



UNIFIED DEVELOPMENT CODE COMMITTEE AGENDA

UNIFIED DEVELOPMENT CODE COMMITTEE
REGULAR MEETING
WEDNESDAY, JANUARY 5, 2011
10:00 AM

DOWNSTAIRS CONFERENCE ROOM
CITY HALL
201 S. CORTEZ STREET
PRESCOTT, ARIZONA
(928) 777-1205

The following agenda will be considered by the **UNIFIED DEVELOPMENT CODE COMMITTEE** at its **REGULAR MEETING** to be held on **WEDNESDAY, JANUARY 5, 2011, at 10:00 AM**, in the **DOWNSTAIRS CONFERENCE ROOM, CITY HALL**, located at **201 S. CORTEZ STREET**. Notice of this meeting is given pursuant to *Arizona Revised Statute*, Section 38-431.02.

I. CALL TO ORDER

II. ATTENDANCE

MEMBERS

Len Scamardo, Chairman
John Hanna, Sr., Councilman
Tom Kayn
Jim Lamerson, Councilman

Tom Menser
Dick Rosa
Mary Ann Suttles, Councilwoman

III. REGULAR ACTION ITEMS

- 1. Approve the minutes** of the December 8, 2010 meeting.
- 2. Prop 203, Medical Marijuana.** Mike Bacon, Community Planner.
- 3. Transitional Housing,** Ruth Hennings, Intern.
- 4. Other Items, Discussion Items and Future Agenda Items.**

IV. ADJOURNMENT

CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at Prescott City Hall and on the City's website on December 29, 2010 at 5:00 p.m. in accordance with the statement filed with the City Clerk's Office.

Kathy Dudek, Administrative Assistant
Community Development Department

**UNIFIED DEVELOPMENT CODE COMMITTEE
REGULAR MEETING
DECEMBER 8, 2010
PRESCOTT, ARIZONA**

MINUTES OF THE REGULAR MEETING OF THE **UNIFIED DEVELOPMENT CODE COMMITTEE** OF THE CITY OF PRESCOTT held at **10:00 a.m.** on **December 8, 2010** in the **City Hall Downstairs Conference Room** located at **201 S. Cortez Street**, Prescott, Arizona.

I. CALL TO ORDER

Chairman Scamardo called the meeting to order at 10:00 a.m.

II. ATTENDANCE

MEMBERS PRESENT

Len Scamardo, Chairman
John Hanna, Sr., Councilman
Tom Kayn
Jim Lamerson, Councilman
Tom Menser
Mary Ann Suttles, Councilwoman

STAFF PRESENT

Tom Guice, Community Development Director
George Worley, Planning Manager
Matt Podracky, Sr. Assistant City Attorney
Lt. Andy Reinhardt, Police Department
Mike Bacon, Community Planner
Kathy Dudek, Recording/Transcribing Secretary
Ruth Hennings, Community Development Intern

MEMBERS ABSENT

Dick Rosa

OTHERS PRESENT

Dava Hoffman, Dava & Associates
Joe Baynes, Yavapai County Contractors Association

III. REGULAR ITEMS

- 1. Approve the minutes** of the October 6, 2010 meeting.

Mr. Menser, MOTION: to approve the minutes of the October 6, 2010 meeting. Ms. Suttles, 2nd. **Vote: 6-0.**

- 2. Prop. 203, Medical Marijuana.** Mike Bacon, Community Planner.

Mr. Bacon presented the staff report and indicated:

- the City has 120 days from the canvassing of the election to adopt an ordinance;
- the Arizona Department of Public Health Services has set a timeline of December 17, 2010 for drafting their own rules;
- the *Land Development Code (LDC)* amendments need to be in place as well;
- when decided, the UDC recommendations for *LDC* amendments will go to the Planning & Zoning Commission on January 27, 2011 for a study session and February

- 10, 2011 for the public hearing; and,
- after the P&Z Commission makes a recommendation, the proposed amendments will be presented to City Council for ordinance adoption.

Lt. Andy Reinhardt, Prescott Police Department, noted that other jurisdictional rulings in Arizona are being looked at to see how Prop. 203 is being addressed. The Police Department (PD) basically agrees with what planning staff is proposing. The Department of Public Health Services will meet on December 17, 2010 and the PD will look at what is proposed at that time. A person who uses medical marijuana in his system cannot be under the influence while driving.

Committee members and others present queried and remarked on:

- whether the traffic enforcement officers be certified as Drug Recognition Experts (DRE) [Lt. Reinhardt: only one or two are not currently certified];
- whether the PD will have access to an information bank for those issued certificates for medical marijuana [Lt. Reinhardt: will comment on this after the December 17, 2010 DPHS procedures become available];
- the lead being taken by Yavapai County for what municipalities plan to do;
- the problem of "spice" addressed early by MAT Force; and,
- basic concerns with the financial aspects of what Prop. 203 will cost the City.

Mr. Bacon noted that today's meeting is to gather comments for *LDC* amendments in the following four areas:

- 1) Zoning districts,
- 2) Permitting process,
- 3) Spatial requirements, and
- 4) Building size.

Comments and questions included:

- staff is proposing to exclude residential zoning areas as well as the NOB (neighborhood oriented business) district;
- the districts pharmacies are permitted: NOB, BG, BR, DTB, IT, IL, IG;
- the restrictions for liquor stores: 300' from schools with BG as the starting zoning district;
- will the medical marijuana be taxed [Mr. Worley: we won't know until after the DPHS meeting on December 17. The ownership of the operation is that of a "non-profit" business or corporation];
- the dispensary is not open to the public, but only to those with certificates;
- the operation falls more into a medical category;
- the industrial zoning districts are the most expensive to rent or buy property, and that is where the business should be located;
- growing and selling from one location or two separate locations;
- the dispensary and facility and infusion center should be kept away from parks and schools;
- whether the sales of medical marijuana or other narcotics should be treated any differently than any other prescription product;
- the City should not discriminate as medical marijuana is a legalized drug and should be given equal treatment;
- limiting the sales to districts different from pharmacies is discriminatory;
- the right, under the Constitution, as a governing board of the City, to establish what

- the City will do, including taking costs under consideration;
- could the City ban the sales and manufacture of medical marijuana [Mr. Podracky stated he doesn't believe that could be done];
 - the State of Arizona is limiting the facilities to one facility for every 10 pharmacies;
 - in Yavapai County, a total of perhaps 2-3 medical marijuana licenses within the quad cities will be issued;
 - can the medical marijuana dispensary be treated differently than a pharmacy [Mr. Podracky: the marijuana is not a prescription, it is a "certification". Is there a rational basis to place the business somewhere different than a pharmacy. The process indicates you are allowed to establish reasonable zoning places];
 - the zoning issues around the dispensary and cultivation are totally different than zoning issues with a pharmacy;
 - the difference between growing/cultivation, sales, and infusion operation; and,
 - limiting the size of the building, signs and locations.

