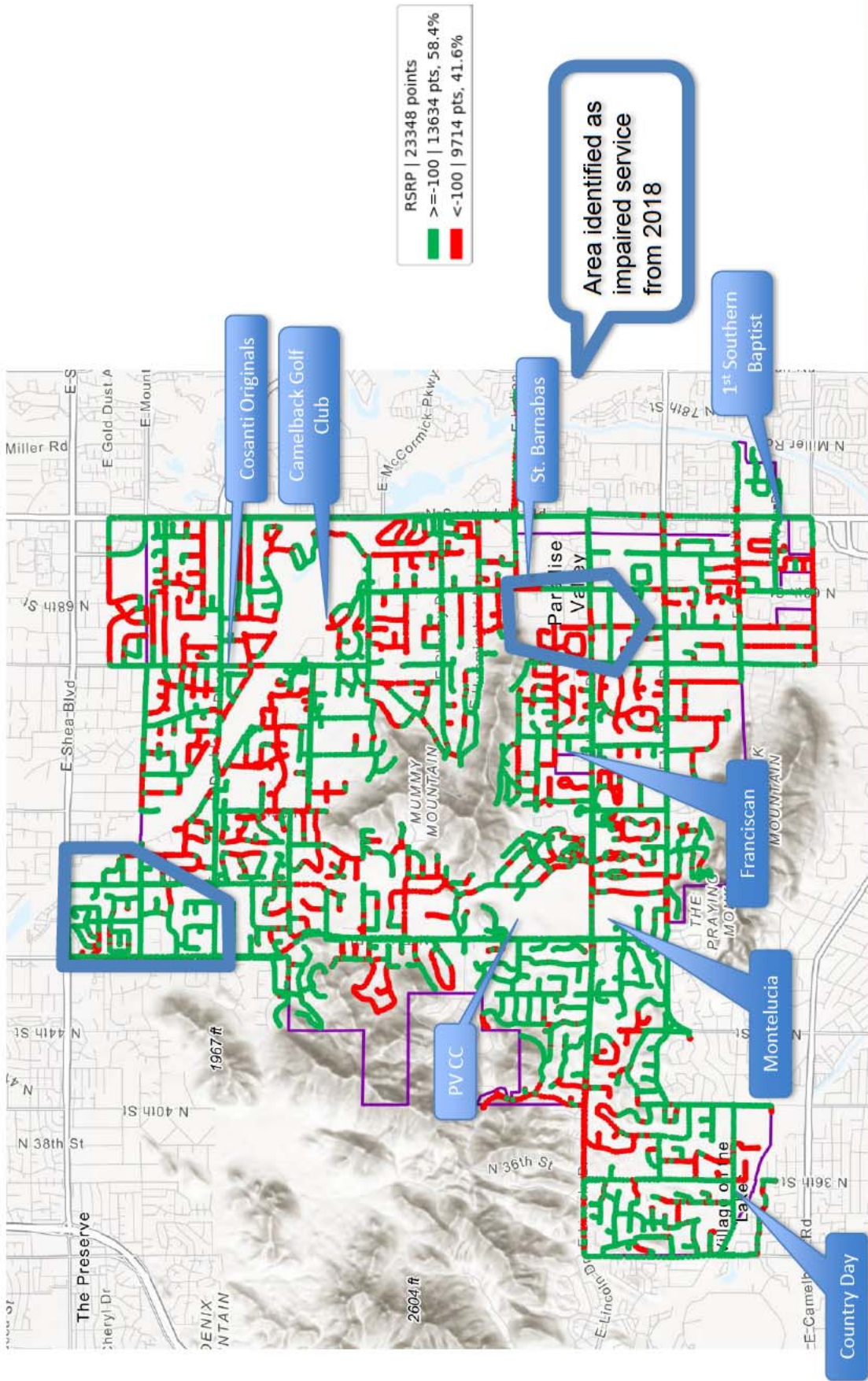
AT&T – LTE First Net Public Safety

Scanner CH5330 Design Criteria Map



AT&T – LTE PCS

Scanner CH1050 Design Criteria Map

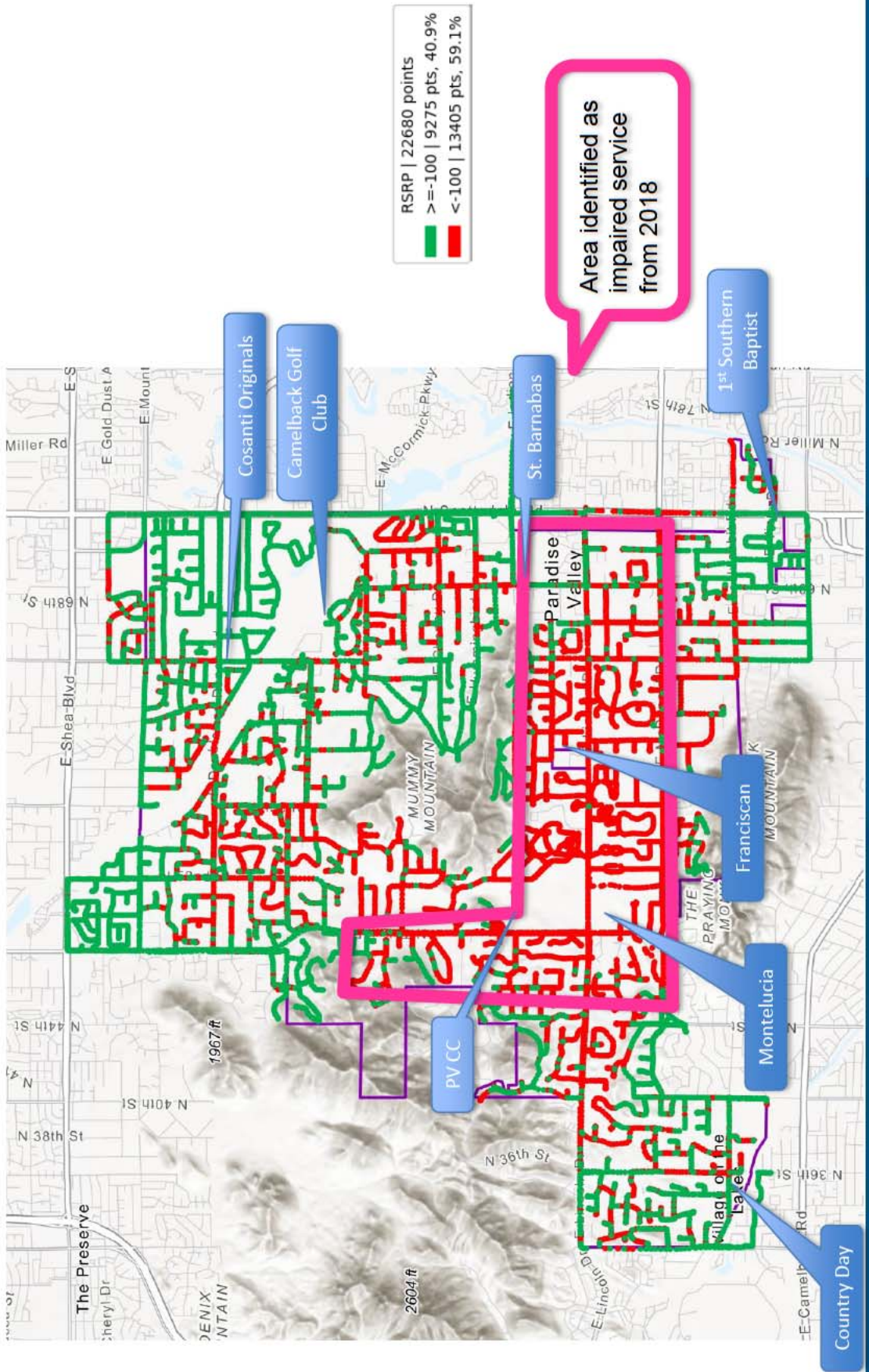




T-Mobile Design Criteria Plots

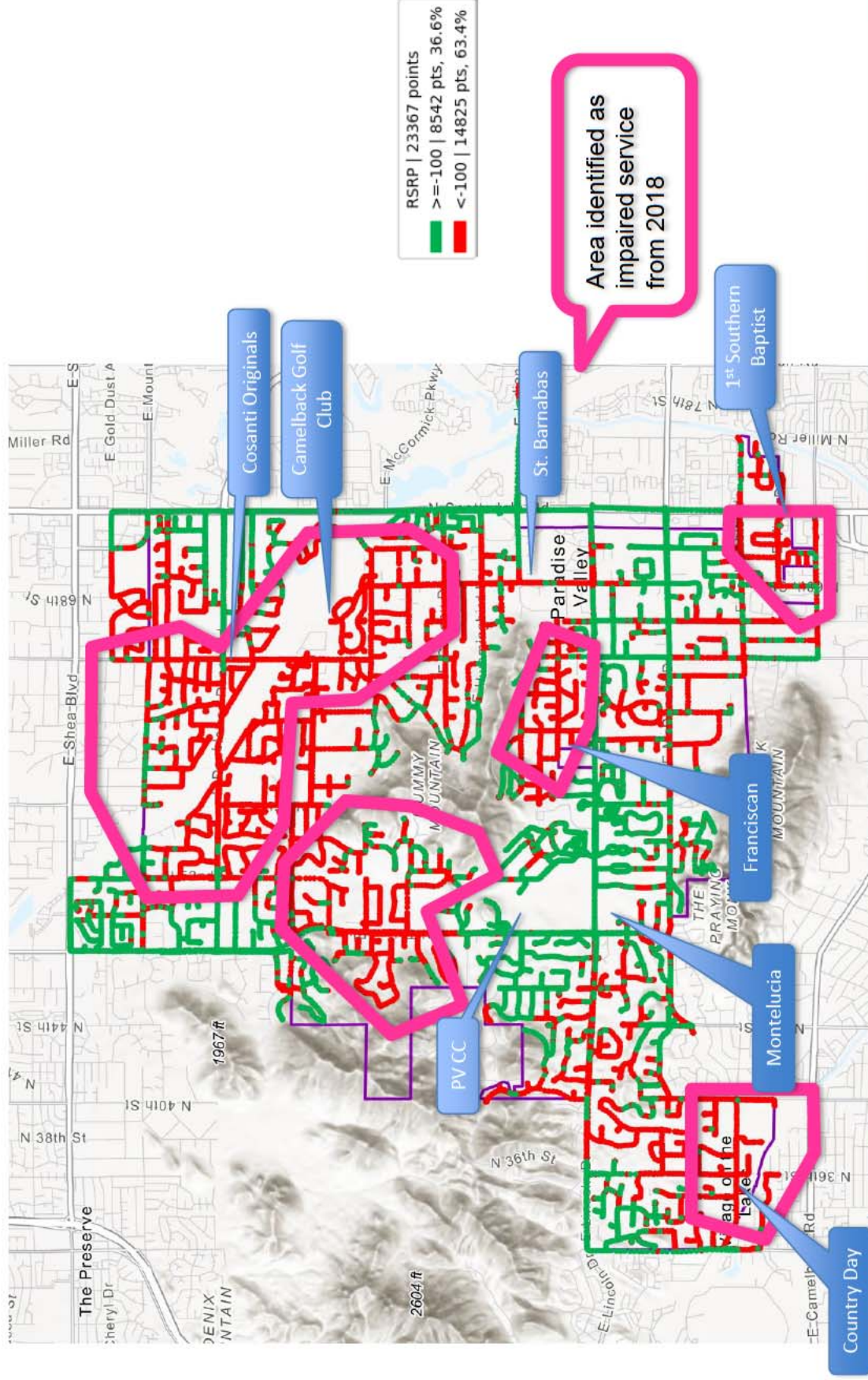
T-Mobile – LTE L700

Scanner CH5035 Design Criteria Map



T-Mobile – LTE AWS

Scanner CH2300 Design Criteria Map

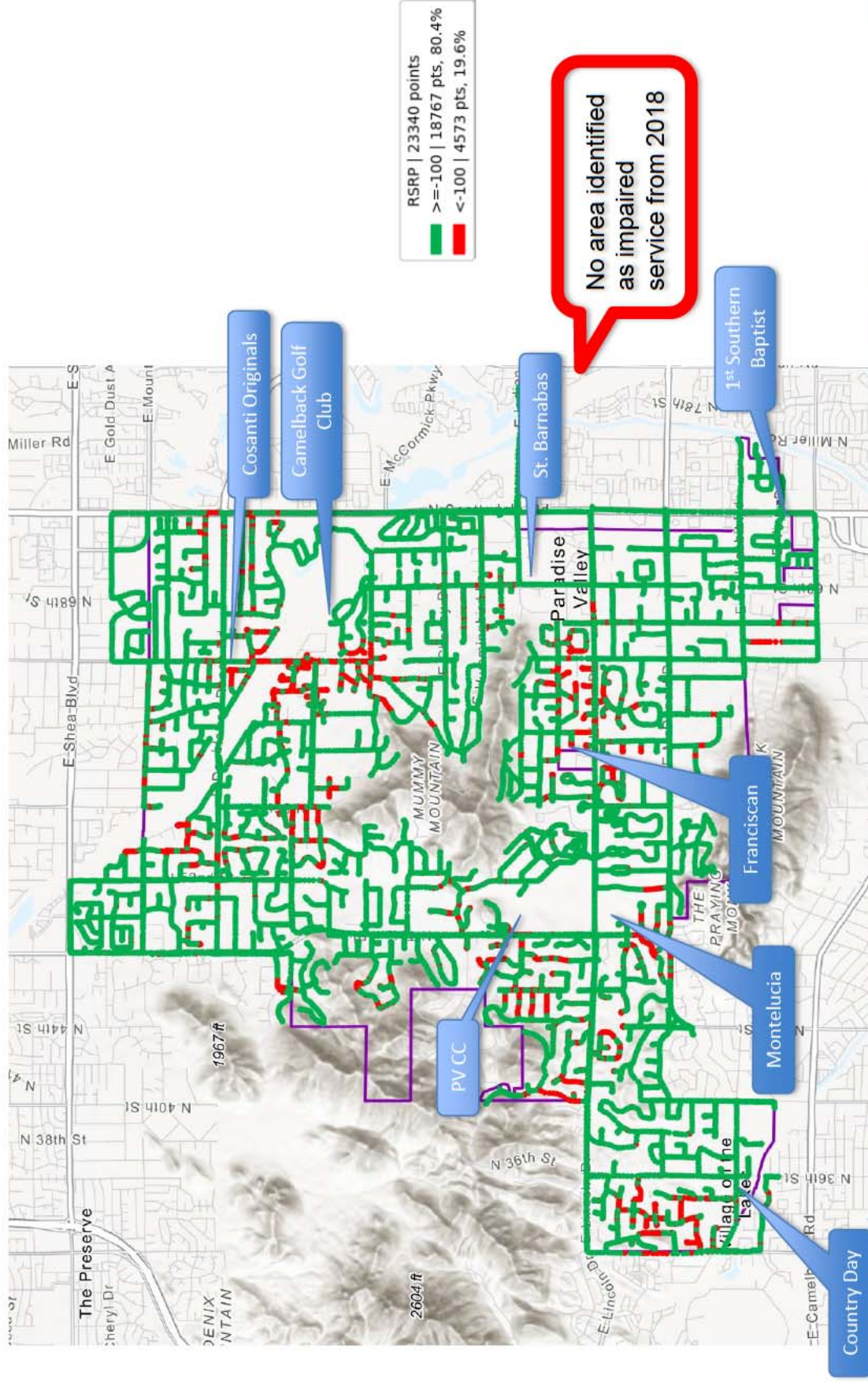




Verizon Design Criteria Plots

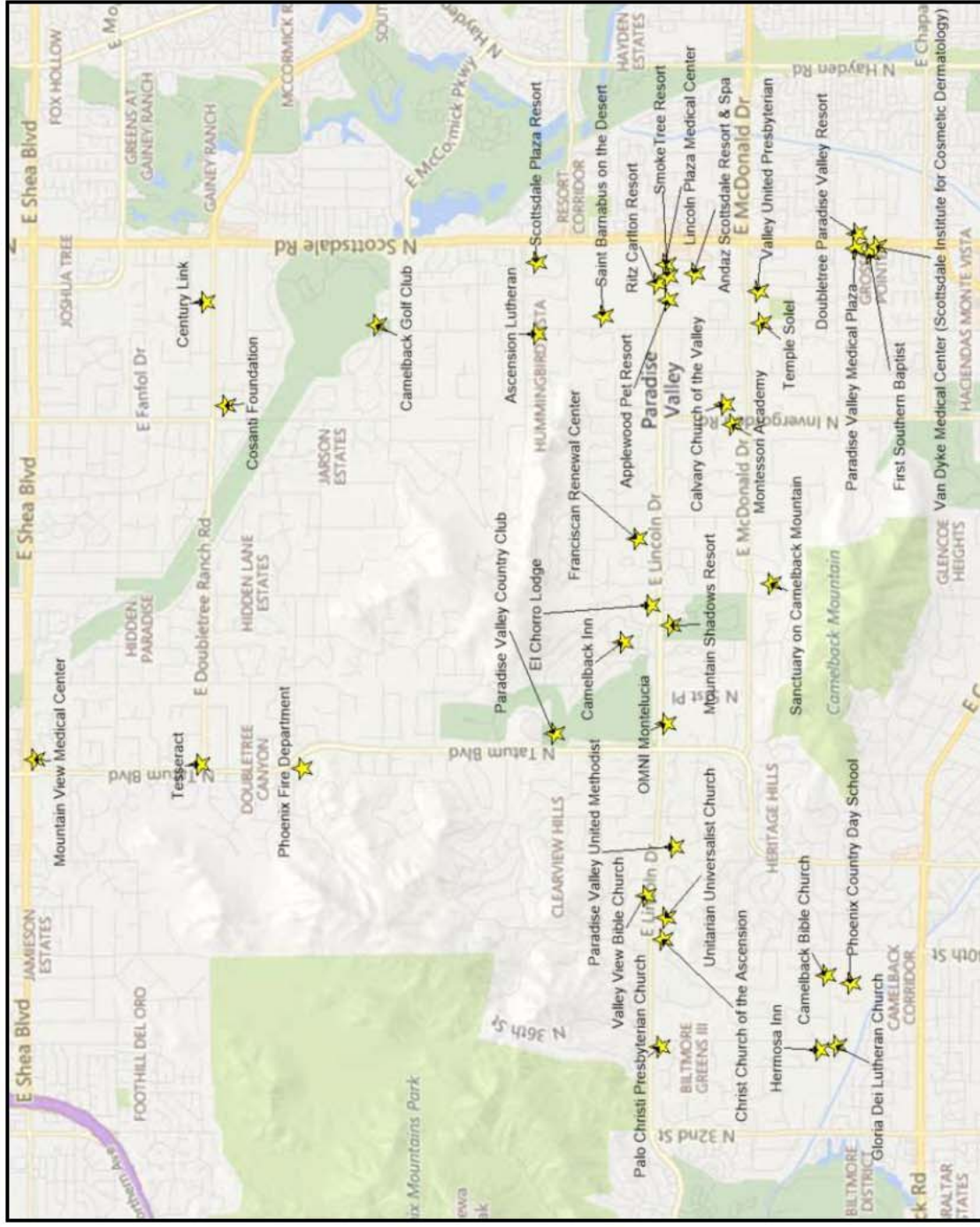
Verizon – LTE L700

Scanner CH5230 Design Criteria Map



SUP Map

Town of Paradise Valley



SUP Information

Town of Paradise Valley

Site Name	Site Address	Latitude	Longitude	Category
Andaz Scottsdale Resort & Spa	7150 E Rose Lane, Paradise Valley, AZ 85253	33.5284	-111.929093	Resort
Applewood Pet Resort	6909 East Lincoln Drive, AZ, Paradise Valley, AZ 85253	33.53062	-111.931732	Other
Ascension Lutheran	7100 N. Mockingbird Lane, Paradise Valley, AZ 85253	33.54127	-111.935053	Church
Camelback Bible Church	3902 E. Stanford Drive, Paradise Valley, AZ 85253	33.51769	-111.997669	Church
