

SUPERIOR COURT, STATE OF ARIZONA, In and for the County of Cochise

BY FORM 1001
DEPUTY

<p>In Re the Matter of:</p> <p>AMANDA ROOT; GRANVILLE and GEORGIA MONTGOMERY, a married couple; CHARLES PARRISH; and CHARLES PARRISH o/b/o ROBERT DREESZEN,</p> <p style="text-align: right;">Plaintiffs,</p> <p>v.</p> <p>CITY OF SIERRA VISTA,</p> <p style="text-align: right;">Defendant.</p>	<p style="text-align: center;">December 11, 2025</p> <p style="text-align: center;">Case No. CV202100078</p> <p style="text-align: center;">ORDER (Under Advisement)</p>	
<p>HONORABLE DAVID THORN DIVISION THREE</p>		<p>By: Lauren Begnoche Judicial Administrative Assistant</p>

Plaintiffs seek declaratory and injunctive relief from the City of Sierra Vista’s zoning ordinance- as it applies to them- which prohibits permanently living in an RV outside of an RV park. Both parties have filed dueling Motions for Summary Judgment, Responses, and Replies. The Court has considered the contents of its file and arguments made by counsel at oral argument.

In sum, the City of Sierra Vista, like most Arizona municipalities, has zoning ordinances. The City’s zoning ordinances do not allow recreational vehicles to be used as a permanent residence outside of a manufactured home park. In the instant case, Plaintiffs reside in recreational vehicles located in a manufactured home subdivision but not within the park inside of the subdivision.

Pursuant to Arizona Rule of Civil Procedure 56(a), the Court must grant summary judgment if the moving party shows that there is no genuine dispute as to any material fact and that the moving party is entitled to judgment as a matter of law. The Court **FINDS** as follows:

1. “Cloud 9” is a manufactured home subdivision that was annexed into the City of Sierra Vista in 1984.
2. Cloud 9 consists of 166 lots for manufactured homes and a smaller manufactured home park.
3. Both Plaintiffs permanently live in recreational vehicles within the manufactured home subdivision but not in the manufactured home park.
4. In July, 2020 the City notified the Plaintiffs that they were in violation of the zoning ordinance.
5. In August, 2020 one of the Plaintiffs made a request to amend the zoning code so that her residence would comply with the zoning ordinance.
6. The request went to the Planning and Zoning Commission. On October 27th, 2020 the Commission voted against adopting the modification.

7. On February 11th, 2021 the Sierra Vista City Council held a public hearing on the Plaintiff's zoning amendment request. The City Council unanimously voted against the proposal. This lawsuit was filed on February 16th, 2021.

The Court will begin from the premise that statutes, zoning codes, and any other regulatory schemes passed by a legislative body comply with the United States and Arizona Constitutions and that the burden of showing that a regulation or statute does not pass constitutional muster is on the moving party. Plaintiffs make three claims. The first claim is that the zoning ordinance violates their substantive due process rights under the Arizona Constitution because it lacks a substantial relation to a legitimate government interest. The next claim is that the zoning ordinance violates the Plaintiffs equal protection rights under the Arizona Constitution because it distinguishes between that part of the manufactured home subdivision suitable for manufactured homes and the area suitable for recreational vehicles. Finally, Plaintiffs claim that the City must obtain a Court Order to enforce its zoning ordinance and that the failure to do so is a violation of their due process rights under the Arizona Constitution and violates the separation of powers protections afforded by the Arizona Constitution. The Court will address each of these claims in order.

First, zoning laws serve the public welfare by providing for the orderly development of the community. Klensin v. City of Tucson, 10 Ariz.App. 399, 459 P.2d 316 (1969); Rubi v. 49'er Country Club Estates, Inc., 7 Ariz.App. 408, 440 P.2d 44 (1968). See 8 McQuillen, *The Law of Municipal Corporations*, s 25.17. The matter of zoning is appropriately one for the legislative branch of government. City of Phoenix v. Fehlner, 90 Ariz. 13, 363 P.2d 607 (1961). There is a presumption that zoning ordinances are valid. City of Phoenix v. Fehlner, *Supra*. An ordinance will not be found unconstitutional unless it affirmatively appears that 'the restriction is clearly arbitrary and unreasonable, and has not any substantial relation to the public health, safety, morals, or general welfare.' City of Tucson v. Arizona Mortuary, 34 Ariz. 495, 507, 272 P. 923, 927 (1928); Village of Euclid, Ohio v. Ambler Realty Co., 272 U.S. 365, 47 S.Ct. 114, 71 L.Ed. 303 (1926).