Mr. Adam Trenk, speaking as a Councilman for the City of Cave Creek, and affiliated with the Rose Law Group, notes that his law firm helps cities around the state grapple with Prop. 203. The Rose Law Group has prepared a document (posted within the website agenda as well as given to members of the UDC) that includes aspects of Prescott's zoning districts.

LDC Table 2.3 indicates whether a business is permitted outright, whether a conditional use permit is required with the Board of Adjustment's approval, or whether a Special Use Permit is required with City Council's approval.

Ms. Heather Wright, 385 S. Dewey Road, Dewey, Arizona, noted that if a card-carrying patient does not live within 25 miles of a dispensary, that person is allowed to grow 12 marijuana plants for their own use.

Lt. Reinhardt was excused at 10:51 a.m.

Mr. Russ Finkelstein, 875 Alpha Lane, proffered that he is familiar with the California system. When a dispensary is placed in a general business district, there is a little sign on the door. There has to be consideration that a large business sign not be permitted. These facilities are not located in either downtown San Diego or Los Angeles. California does tax the product.

Mr. Trenk offered that the DHS rules limit the operation to one secure entrance for the building. A larger building must have more emergency egress. The size of the building would be determined by Planning & Zoning Commission and made a condition of the approval.

Mr. Finkelstein indicated that 2,000 SF is a huge size for a facility growing 12 plants. The average size of a Costco pharmacy is 800 SF.

Mr. Matt Pyatt, 810 Hope Street, noted that there is a difference between the growth and dispensary space. The cultivation operation would require more room.

Further comments and queries included:

- signage at the cultivation and infusion facilities should be prohibited;
- the signage on the dispensary window of the entrance door should not be more than

20%;

- a corporation licensed by the state must use due diligence in finding appropriate venues from which to operate, it is not the responsibility of the City;
- because the small Industrial Transition zoning district (IT) is usually close to a residential district, a Conditional Use Permit (CUP) should be required if IT is included, or it should be excluded altogether.

A review of the dispensary included:

- a CUP would be required in BG and BR;
- a SUP would be required in DTB;
- distance requirements must be established;
- exclusion from IT, IL, and IG;
- must be operated from an enclosed, permanent building with no "drive-thru" sales; and,
- delivery services should be prohibited.

A review of the cultivation or infusion facility included:

- in IL and IG, the facility could operate "outright,"
- a CUP should be required in IL and IG; and,
- the IT district should be excluded.

A review of the separation and building sizes included:

- the mandatory separation from schools, parks, etc.;
- the more restrictions, the more control the City has;
- restrictions need to be clearly defined; and,
- the building sizes would be "market driven" without a size limit; and,
- ancillary health services might be added to the dispensary at a future time.

Mr. Pyatt asked that the caregiver aspect of Prop. 203 also be looked at.

A map of the zoning districts will be presented at the next UDC meeting.

The next UDC meeting will be held on January 5, 2011 in the Downstairs Conference Room at City Hall at 10 a.m.

3. **Transitional Housing**, Ruth Hennings, Intern.

Ms. Henning, intern, prepared a report on Transitional Housing and proffered:

- sections of the *Land Development Code (LDC)* are out of compliance with Federal laws;
- Sedona was challenged on their codes and lost the litigation;
- the Arizona Center for Disability Law contacted Prescott and advised that the existing *LDC* is overly restrictive;
- the following terms were discussed: community residence, persons with disabilities, the Fair Housing Act (FHA), zoning implications, licensing requirements and spacing distances;
- excluded from the "disabled" under the FHA are sex offenders, juveniles and anyone currently using an illegal substance;
- Prescott allows for up to eight unrelated persons in a residence in the residential zoning districts;

- a proposed zoning strategy for community residences was discussed.

No action was taken, and the item will be reagendaized for the January 5, 2011 meeting at 10:00 a.m. in the Downstairs Conference Room.

4. Other Items, Discussion Items and Future Agenda Items.

None.

IV. ADJOURNMENT

Chairman Scamardo adjourned the meeting at 1:17 p.m.

Len Scamardo, Chairman



Kathy Dudek
Community Development Department
Administrative Assistant & Recording/
Transcribing Secretary to the Committee

OPTION “A”

UDC COMMITTEE

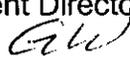
MEMORANDUM

Date January 5, 2011

CITY OF PRESCOTT

COMMUNITY DEVELOPMENT - PLANNING & ZONING DIVISION

TO: Unified Development Code Committee Members

FROM: Tom Guice, Community Development Director 
George Worley, Planning Manager 

TOPIC: Medical Marijuana (Proposition 203) A.R.S. 36-2801(et seq.)

INTRODUCTION:

With the passage of Proposition 203 the State of Arizona now allows for the dispensing and use of medical marijuana, along with the growing of the product to be dispensed. The Department of Health Services DHS is in the midst of developing rules to govern the licensing of the various facilities and was granted a period of 120 days to complete those rules. Assuming DHS takes the full allotted time, businesses will be able to apply to them around the first week of April.

As Medical Marijuana uses are new to the state, municipalities and counties are required to address these uses under their zoning codes. Many, if not most, are drafting new and separate regulations to be integrated into their codes. City staff has undertaken such a process and presented some basic concepts to the UDC at its prior meeting. Staff is prepared to continue those discussions with the UDC on January 5th. However, staff has also discussed and would like to present an alternative approach to addressing Medical Marijuana dispensaries and facilities in the City of Prescott.

SUGGESTED ACTION:

The LDC was originally drafted by the UDC with a great deal of forethought to the prospect of new uses beyond those specifically listed in Table 2.3. Article 11, Section 11.1.2 (attached) of the LDC establishes a "Similar Use Interpretation" procedure for uses not already specifically identified. A series of criteria are provided to guide staff in making such interpretations. This is a staff decision by Community Development Director (who has the authority to seek the advice of the P&Z Commission prior to making such interpretations).

Using the Similar Use Interpretation process set out in LDC 11.1.2 Medical Marijuana uses could be matched to existing, well established use categories as follows. The new Medical Marijuana statute creates three distinct uses that must be addressed, Dispensaries, Infusion Facilities and Growing Facilities. These three uses can be reasonably interpreted as being functionally equivalent to one or more uses already listed in Table 2.3.