Camelback Golf Club	7847 North Mockingbird Lane, Paradise Valley, AZ 85253	33.55428	-111.934165	Resort
Camelback Inn	5402 E. Lincoln Drive, Paradise Valley, AZ 85253	33.53426	-111.965122	Resort
Century Link	6916 E. Doubletree Ranch Road, Paradise Valley, AZ 85253	33.56826	-111.931923	Other
Christ Church of the Ascension	4015 E. Lincoln Drive, Paradise Valley, AZ 85253	33.53102	-111.994202	Church
Cosanti Foundation	6433 Doubletree Ranch Road, Paradise Valley, AZ 85253	33.56664	-111.941998	Other
Doubletree Paradise Valley Resort	5401 N. Scottsdale Road, Paradise Valley, AZ 85253	33.5152	-111.925219	Resort
El Chorro Lodge	5550 E. Lincoln Drive, Paradise Valley, AZ 85253	33.53209	-111.961535	Resort
First Southern Baptist	5230 N. Scottsdale Road, Paradise Valley, AZ 85253	33.51413	-111.927175	Church
Franciscan Renewal Center	5802 E Lincoln Drive, Paradise Valley, AZ 85253	33.53307	-111.955012	Church
Gloria Dei Lutheran Church	3539 E. Stanford Drive, Paradise Valley, AZ 85253	33.51684	-112.00452	Church