In establishing its zoning regulations, the City has distinguished between commercial and residential uses of the land. The City has also created subcategories of commercial use and residential uses of the land. In this case, the City has distinguished between manufactured homes which are, by nature, immobile and manufactured homes which are mobile. One uses a "parking area" to "park" a structure which is designed to be moved either by its own power or to be pulled behind a vehicle. The zoning regulation recognizes the different characteristics, generally speaking, between these types of structures and residential structures which are not designed to be moved. The Court **FINDS** that the zoning regulation prohibiting the permanent occupancy of a recreational vehicle outside of a manufactured home park is **NOT** clearly arbitrary or unreasonable and has a substantial relation to public health, safety, morals, or the general welfare.

Next, Plaintiffs claim that the zoning ordinance violates their right to equal protection because the regulation treats those residing permanently in recreational vehicles differently from those who reside in

manufactured homes. An equal protection argument is based on the notion that everyone is entitled to equal treatment by the government and that laws or regulations which differentiate between individuals must be rationally related to a legitimate governmental interest.

The equal protection guarantees of the Arizona and United States constitutions “are essentially the same” and require similarly situated people be treated alike. State v. Lowery, 230 Ariz. 536, 287 P.3d 830, 835 (App. 2012), *quoting* State v. Bonnewell, 196 Ariz. 592, 2 P.3d 682, 686 (App. 1999); *see also* U.S. Const. amend. XIV, § 1; Ariz. Const. art. II, § 13. These guarantees do not prohibit all classifications, however, but only those which are “unreasonable.” Lowery, 230 Ariz. 536, 287 P.3d at 835.

Substantive due process ensures that the government's actions are fundamentally fair, “regardless of the fairness of the procedures used to implement them.” Martin v. Reinstein, 195 Ariz. 293, 987 P.2d 779, 800 (App. 1999), *quoting* Zinermon v. Burch, 494 U.S. 113, 125, 110 S.Ct. 975, 108 L.Ed.2d 100 (1990); *see also* U.S. Const. amend. XIV, § 1; Ariz. Const. art. II, § 4; Conn. Dep't of Pub. Safety v. Doe, 538 U.S. 1, 7–8, 123 S.Ct. 1160, 155 L.Ed.2d 98 (2003) (statutory registration requirements question of “substantive, not procedural, due process”). It thus “prevents the government from engaging in arbitrary, wrongful actions.” Martin, 195 Ariz. 293, 987 P.2d at 800. “It precludes conduct that ‘shocks the conscience’ or interferes with rights ‘implicit in the concept of ordered liberty.’ ” *Id. quoting* United States v. Salerno, 481 U.S. 739, 746, 107 S.Ct. 2095, 95 L.Ed.2d 697 (1987).

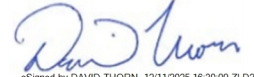
The Court’s review of equal protection and substantive due process claims are “conceptually” similar, with the level of scrutiny dependent upon the classification or right at issue. Governale v. Lieberman, 226 Ariz. 443, 250 P.3d 220, 225 (App. 2011); *see also* State v. Russo, 219 Ariz. 223, 196 P.3d 826, 828 (App. 2008). Rational basis review “is a paradigm of judicial restraint.” F.C.C. v. Beach Commc'ns, Inc., 508 U.S. 307, 314, 113 S.Ct. 2096, 124 L.Ed.2d 211 (1993). And, in an equal protection review, the statute is presumed valid “if the classification drawn by the statute is rationally related to a legitimate state interest.” City of Cleburne, Tex. v. Cleburne Living Ctr., 473 U.S. 432, 440, 105 S.Ct. 3249, 87 L.Ed.2d 313 (1985). The Plaintiffs in this case must show “beyond a reasonable doubt [the statute is] wholly unrelated to any legitimate legislative goal.” Martin, 195 Ariz. 293, 987 P.2d at 796.

The Court is primarily relying on the memorandum sent to the City Council on January 28th, 2021 by the Director of Community Development and contained in the Defendant’s Statement of Facts on pages 15 and 16. The memorandum lists seven different reasons why recreational vehicles are different from manufactured homes and why zoning regulations should address those differences. The Court **FINDS** that the zoning regulations are rationally related to a legitimate government interest.

Finally, there was no violation of the separation of powers when the City sent notices to the Plaintiffs that they were in violation of the zoning regulations. Plaintiffs could have challenged the application of the ordinance to them through a hearing officer and if they are unhappy with the results of that hearing they could

appeal to the Municipal Court. There is no requirement for the City to get an order from a Court to enforce ordinances like zoning regulations.

For the foregoing reasons the Defendant's Motion for summary Judgment is **GRANTED** and the case is **DISMISSED** without prejudice. For the same foregoing reasons, the Plaintiff's Motion for Summary Judgment is **DENIED**. Each party will pay their own fees and costs. No matters remain pending and judgment is entered pursuant to Arizona Rule of Civil Procedure 54(c).



eSigned by DAVID THORN 12/11/2025 16:30:00 ZLD2ysq7

Honorable David Thorn

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