Uses are classified "based on common functional, product or physical characteristics" (LDC Section 11.1.1A) and a similar use interpretation must consider these same criteria. Starting with Dispensaries, we can look at the described use and restrictions under the statute to help identify any listed uses that are functionally equivalent and physically similar. A medical drug is dispensed, expensive, controlled substances are stored, security is required and portions of the building/unit have restricted access. Drug Stores seem to be an obvious similar classification in Table 2.3 to consider. At a Drug Store medical drugs are dispensed, expensive, controlled substances are stored, security is required and portions of the building/unit have restricted access. Given that the functions, products and physical characteristics of the Dispensary are nearly identical to that of a Drug Store, a similar use interpretation that Dispensaries are permitted where Drug Stores are permitted is both reasonable and defensible. Using this approach Dispensaries would be permitted in the NOB, BG, BR, DTB, IT and IL districts. Regulations specific to each of these districts would apply. As would any statutory regulations.

Similarly, a Growing Facility is agricultural production within a controlled physical space. The LDC has a category for Agricultural Production in Table 2.3, has use regulations in Section 2.4.2 and has further clarification in Section 11.1.7 for this use. While, in the case of a Medical Marijuana facility, additional security is required by statutes (and likely by DHS rules), the functional, product and physical characteristics of such a facility are certainly very similar to agricultural facilities as described in Sections 2.4.2 and 11.1.7. Again, such an interpretation is reasonable and defensible. Making such a similar use interpretation would allow these facilities as permitted uses in the IL and IG districts and as conditional uses in the RE-2 acre and IT districts.

Lastly an infusion facility is where Medical Marijuana is incorporated into edible products. It is a manufacturing facility that takes chemical and other components and creates a finished product. Table 2.3 contains a category for Chemical-based Manufacturing and manufacturing, in general, is detailed in Section 11.1.6E. A similar use interpretation that Infusion Facilities are equivalent to Chemical-based Manufacturing would permit them in the IL and IG districts and make them conditional uses in the IT district.

There is a two-fold benefit of this approach. First the interpretation can be made by the Community Development Director almost immediately, saving time and costs. The second benefit is that by equating these new uses with already established uses, the zoning of these new uses is as defensible as the zoning of those established uses. This reduces the potential for successful legal challenges against the City and perhaps more importantly, it treats these uses just like other similar uses.

Article 11/ Definitions

Sec. 11.1 / Use Categories

11.1.1 / General

Use Categories shall be defined or otherwise interpreted in accordance with the following:

A. Basis for Classifications

Use categories classify land uses and activities into use categories based on common functional, product, or physical characteristics. Characteristics include the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered and site conditions. The use categories provide a systematic basis for assigning present and future land uses into appropriate zoning districts.

B. Principal Uses

Principal uses are assigned to the category that most closely describes the nature of the principal use. The "Characteristics" subsection of each use category describes the common characteristics of each principal use.

C. Developments with Multiple Principal Uses

When all principal uses of a development fall within one use category, the entire development is assigned to that use category. A development that contains a coffee shop, bookstore and bakery, for example, would be classified in the Retail Sales and Service category because all of the development's principal uses are in that category. When the principal uses of a development fall within different use categories, each principal use is classified in the applicable category and each use is subject to all applicable regulations for that category.

D. Accessory Uses

Accessory uses are allowed by right in conjunction with a principal use unless otherwise stated in the regulations. In addition, unless otherwise stated, accessory uses are subject to the same regulations as the principal use. Common accessory uses are listed as examples in the use category descriptions.

E. Use of Examples

The "Examples" subsection of each use category lists common examples of uses included in the respective use category. The names of these sample uses are generic. They are based on common meanings and not on what a specific use may call itself. For example, a use that calls itself "Wholesale Warehouse" but that sells mostly to consumers is included in the Retail Sales and Service category rather than the Wholesale Sales category. This is because the actual activity on the site matches the description of the Retail Sales and Service category.

11.1.2 / Similar Use Interpretations

The standards of this Section shall guide officials in making Similar Use Interpretations.

A. Authority

If an application is submitted for a use type not listed in the Use Table, Sec. 2.3, the Community Development Director shall be authorized to make a similar use interpretation, based on the following considerations:

1. The actual or projected characteristics of the activity in relationship to the stated characteristics of each use type;
2. The relative amount of site area or floor space and equipment devoted to the activity;
3. Relative amounts of sales from each activity;

Article 11 / Definitions

4. The customer type for each activity;
5. The relative number of employees in each activity;
6. Hours of operation;
7. Building and site arrangement;
8. Vehicles used with the activity;
9. The relative number of vehicle trips generated by the use; and
10. How the use advertises itself.

B. Use Interpretation Standards

1. No Similar Use Interpretation shall allow a use in a zoning district when that use is a permitted, special or conditional use in any other zoning district.
2. No Similar Use Interpretation shall permit any use in any zoning district unless evidence shall be presented demonstrating that it will comply with all applicable Use Standards and all other applicable requirements and standards of this Code.
3. No Similar Use Interpretation shall permit any use in a zoning district unless the use is more similar to the uses listed for the respective zone than to permitted, special and conditional uses allowed in other zoning districts.
4. If the proposed use is more similar to a use allowed only as a conditional or special use in the zoning district in which it is proposed to be located, then any Similar Use Interpretation permitting that use shall require a Conditional Use Permit or Special Use Permit.

C. Effect of Similar Use Interpretation

No Similar Use Interpretation finding a particular use to be permitted or conditionally permitted in a specific District shall authorize the establishment of such use or the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits and approvals that may be required by the codes and ordinances of the City of Prescott or other governmental agencies having jurisdiction. These permits and approvals include, but are not limited to Conditional Use Permits, Special Use Permits, Building Permits, and Certificates of Occupancy.

11.1.3 / Residential Use Categories

A. Assisted Living

1. Characteristics

Assisted Living is characterized by occupancy of a building by a group of aged people, those with developmental disabilities, or those in immediate crisis not related to criminal or substance abuse conduct. The residents may receive care, training, or treatment. Care givers are present at all times, and may (or may not) reside at the site.

2. Accessory Uses

Accessory uses include offices, cafeterias, parking, and maintenance facilities.

3. Examples

Examples of Assisted Living include nursing and convalescent homes; hospice; homes for more than 8 resident clients who are physically disabled, mentally retarded, or emotionally disturbed - and may include temporary housing for battered persons (also referred to as a safe house).

B. Accommodations

1. Characteristics

Dwelling units arranged for short term stays of less than 30 days for rent, lease or interval occupancy.

2. Accessory Uses

Accessory uses may include pools and other recreational facilities, limited storage, and offices.