Lincoln Plaza Medical Center	7125 E. Lincoln Dr., Paradise Valley, AZ 85253	33.53075	-111.928236	Medical Office
Mountain Shadows Resort	5445 E. Lincoln Drive, Paradise Valley, AZ 85253	33.53033	-111.963443	Resort
Mountain View Medical Center	10595 N. Tatum Blvd, Paradise Valley, AZ 85253	33.58212	-111.97659	Medical Office
OMNI Montelucia	4949 E. Lincoln Drive, Paradise Valley, AZ 85253	33.53072	-111.97312	Resort
Palo Christi Presbyterian Church	3535 E. Lincoln Drive, Paradise Valley, AZ 85253	33.53128	-112.004654	Church
Paradise Valley Country Club	7101 N. Tatum Boulevard, Paradise Valley, AZ 85253	33.53983	-111.974055	Resort
Paradise Valley Medical Plaza	5410 N Scottsdale Road, Paradise Valley, AZ 85253	33.51533	-111.92667	Medical Office
Paradise Valley United Methodist	4455 E. Lincoln Drive, Paradise Valley, AZ 85253	33.53014	-111.985103	Church
Phoenix Country Day School	3901 E. Stanford Drive, Paradise Valley, AZ 85253	33.51569	-111.998419	School
Phoenix Fire Department	8444 N Tatum Boulevard, Paradise Valley, AZ 85253	33.5604	-111.977448	Other