Table 2.3 (Continued)

PERMITTED USE TABLE																						
SPECIFIC USE	RESIDENTIAL BASE ZONING DISTRICTS								NONRESIDENTIAL BASE ZONING DISTRICTS								Use Standards					
	RE-2 AC	SF-35	SF-18	SF-12	SF-9	SF-6	RT	MF-M	MF-H	SPC ¹	NOS	RS	MU	RO	NOB	BG		BR	DTB	IT	IL	IG
Temporary Uses (See Sec. 2.6)																						
Bulk Containers, Storage or Sales From, Temporary																P	P		P	P	P	2.6.4, 2.4.13
Carnivals, Circuses or Special Events, Temporary	P	P	P	P	P	P	P	P	P			P	P	P	P	P	P	P	P	P	P	2.6.5
Construction/ Storage Offices, Temporary	P	P	P	P	P	P	P	P	P				P	P	P	P	P	P	P	P	P	2.6.6
Land (Real Estate) Sales and/or Leasing Offices, Temporary	P	P	P	P	P	P	P	P	P				P	P	P	P	P	P	P	P	P	2.6.8
Open Air Sales, Temporary													P	P	P	P	P	P	P	P	P	2.6.7
Shelters, Temporary	C	C	C	C	C	C	C	C	C				C	C	C	C	C					2.6.9

Sec. 2.4 / Use Standards

Unless otherwise noted, the Use Standards of this section apply to the respective use types in any district, as specified in the Sec. 2.3, Use Table.

Commentary:
See Sec/ 11.1.1 for a full explanation of the Use Category system.

2.4.1 / Adult Bookstores and Entertainment (Retail Sales and Service, Entertainment-Oriented Use Category)

Adult bookstores and entertainments establishments shall be subject to the standards of Prescott City Code, Title V, Section 7, Sexually-Oriented Businesses.

2.4.2 / Agricultural Production (Other Use Categories, Agriculture Use)

Agricultural production uses shall require a site plan showing existing and proposed structures and uses and shall be subject to the following standards:

- A. Minimum Setbacks:**
 - 1. **Buildings:** 35 feet, all sides
 - 2. **Bulk Storage Structures:** 150 feet
- B.** The site shall have frontage on and access to a collector or arterial street.
- C.** Trucks, tractors, portable storage tanks, and trailer or motorized agricultural implements shall be screened from view of adjacent streets and residential zoning districts.
- D.** Contamination of water resources due to spillage or leakage of chemicals, fuels and other products that are stored on-site is prohibited.

Commentary:
Minimum Lot area: The recommended minimum lot area for agricultural production is as follows:
Minimum Lot Area: 5 acres. One head of livestock per acre shall be permitted, or as may be required by the State or Federal Land Management Standards.

D. Telecommunications Facilities

1. Characteristics

Telecommunications Facilities are signal distribution systems used or operated by a telecommunications carrier under a license from the FCC consisting of a combination of improvements and equipment including (i) one or more antennas, (ii) a supporting structure and the hardware by which antennas are attached; (iii) equipment housing; and (iv) ancillary equipment such as signal transmission cables and miscellaneous hardware.

2. Accessory Uses

Accessory uses may include transmitter facility buildings.

3. Examples

Examples include broadcast towers, attached Telecommunications Facilities; telecommunications support towers and point-to-point microwave towers.

4. Exceptions

- a. Receive-only antennas are not included in this category and amateur radio facilities that are owned and operated by a federally licensed amateur radio station operator are not included in this category.
- b. Radio and television studios are classified in the Office category.

E. Manufacturing and Production

1. Characteristics

Manufacturing and Production firms are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, fabricated (man-made), raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site.

2. Accessory Uses

Accessory activities may include offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, repair facilities, truck fleets and caretaker's quarters.

3. Examples

Examples include Advertising Display Construction/Sign Shop; Asphalt, Concrete or Redi-Mix Plant; Bakery; Boatworks; Custom Building; Catering Service; Concrete Batching and Asphalt Mixing; Custom Boatworks; Food and Related Products Processing; Food Processing and Packing; Lumber Mills; Manufacture or Production of Artwork and Toys; Manufacture or Production of Chemical, Rubber, Leather, Clay, Bone, Plastic, Stone, or Glass Materials or Products; Manufacture or Assembly of Machinery, Equipment, Instruments, Including Musical Instruments, Vehicles, Appliances, Precision Items and Other Electrical Items; Manufacture, Production or Fabrication of Metals or Metal Products Including Enameling and Galvanizing, Manufactured Housing Unit Production and Fabrication; Monument Works; Movie Production Facilities; Ornamental Iron Work Shop; Printing, Publishing and Lithography; Pulp and Paper Mills and Other Wood Products Manufacturing; Research Laboratory, including but not limited to Pure Research, Product Development, Pilot Plants and Research Manufacturing Facilities; Sign Making; Slaughterhouse; Meat Packing; Weaving or Production of Textiles or Apparel; and Woodworking, Including Cabinet Makers

4. Exceptions

- a. Manufacturing of goods to be sold primarily on-site and to the public are classified as Retail Sales and Service.
- b. Manufacture and production of goods from composting organic material is classified as Waste-Related uses.

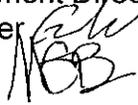
OPTION “B”

Unified Code Committee

Medical Marijuana Land Development Code Amendment

OPTION B

COMMUNITY DEVELOPMENT - PLANNING & ZONING DIVISION
1/5/10

TO: Unified Development Code Committee
FROM: Tom Guice, Community Development Director 
George Worley, Planning Manager 
Mike Bacon, Community Planner 
DATE: 12/22/10
SUBJECT: Proposition 203 Medical Marijuana LDC Amendment

UPDATE

Staff will be presenting two options for discussion at UDC. This memo is Option B.

Staff had prepared the attached revised ordinance based upon comments received at the UDC meeting of December 8, 2010 meeting and comments received at the Planning Commission meeting of December 9, 2010.

Staff has transmitted its drafts to adjacent jurisdictions and, thus far, has only received Prescott Valley's draft code.

ADHS Draft Rules. These rules were made public on December 17, 2010. They are not attached because of their length (47 pages). These rules are posted on the ADHS internet web site at <http://azdhs.gov/prop203/>.

Pharmacies. Due to FDA regulations, pharmacies will not be able to dispense medical marijuana.

Sales Tax. Currently, dispensaries would be required to collect tax for the State, but not for the City on their marijuana sales. They would still need a tax license for the sales of other items. There is supposed to be a bill that addresses this issue and allows for the cities to tax the transactions, but we will wait until that passes before we let people know it is taxable for the City.

As far as being a "non-profit", a dispensary would only be exempt if they were a 501 C as designated by the IRS. That will not happen as the IRS has stated that since the sale of marijuana is illegal under federal law, they will not allow any entity to sell it under the 501 C designation of the IRS code.

Application Process. Staff has received Pollockos Advisors recommendations (attached). Staff has modified the proposed ordinance to remove the application issue.

School Definition. The Arizona Revised Statutes do not delineate specific types of schools except for the purposes of liquor sales. The *Land Development Code* defines schools (Sections 11.1.4A and G) as being kindergarten to 12th grade.

FOUR POINTS

Staff requested guidance on the following 4 points. UDC and PC recommended changes along with Staff's discussion points (*noted in italics*) are noted below:

1. Zoning Districts and 2. Permitting Process. The Board discussed a slight modification of the Rose Law Firm proposal for the allowed zoning districts. This modification is represented in the Table.

A. Does the UDC wish to see the IT zoning District, which is closer to residential areas, utilized for any Medical Marijuana purposes?

B. Does the UDC wish to allow combination Dispensaries and Facilities in the IT, IL, and IG Zoning Districts?

C. Should Medical Marijuana uses be permitted outright in the zoning districts?

D. Is the Conditional Use Permit process appropriate when any specific additional requirements for Medical Marijuana Dispensaries can be stated directly into LDC, and the project permitted by right in a specific zoning district?

Past Board of Adjustment meetings for Conditional Use Permits have seen surrounding residents come to public noticed meetings with the expectation that the Board can deny the application based upon one or more objections, when the Board 's duty is to establish additional conditions of approval that exceed the *Land Development Code* requirements necessary to protect nearby property. This type of situation is not conducive to either citizen participation or good attitudes toward local government in Prescott.

3. Separation Distances. Staff has prepared a map to illustrate the 500' separation distance for schools and the allowable zoning districts for dispensaries and facilities. This map is also posted in PDF format on the Spotlight Section (right hand column) of the City web page (www.cityofprescott.net).

E. Are separation distances needed for uses other than schools?

4. Building Square Footage. No minimums or maximums have been established. The UDC conclusion was that the market place will determine the needs.

**CITY OF PRESCOTT PROPOSED REVISION TO THE
CITY LAND DEVELOPMENT CODE
TO ALLOW MEDICAL MARIJUANA IN ACCORDANCE WITH PROPOSITION 203
UDC DRAFT – 1/5/11
(NOTE: Additions are in **Bold** and underlined)**

2.4.54. Medical Marijuana.

The purpose of this section is to implement the Arizona Medical Marijuana Act (A.R.S. § 36-28.1), and to regulate the locations and operations of medical marijuana dispensaries so as to promote and protect the public health, safety and welfare.

Nothing in this chapter shall be construed to do any of the following:

1. To allow persons to engage in conduct that endangers others or causes a public nuisance;
2. To allow the use of marijuana for non-medical purposes; or
3. To allow any activity relating to the cultivation, distribution, or consumption of marijuana that is otherwise illegal and not permitted by state law.

~~A. Application Requirements: A Medical Marijuana Dispensary, Facility, and Designated Patient / Caregiver shall also provide the following information as part of a site plan application, a building permit application, and/or an application for a Transaction Privilege (Sales) Tax License. (NOTE: Deleted per Pollockos recommendation)~~

- ~~1. Proof of an approved registration with the ADHS permitting operation as a Medical Marijuana Dispensary.~~
- ~~2. Proof of compliance with other Federal, State, and Local permitting requirements.~~
- ~~3. A dimensioned floor plan, clearly labeled, showing: The layout of the structure and the floor plan in which the medical marijuana business is to be located;~~
- ~~4. The principal uses of the floor area depicted on the floor plan, including but not limited to the areas where nonpatients will be permitted, private consulting areas, storage areas, retail areas and areas where medical marijuana will be dispensed and cultivated;~~

A. Medical Marijuana Dispensaries and Medical Marijuana Facilities shall be subject to the following standards:

1. Location:
 - A. Permitted only within a permanent building.
 - 1) Storefronts. A dispensary shall only be located in a visible store-front type location which provides public views of the dispensary entrance, its windows, and the entrance to the dispensary premises from a public street or parking lot. Windows should not be impeded, so that citizens and law enforcement can see into the dispensary and visit the non-marijuana area of the dispensary.
 - B. Zoning District: See Table 2.3 and Table 2.4.54
 - C. Separation Required: See Table 2.4.54
2. Community Meetings: Upon formal request by the City, dispensary agent shall meet, on site, no more than once per quarter with police, appropriate city personnel, businesses operating in the same 2 block area, and interested neighborhood groups to assess the dispensary's impact on the neighborhood, ensure compliance, and address any issues caused by the operation of the dispensary and to be part of the neighborhood activities and projects. The designated employee of the City should organize this meeting, issue invitations and notifications, take attendance, and follow up on concerns raised or rectify problems identified.
3. Consumption of marijuana on the premises: Prohibited. The term "premises" includes the actual building, as well as any accessory structures, parking lot or parking areas which are part of the approved location cultivation location shall meet the following minimum

- separations.
4. Contact Information: A notice shall be clearly, conspicuously and legibly posted in the dispensary indicating the name and contact information for the owner or owners and agent of the medical marijuana business.
 5. **County Health Department permits and licenses are required for all facility operations involving food preparation.** *(NOTE: This is an advisory comment)*
 6. **Alcohol: No alcoholic beverage shall be sold, served, or consumed on the premises.** *(NOTE; Another jurisdiction place this in their ordinance)*
 7. Disposal: Properly dispose of marijuana remnants or by-products which are not to be placed within the facility's exterior refuse containers.
 8. Drive-through service: Prohibited.
 9. Good Neighbor: The agent shall be responsible for monitoring the real property of the dispensary site activity (including the adjacent public sidewalk and rights-of-way) and , if directly related to the patrons of the subject dispensary, shall take all reasonable steps to discourage and correct loitering and other objectionable conditions that (a) affect the health, peace, or safety of persons living or working in the surrounding area and (b) constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours; and remove all graffiti from the premises under the control of the agent within 72 hours of its reporting.
 10. **Dispensary** hours of operation are limited **to those generally in use by local pharmacies.** **Facilities hours are not limited.**
 - ~~A. Dispensaries are limited from 9 AM to 8 PM.~~
 - ~~B. Facilities are limited from 8 PM to 5 PM.~~
 - ~~C. Combined Dispensaries and Facilities from 8 AM to 8 PM.~~
 11. Image:
 - A. Dispensaries shall be responsible for maintaining a professional medical / pharmaceutical image and appearance consistent with those types of current operating businesses.
 - B. Facilities are prohibited to have signage.
 12. Inspections: Consent to future inspections by the City upon receipt of the Transaction Privilege (sales) Tax License from the City of Prescott constitutes consent by the licensee, owners, managers and employees to permit the city to conduct routine inspections of the licensed medical marijuana business to ensure compliance with this section or any other applicable law, rule or regulation. ~~The city shall provide 72 hours notice of any intended inspection.~~
 13. Lighting:
 - a. Exterior. Illuminate all areas of the premises at night including adjacent public sidewalks, so that all areas are readily visible by law enforcement personnel and in conformance with the Outdoor Lighting provisions of Section 6.11.
 - b. Interior. During all operating hours, the medical marijuana dispensary shall illuminate the entire interior of the building, with particular emphasis on the locations of the counter, a safe, and any location where people are prone to congregate.
 14. Loitering on premise of property: Prohibited.
 15. Offsite delivery of medical marijuana: ~~Prohibited.~~ **Allowed.** *(NOTE: The ADHS DRAFT rule allows off-site delivery)*
 16. Outdoor seating areas: Prohibited.
 17. Paraphernalia. No dispensary shall display any medical marijuana paraphernalia or any implement that may be used to administer medical marijuana in the public areas of the dispensary.
 18. Patient Notice: The agent shall provide patients with a list of the rules and regulations governing medical marijuana dispensaries and the use and consumption of medical marijuana within the City. Each patient shall sign a copy of the rules and regulations and the agent shall keep said copy in its business records.
 19. Registration and Certification required with the ADHS.