Ritz Carlton Resort	7000 E Lincoln Drive, Paradise Valley, AZ 85253	33.53149	-111.930064	Resort
Saint Barnabus on the Desert	6715 North Mockingbird Lane, Paradise Valley, AZ 85253	33.53583	-111.933337	Church
Scottsdale Plaza Resort	7200 N. Scottsdale Road, Paradise Valley, AZ 85253	33.54131	-111.928062	Resort
SmokeTree Resort	7101 E. Lincoln Drive, Paradise Valley, AZ 85253	33.53062	-111.929397	Resort
Tesseract	4800 E. Doubletree Ranch Road, Paradise Valley, AZ 85253	33.56868	-111.97704	School
Unitarian Universalist Church	4027 E. Lincoln Drive, Paradise Valley, AZ 85253	33.53072	-111.992034	Church
Valley View Bible Church	4222 E. Lincoln Drive, Paradise Valley, AZ 85253	33.53238	-111.989861	Church
Van Dyke Medical Center (Scottsdale Institute for Cosmetic Dermatology)	5206 N. Scottsdale Road, Paradise Valley, AZ 85253	33.51356	-111.926506	Medical Office
Calvary Church of the Valley	6107 N. Invergordon Road, Paradise Valley, AZ 85253	33.52601	-111.941947	Church
Hermosa Inn	5532 N. Palo Christi Road, Paradise Valley, AZ 85253	33.51826	-112.004968	Resort
Montessori Academy	6050 N. Invergordon Road, Paradise Valley, AZ 85253	33.52533	-111.943917	School
Sanctuary on Camelback Mountain	5700 E. McDonald Drive, Paradise Valley, AZ 85253	33.52215	-111.959398	Resort
Temple Solel	6805 E. McDonald Drive, Paradise Valley, AZ 85253	33.52301	-111.933957	Church
Valley United Presbyterian	6947 E. McDonald Drive, Paradise Valley, AZ 85253	33.52325	-111.930819	Church

Engineering Wireless Services LLC

Main Office:
2175 West 14th Street, Tempe, Arizona 85281

Contact Information:

DEPARTMENT	EMAIL
EWS RF Management	rf.managers@engineeringwireless.com
EWS Sales Support	sales.support@engineeringwireless.com
EWS PMO Organization	PMO@engineeringwireless.com

NAME	ROLE/COVERAGE	EMAIL	MOBILE #
Chris Donnelly	Regional Engineering Manager	chris.donnelly@engineeringwireless.com	(602) 570.0101
Ray Trujillo	National Engineering Director	ray.trujillo@engineeringwireless.com	(469) 360.0000
Jon Szeliga	National Sales Director	jon.szeliga@engineeringwireless.com	(480) 315.8000



Thank You

engineeringwireless.com

ATTACHMENT 2

[Malibu agreement with Airbnb]

See following pages.