20. Security: Pursuant to the Arizona Medical Marijuana Act, the ADHS is responsible for promulgating regulations pertaining to dispensary security. A dispensary, facility and caregiver shall comply with ADHS security requirements for adequate lighting, alarms, security cameras and locks in order to ensure the safety of persons and to protect the premises from theft.
 - A. All Dispensaries and Facilities shall be enclosed and locked.
 - B. Facilities are not open to the general public. **Only medical marijuana dispensary agents registered with the ADHS may lawfully enter the cultivation facility. Entry by others (with the exception of #12 above) who are not registered agents is strictly prohibited.**
 - C. Prior to the issuance of a Certificate of Occupancy, the agent shall provide written evidence of Compliance with ADHS regulations to the City.
21. Signs:
 - A. Dispensary only, or Dispensary and Facility combined:
 1. Signage shall not cover more than 20% of the area of a door or window.
 2. "No Loitering" sign shall be placed on the front exterior of the premises.
 - 3. Signage containing the words Marijuana and/or Dispensary: Prohibited.**
 - ~~4. All other signage as permitted by Section 6.12.~~

(Note: After further consideration by Staff, there is no need to advertise the location of a controversial substance to the general public, since patients will be aware of the dispensary location when they receive their ADHS registration cards. Allowable signage will be consistent with that allowed for service station canopies).

 - 4. Total building and window signage limited to 16 sq. ft.**
 - 5. Free-standing signage: Prohibited**
 - B. Facility: Signage is prohibited. Only an address identification is allowed.
22. State requirements: All State of Arizona regulations are to be met and maintained.
23. Transaction Privilege (sales) Tax License must be obtained and displayed.
24. Ventilation: Provide proper ventilation to filter the marijuana dust, odors and vapors so it cannot be detected by a person with a normal sense of smell at the exterior of the medical marijuana business or at any adjoining use or property.

B. Related Health Care Services and Retail Sales and Services.

1. The retail sales of marijuana use items and other health care services to registered patients is permitted in Dispensaries, and combination Dispensaries and Facilities.
2. Other Health Care Services: The Dispensary may provides other caregiver services consistent with a wellness center, including but not limited to health treatments or therapy generally not performed by a medical doctor or physician, such as physical therapy, massage, acupuncture, aromatherapy, yoga, audiology or homeopathy or knowledgeable consultation on the effects of amount and forms of ingestion of different types of marijuana for medical use.
3. Other uses are permitted as are allowed in the underlying zoning district.

- C. Suspension or Revocation of Licenses. A medical marijuana privilege tax license, and Permitted use or Conditional Use Permit may be administratively suspended or revoked for any of the following violations:
1. Misrepresentation or omission of any material fact, or false or misleading information, on the application or any amendment thereto, or any other information provided to the City related to the medical marijuana business;
 2. Conviction of any person named on the application or amendment thereto of a crime which, if occurring prior to submittal of the application, would have been cause for denial of the registration by the ADHS;
 3. Nonpayment of Tax. In the event a medical marijuana business that has been open and operating and submitting sales tax returns to the City ceases providing sales tax returns to the City for a period of three months or longer, the medical marijuana license shall be deemed to have expired and a new license required prior to reopening at the location of the business.

4. Revocation by the ADHS of the Dispensary Registration Certificate.

DEFINITIONS (as part of Section 2.4.54 and Article 11).

ADHS: The Arizona Department of Health Services or its successor agency.

Agent-Operator: A principal officer, board member, employee or volunteer of a nonprofit medical marijuana dispensary who is at least twenty-one years of age and has not been convicted of an excluded felony offense and who has been issued a valid Registry Identification Card by the ADHS. (NOTE: This is the definition of "Nonprofit medical marijuana dispensary agent" in A.R.S. 36-2801, with the exception of the card which is covered in A.R.S. 36-2804.04)

Marijuana Infusion Facility. A facility for the inclusion (infusion) of marijuana by the cooking, blending, or other means into edible food products.

Medical Marijuana: Means of all parts of the genus cannabis whether growing or not, and the seed of such plants that may be administered to treat or alleviate a qualifying patients debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

Medical Marijuana Dispensary: A dispensary is a non-profit entity approved to operate by the ADHS, defined in A.R.S. § 36-2801(11), registered and certified pursuant to A.R.S. § 36-20804, and that acquires, cultivates, distributes, gives, manufactures, sells, transmits, dispenses, or otherwise provide medical marijuana or related supplies and educational materials to qualifying patients.

Medical Marijuana Cultivation Facility: A facility shall mean a building, structure or premises used for the growth, cultivation, storage of marijuana. ~~and/or inclusion of marijuana by the cooking, blending, or other means into consumable and edible products that is physically separate and off-site from a medical marijuana dispensary.~~

Medical Marijuana Qualifying Patient.: A person who has been diagnosed by a physician as having a debilitating medical condition as defined in A.R.S. § 36-2801 and who has been issued a Registry Identification Card by the ADHS authorizing him/her to use marijuana to treat his/her debilitating medical condition or symptoms associated with the debilitating medical condition.

Park: Any City owned land which provides improved recreational facilities exclusive of golf courses.

Schools: Kindergarten through 12th Grade.

Separation Distance: Distance shall be measured from the exterior walls of the building or portion thereof in which the business is conducted or proposed to be conducted to the property line of the protected use.