Council Agenda Report

To: Mayor Pierson and the Honorable Members of the City Council
Prepared by: Trevor Rusin, Assistant City Attorney
Date prepared: January 27, 2021 Meeting date: February 8, 2021
Subject: Compliance Agreement with Airbnb

RECOMMENDED ACTION: Approve compliance agreement with Airbnb, Inc.

FISCAL IMPACT: There is no significant fiscal impact associated with the recommended action.

WORK PLAN: This item was not included in the Adopted Work Plan for Fiscal Year 2019-2020. This project is part of staff operations.

BACKGROUND: On September 29, 2020, the City adopted Ordinance No. 468 regulating the short term rental of property in the City, which is codified in Chapter 17.55 of the Malibu Municipal Code (MMC).¹ This ordinance imposed obligations on online hosting platforms, such as Airbnb, that facilitate the short term rental of property in the City. These obligations are detailed in MMC Section 17.55.070 and include the following:

- Collecting and remitting transient occupancy tax to the City
- Disclosing information related to listings on their website, subject to applicable laws
- Preventing the booking of short-term rentals unless the property is listed on the City's registry of properties with valid short-term rental permits at the time the platform receives a fee for the transaction
- Not collecting fees for facilitating or providing ancillary services to an unpermitted short-term rental

MMC Section 17.55.070 (E) allows a hosting platform to satisfy these obligations through a compliance agreement. Airbnb seeks to enter such an agreement, which is attached hereto as Attachment 1.

¹ Ordinance 472, also known as the "Hosted Ordinance" and which was designed to supersede Ordinance 468, will become effective when the local coastal program amendments contained in the Ordinance are approved by the California Coastal Commission, but that review by the Coastal Commission is not yet complete.

The central features of the agreement are the following:

1. Requires Airbnb to include a field that will force hosts to input their City STR permit number when setting up a listing on their platform.
2. Requires Airbnb to display that STR permit number on all listings.
3. Requires Airbnb to take down any STR listing in the City that does not display a STR permit number in the correct format designated by the City by February 16, 2021.
4. Requires Airbnb to communicate with hosts regarding the City's short-term rental permit requirements, and the requirements of this Agreement.
5. Requires Airbnb to send monthly reports to the City that includes the URL and host provided STR permit number for each STR listing on its platform. The first report shall be due no later than March 1, 2021.
6. Beginning on March 1, 2021, upon written or email notification from the City that a short term rental listing does not have a valid STR permit number, Airbnb will deactivate the listing from its website within 10 calendar days and cancel any existing STR rental reservations for that listing that were processed on or after January 15, 2021, within 30 calendar days.
7. Airbnb will work to provide the City with access to a Malibu-specific City portal that provides additional information and enforcement tools specific to the listings in Malibu to aid enforcement and administrative efforts.
8. Airbnb will maintain its existing agreement to collect transient occupancy tax for bookings executed through its platform.

If the Agreement is executed by the City Council, Airbnb shall be deemed to be in compliance with MMC Section 17.55.070 so long as it is in compliance with the terms of the Compliance Agreement.

While Airbnb is not required by the MMC to provide any of the benefits listed above, the most important feature of the Agreement is that it will require Airbnb to remove illegal listings from being displayed on its website. Every listing located in the City will have to include a STR permit number, and if the City discovers a fraudulent, expired, or revoked permit number is listed the listing will have to be taken down by Airbnb. Host Compliance, with whom the City currently has an agreement in place, has tools that allow it to scrape and examine listings on Airbnb and quickly identify illegal listings. As a result, it is anticipated that illegal listings will be quickly identified and eliminated if the Agreement is adopted.

While it is illegal for an individual to advertise their unpermitted short-term rental in the City under the MMC, it is not illegal for a hosting platform to contain listings for unpermitted short-term rentals.²² Instead, the MMC prohibits hosting platforms from booking

²² This construction mirrors ordinances adopted by San Francisco, Santa Monica, and many jurisdictions throughout the state in order to avoid any conflict with the Communications Decency Act.

transactions for unpermitted rentals. As it is easier to prevent, and take action against, illegal listings under a system such as that proposed by the Agreement (where the hosting platform requires a permit number in order to post a listing and agrees to remove illegal listings), other jurisdictions such as Santa Monica and Los Angeles have entered agreements similar to the one proposed here.

The development of the Malibu-specific City Portal will also provide a user-friendly tool that will allow Code Enforcement staff to quickly identify new listings on the Airbnb and immediately report them to Airbnb if they are unpermitted. This will provide an additional level of scrutiny to the listings on Airbnb and help ensure any unpermitted listings are identified and removed quickly.

If the system proposed by the Agreement does not result in the elimination of illegal listings to the satisfaction of the City Council, it can terminate the Agreement and Airbnb would then be governed again by the provisions of MMC Section 17.55.070(A)-(D). The Agreement may be terminated by the City upon 60 days' notice, or immediately if Airbnb fails to fulfill its obligations under the Agreement.

The City is under no obligation to enter into the Agreement. If the City does not adopt the Agreement, Airbnb will simply have to comply with the specific provisions of MMC Section 17.55.070. In that case the City will continue to circulate a list of all of the permitted short-term rental properties in the City to Airbnb and Airbnb will be barred from booking stays for those properties. Airbnb will not be under any obligation to remove illegal listings, or to force its hosts to list their permit number online.

ATTACHMENT: Proposed Compliance Agreement with Airbnb

COMPLIANCE AGREEMENT

This Memorandum of Understanding (“AGREEMENT”) is entered into by and between Airbnb, Inc. (“Airbnb”) and the City of Malibu (the “City”) (collectively, the “Parties”) as of the date signed by both parties (the “Effective Date”).

1. RECITALS

The following recitals are fully incorporated into this Agreement:

A. On September 29, 2020, the City enacted Ordinance No. 468 pertaining to short-term rentals (“Ordinance”) that added chapter 17.55 to the Malibu Municipal Code (“MMC”);

B. MMC Section 17.55.070(E) provides that a hosting platform may satisfy its obligations under that section through a compliance agreement with the city that “prevents booking transactions for unpermitted short-term rentals, collects all transient occupancy tax due, and complies with the disclosure requirements of this section”; and

C. Airbnb desires to enter into a compliance agreement pursuant to MMC Section 17.55.070(E).

NOW, THEREFORE, the Parties hereto agree as follows:

2. DEFINITIONS

Unless otherwise defined in this Agreement, all initially capitalized terms shall have the same meaning as in MMC Section 17.020.060.

2.01 “Short-Term Rental Permittee” means any person holding a Short-Term Rental Permit issued by the City Manager or designee pursuant to MMC Sections 17.55.010 and 17.55.020.

2.02 “Short-Term Rental Permit Number” means the Short-Term Rental Permit Number issued by the City Manager or designee pursuant to MMC Sections 17.55.010 and 17.55.020.

2.03 “Short-Term Rental Listing” or “Listing” means a publicly available webpage or advertisement (online or otherwise) for a Short-Term Rental located on any website associated with Airbnb.

3. AIRBNB RESPONSIBILITIES

3.01 **Designated Field.** Beginning no later than January 15, 2021, Airbnb shall include a

designated field in its listing flow that requires a host to input their Short-Term Rental Permit Number for their Short-Term Rental Listing on Airbnb's website.

3.02 Display Field. Airbnb shall display the Short-Term Rental Permit Number on all Short-Term Rental Listings in a manner visible to any person visiting the Listing.

3.03 Platform Takedown Date. On February 16, 2021, Airbnb shall take down any Short-Term Rental Listings that do not display a Short-Term Rental Permit Number in the correct format designated by the City.

3.04 Host Education. Before the designated field is launched, Airbnb will communicate to hosts regarding the City's Short-Term Rental Permit requirements, including the relevant requirements established by this Agreement. Airbnb shall display a link to the City's webpage where a Host may apply to obtain a City Short-Term Rental Permit either on the same page as, and in proximity to, the City Short-Term Rental Permit number field displayed during the listing creation process, or on a page immediately preceding the page with the City Short-Term Permit number field. The page displaying the link shall notify the Host of the obligation to obtain a Short-Term Rental Permit for all Short-Term Rental activity in the City, the obligation to display the permit number, and the consequences and penalties for failing to comply with those obligations.

3.05 Monthly Reports. On the last business day of each month, Airbnb will send a report to the City that includes the URL and host provided Short-Term Rental Permit Number for each Short-Term Rental Listing on its platform. The first report due under this Section will be submitted to the City no later than on March 1, 2021.

3.06 Rolling Takedown Date. Beginning no later than March 1, 2021, upon written notification from the City that a Short-Term Rental Listing does not have a valid Short-Term Rental Permit Number, Airbnb shall deactivate the Short-Term Rental Listing from its website within 10 calendar days and cancel any existing Short-Term Rental reservations for that Listing processed by Airbnb on or after January 15, 2021, no later than 30 calendar days of the notification being sent. This notice may be provided via the Hosting Platform Portal and/or an email directed to andrew.fede@airbnb.com.

3.07 Hosting Platform Portal. Airbnb shall work to provide the City with access to Airbnb's City Portal, which provides relevant localized insights on Airbnb's footprint within the City (e.g., tourism recovery efforts, community safety, and Airbnb support) and enforcement tools for City Short-Term Rental Listings to effectuate this Agreement.

3.08 **Transient Occupancy Tax.** Separate and apart from this Agreement, Airbnb shall maintain its current agreement with the City regarding the collection and payment of transient occupancy tax.