SECTION 11.1.5 Retail, Service and Business Use Categories

Section 11.1.5.E.3.a Retail Sales and Service (sales oriented).

Add Medical Marijuana Dispensaries

SECTION 11.1.6 Industrial Use Categories

Section 11.1.6.E Manufacturing and Production

Add Medical Marijuana Dispensaries and Facilities

CITY CODE:

ADD: Consumption of marijuana **in any form** ~~public, commercial, and industrial use areas in~~ **public places** as defined by ADHS is prohibited. ~~Marijuana shall not be consumed via smoking or vaporization form in any such area within the City.~~

(NOTE: The following definitions of public places by ADHS):

18. "Public place:"

- a. Means any location, facility, or venue that is not intended for the regular exclusive use of an individual or a specific group of individuals;
- b. Includes airports; banks; bars; child care facilities; child care group homes during hours of operation; common areas of apartment buildings, condominiums, or other multifamily housing facilities; educational facilities; entertainment facilities or venues; hotel and motel common areas; laundromats; libraries; office buildings; parks; parking lots; public transportation facilities; reception areas; restaurants; retail food production or marketing establishments; retail service establishments; retail stores; shopping malls; sidewalks; sports facilities; theaters; warehouses; and waiting rooms; and
- c. Does not include:
 - i. Nursing care institutions, as defined in A.R.S. § 36-401;
 - ii. Hospices, as defined in A.R.S. § 36-401;
 - iii. Assisted living centers, as defined in A.R.S. § 36-401;
 - iv. Assisted living homes, as defined in A.R.S. § 36-401;
 - v. Adult day health care facilities, as defined in A.R.S. § 36-401;
 - vi. Adult foster care homes, as defined in A.R.S. § 36-401; or
 - vii. Private residences.)

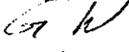
ADD: Penalty Provision (fine and/or more) for the above into the City Code.

**Table A. UDC RECOMMENDATIONS
MEDICAL MARIJUANA LOCATIONS**

	DISPENSARIES	Cultivation and Infusion FACILITIES and/or DISPENSARY
Zoning District Location Requirements		
PERMIT TYPE	ZONING DISTRICT	ZONING DISTRICT
CUP	BG: Business General	IT: Industrial Transition
CUP	BR: Business Regional	IL: Light Industrial
SUP	DTB	---
Permitted	---	IG: General Industrial
Separation Requirements		
Distance shall be measured from the exterior walls of the building or portion thereof in which the business is conducted or proposed to be conducted to the property line of the protected land use.		
SEPARATION DISTANCE	LAND USE	LAND USE
1,320 feet 1,420 feet*	Other Dispensaries	Other Facilities
500 feet 550 feet*	Kindergarten, elementary, secondary, place of worship, public park, public community center.	Same as Dispensary.
*Arizona State Licensed surveyor is required to verify distance when less than this stated number		

Unified Development Code Committee
Community Residence Land Development Code Amendment

COMMUNITY DEVELOPMENT – PLANNING & ZONING DIVISION

TO: Tom Guice, Community Development Director 
George Worley, Planning Manager 
FROM: Ruth Hennings, Community Planner Intern
FOR: Unified Development Code Committee
DATE: 12/17/2010
**SUBJECT: Community Residence and Senior Family Home LDC
Amendment**

Overview. Sections of the current Land Development Code addressing community residences, specifically group homes and transitional housing, are out of compliance with the Fair Housing Act and are not currently enforceable. In 1988, the Fair Housing Act was amended to protect people with disabilities living in community residences, also known as group homes, recovery centers, and halfway houses. *Persons with disabilities* within the meaning of the Fair Housing Act are individuals with mental or physical impairments which limit major life activities. The purpose of the amendment was to ensure that local zoning and land use laws treat groups of unrelated persons with disabilities the same as groups of unrelated persons without disabilities.

Community residence is a broad term that includes any group residence for people with disabilities. All community residences are categorized as residential uses, and not business or commercial uses. There are two types of community residences that have implications for different zoning restrictions; *family community residences* and *transitional community residences*. *Family community residences* are homes where residents live together as a single housekeeping unit. There is no limit on length of stay, and residents often take up permanent residence for years. *Transitional community residences* include halfway houses and transitional housing. There is a limited length of allowed residence, usually in weeks or months. There are typically more people per home in transitional housing, though they also function as a family unit and live together as a single housekeeping unit.

Zoning for Community Residences. Case law has shown increasing intolerance for community residence zoning ordinances that are restrictive in nature. This means that the options available for regulating community

residences have changed significantly over the last 10 years. There have been several instances in which municipalities have been shown to be in violation of the Fair Housing Act in this regard. For example, the City of Sedona refused to permit operation of a group home for disabled people in a residential zoning district without a Conditional Use Permit. This violated the right of the group home, where the residents live like a family unit, to locate in a neighborhood with other single family homes. The City of Sedona settled the case in 2003, paying over \$500,000 in damages to the defendant.

The key to any strategy that seeks to manage the zoning of community residences is to understand that 1) Land use laws are not allowed to treat people with disabilities any differently than those without disabilities, and 2) Reasonable accommodations must be made for people with disabilities. With this information in mind, the City of Prescott defines a family as a group of up to 8 unrelated persons living together as a single housekeeping unit. Thus, in accordance with the first stipulation mentioned above, any community residence of up to 8 disabled persons must be permitted in any zoning district where single-family residences are allowed. Therefore, community residence zoning regulations are really only applicable to the community residences over 8 people.

The two types of community residences, family and transitional, have different zoning implications. Family community residences function most closely to those in single-family neighborhoods because they are permanent in nature and often have smaller numbers of residents. Transitional community residences function more similarly to multi-family housing because of the temporary tenancy.

Licensing requirements may not be applied to community residences of 8 or fewer people, though they can be applied to family and transitional community residences of greater than 8 residents. Additionally, if a license is required but denied to the applicant, then they cannot operate in the City.

Land Development Code Amendments. As it stands right now, sections in the LDC pertaining to this issue are unenforceable. The purpose of the proposed amendments is to provide guidance and support for locating community residences within the City and to create defensible zoning restrictions in the LDC.

The proposed changes will affect Articles 2 and 11. In Article 2, Table 2.3 will be edited to include Community Residence and Senior Family Homes as residential uses. These uses will also be added to the use standards listed in Article 2.4. In Article 11, edits will be made to 11.1.3, Residential Use Categories, and definitions added to Table 11.2.5.