4. **AGREEMENT TERM**

4.01 This Agreement shall commence on the Effective Date and remain in effect until terminated by either party upon 60 days' prior written notice to the other party. If Airbnb fails to perform any of the provisions of this Agreement, City may give Airbnb written notice of the default. City may terminate this Agreement upon delivery of such notice of default, or it may offer Airbnb an opportunity to cure the default. If provided an opportunity to cure the default, the default must be cured to the satisfaction of the City within the time period provided by the City in writing to avoid immediate termination of this Agreement. If Airbnb is provided an opportunity to cure the default, but no period to cure is provided in writing for the cure to be completed, the default must be cured to the City's satisfaction within 15 calendar days of delivery of the notice of default. If the City amends its ordinances, regulations, administrative rules or policies to impose materially different tax, fee, or regulatory obligations pertaining to short-term rentals, hosting platforms, or hosts, Airbnb may terminate this Agreement upon 30 days' prior written notice to the City. In the event the Parties withdraw from the Agreement or this Agreement is otherwise terminated, the Parties shall be returned to the legal positions they occupied prior to execution of this Agreement and Airbnb must immediately come into full compliance with MMC Chapter 17.55, including Section 17.55.070, as Airbnb will no longer be satisfying its obligations through a compliance agreement as authorized by Section 17.55.070(E).

4.02 This Agreement may be modified or amended at the mutual discretion of the Parties by written amendment signed by both Parties.

5. **MISCELLANEOUS**

5.01 **Geographic Scope.** This Agreement, and the obligations imposed on the Parties, are limited to Short-Term Rental Listings located within the City.

5.02 **Counterparts.** This Agreement may be executed in any number of counterparts, each of which will be deemed an original, and all of which, when taken together, will constitute one and the same instrument. The Agreement will become effective when a counterpart has been signed by each Party and delivered to the other Party, in its original form or by electronic mail, facsimile or other electronic means. The Parties hereby consent to the use of electronic signatures in connection with the execution of this agreement, and further agree that electronic signatures to this agreement will be legally binding with the same force and effect as manually executed signatures.

5.03 **Governing Law.** This Agreement shall be deemed to be made under, and shall be interpreted in accordance with the laws of the State of California and the laws of the United States,

as applicable. Venue for any action related to this Agreement shall lie exclusively in the courts located in Los Angeles County.

5.04. Indemnification. Notwithstanding anything in this Agreement to the contrary, except for the active negligence or willful misconduct of City, or any of its, officers, agents, employees, assigns, and successors in interest, Airbnb shall defend, indemnify, and hold harmless City and any of City's officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands, and expenses, including, but not limited to, attorney's fees (both in-house and outside counsel) and cost of litigation (including all actual litigation costs incurred by City, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including Airbnb's employees and agents, or damage or destruction of any property of either Party hereto or of third parties, arising in any manner by reason of active negligence or willful misconduct by Airbnb, its subcontractors, or their boards, officers, agents, employees, assigns, and successors in interest in connection with the implementation and execution of this Agreement. The rights and remedies of City provided in this Section 5.04 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement. This provision will survive expiration or termination of this Agreement.

5.05. Limitation of Liability. City will not be liable hereunder for special, indirect, consequential, or incidental damages including, but not limited to, lost profits, failure to achieve cost savings, or the failure or increased expense of operations, regardless of whether any such losses or damages are characterized as arising from strict liability or otherwise, even if City is advised of the possibility of such losses or damages, or if such losses or damages are foreseeable.

5.06. No Assignment. Airbnb shall not assign, subcontract, delegate, or otherwise transfer this Agreement, or its rights and obligations herein, without obtaining the prior written consent of City, and any attempted such assignment, subcontract delegation, or transfer in violation of the foregoing will be null and void.

5.07. Waiver. A waiver of a default of any part, term, or provision of this Agreement shall not be construed as a waiver of any succeeding default or as a waiver of the part, term, or provision itself. A Party's performance after the other Party's default shall not be construed as a waiver of that default.

5.08. Severability. If any term, clause, or provision hereof is held invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or operation of any other term, clause, or provision and such invalid term, clause, or provision shall be deemed to have been severed from the Agreement.

5.09. **Further Assurances.** The Parties shall take such actions and execute and deliver such documents and information as may be reasonably necessary or appropriate to effectuate the purposes of this Agreement

5.10. **Voluntary Agreement.** Airbnb acknowledges and agrees that this Agreement is voluntary. Airbnb affirms that it has read and fully understands the terms of this Agreement.

5.11 **Authority.** Each Party represents and warrants that the person executing this Agreement on its behalf has full authority and capacity to execute this Agreement.

5.12. **Contact and Notice Information.** All notices and other communications related to the administration of this Agreement will be in writing and delivered to the Parties using the following email addresses and/or physical addresses:

Airbnb, Inc.:

City:

Airbnb, Inc.

John Choi

john.choi@airbnb.com

City of Malibu

Reva Feldman

rfeldman@malibucity.org

With a copy sent to:

Benjamin Lee

ben.clee@airbnb.com

With a copy sent to:

Trevor Rusin

trevor.rusin@bbklaw.com

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers.

Airbnb, Inc.

City of Malibu

MIKKE PIERSON

By:

Name:

Title:

Date:

Mayor

ATTEST:

HEATHER GLASER, City Clerk
(seal)