ATTACHMENTS:

Draft Land Development Code Amendments

Table 2.3

PERMITTED USE TABLE																							
SPECIFIC USE	RESIDENTIAL BASE ZONING DISTRICTS								NONRESIDENTIAL BASE ZONING DISTRICTS								Use Standards						
	RE-2 AC	SF-35	SF-18	SF-12	SF-9	SF-6	RT	MF-M	MF-H	SPC ¹	NOS	RS	MU	RO	NOB	BG		BR	DTB	IT	IL	IG	
Residential Use Categories (Sec. 11.1.3)																							
Single-family Dwellings / Modular Homes ²	P	P	P	P	P	P	P	P	P				P	P	P	P	P	P					2.4.49
Duplex Dwellings							P	P	P				P	P	P	P	P	P					2.4.21
Multi-family Dwellings (Apartments & MF Condos)							P	P	P				P	P	P	P	P	P	P				2.4.33
Patio Homes ³							P	P	P			P											2.4.36
Townhouses ⁴							P	P	P			P											2.4.52
Manufactured Housing ⁵																							2.4.30
Manufactured Home Parks							C	C	P						C	C							2.4.31
Assisted Living / Nursing Home	C						P	P	P			P	P	P	P	P	P	P					2.4.7
Bed and Breakfasts	P						C	P	P			P	P	P	P	P	P	P					2.4.12
Boarding Houses							C	P	P			P	P	P	P			P	P				--
Casitas, Cabins, or Cottages	C											C	P	P	P	P	P	P					2.4.14
Congregate Living	C						C	P	P			P	P	P	P	P	P						2.4.18
Dormitories							C	C	C			C	C	P	P	P	P	P	P				2.4.18
Foster Group Home (6 - 10 children)	C	C					C	P	P			C	P	P	P	P	S	P					2.4.18
Foster Homes (≤5 children)	P	P	P	P	P	P	P	P	P			P	P	P	P	P	P	P					2.4.18
Fraternities or Sororities							C	P	P			P	P	P	P	P	P	P					2.4.18
Group Homes (≤8 persons)	P	P	P	P	P	P	P	P	P			P	P	P	P	P	P	P					2.4.25
Motels or Hotels												C	P	P	P	P	P	P	P	P	P	P	--
Nursing Homes	G						P	P	P			P	P	P	P	P	P						2.4.7
Transitional Housing									G			G	P	P	P	P	P						2.4.45
Family Community Residence ⁷ (licensed)	P	P	P	P	P	P	P	P	P			P	P	P	P	P	P	P					2.4.17
Family Community Residence ⁷ (unlicensed)	C	C	C	C	C	C	C	C	C			P	P	P	P	P	P	P					2.4.17
Transitional Community Residence ⁷ (licensed)	C	C	C	C	C	C	P	P	P			P	P	P	P	P	P	P					2.4.17
Transitional Community Residence ⁷ (unlicensed)	C	C	C	C	C	C	C	C	C			P	P	P	P	P	P	P					2.4.17
Senior Family Home (9 - 10 residents)	C	C	C	C	C	C	P	P	P			P	P	P	P	P	P	P					2.4.46

¹ See Section 3.11.5 / Allowed Uses.

² Modular Homes must meet the Uniform Building Code (UBC) or International Building Code (IBC) Standards.

³ Patio homes may also be allowed on individual lots in the RO, NOB, BG and BR Districts and in the RE and SF districts in accordance with the Planned Area Development (PAD) procedures of Sec.9.5.9.i.

⁴ Townhouses may also be allowed on individual lots in the RO, NOB, BG and BR Districts and in the RE and SF districts in accordance with the Planned Area Development (PAD) procedures of Sec. 9.5.9.i.

⁵ Manufactured housing may be permitted only in approved manufactured home parks and in zoning districts with the “-MH” floating zone designation (See Sec. 3.12, Manufactured Home Floating Zone).

⁶ “Stand Alone Professional Practice” (practices not having a residential component) are possible subject to the processing of a Conditional Use Permit.

⁷ Refers to residences of greater than 8 people. Any residence of 8 or fewer people is permitted as a single-family dwelling.

Article 2 / Use Regulations

- D. Food service shall be allowed provided it is only offered to registered guests.

2.4.13 / Bulk Containers, Storage and Sales from (Industrial Use Categories, Industrial Sales and Service Use)

Where large containers are needed to temporarily store items for sale on site, the Community Development Director may approve the use as a temporary use. Otherwise, Bulk Containers for any purpose may only be permitted in the industrial zone(s). See also Bulk Container, Storage and Sales From, Temporary, in the Use Table 2.3 and Sec. 9.11, Temporary Use Permits.

2.4.14 / Casitas, Cabins and Cottages (Retail, Service and Business Use Categories, Accommodations)

Individual casitas, cabins or cottages shall not exceed 1,000 square feet (gross floor area).

Commentary:

The recommended Minimum Lot Area for casitas, cabins and cottages is as follows:

- One Unit: 5,000 square feet
- Each Additional Unit: 2,500 square feet

2.4.15 / Cemetery, Mausoleums (Public, Civic and Institutional Use Categories, Parks and Open Space)

Cemetery facilities shall be subject to Conditional Use Permit requirement, except as otherwise specified, and to the following standards:

- A. **Minimum Setbacks, Buildings:** 30 feet
- B. The site proposed for a cemetery shall not interfere with the development of a public infrastructure system, including streets, sewers and other utilities.
- C. Buildings shall be used for cemetery purposes only including, but not by way of limitation to, offices, memorial chapels, mausoleums, vaults, columbaria, crematoria, and such other structures as may be necessary for the preparation, presentation, interment, and cremation of human or pet remains and the maintenance of the cemetery.
- D. There shall be adequate provisions for perpetual care.

Commentary:

The recommended Minimum Lot Area for cemeteries is 5 acres.

2.4.16 / Commercial Storage (Industrial Use Categories, Industrial Sales and Service Use)

All commercial storage of goods and materials shall be fully enclosed within a building, and there shall be no outside storage of materials or products, except as expressly authorized elsewhere in this Code. This shall not be interpreted as a prohibition on parking of business-related vehicles on such sites. (See also Outdoor Storage or Production, Sec. 2.4.35, and Use Table 2.3 for applicable districts.)

2.4.17 / Community Residence, Family and Transitional (Residential Use Categories, Community Residence)

Family Community Residences and Transitional Community Residences greater than 8 residents shall be subject to the following standards:

- A. Community Residences for persons with disabilities for which a license or certification is required by any state, federal, or responsible accrediting agency is permitted as designated in Table 2.3. If a license or certification is required and denied to the applicant then the use is not permitted.
- B. Community Residences for persons with disabilities for which a license or certification is not required by any state, federal, or responsible accrediting agency will be subject to a Conditional Use Permit requirement.
- C. Live-in or shift staff are not counted towards the permitted number of residents.

2.4.18 / Congregate Living Facilities (Residential Use Categories; Congregate Living)

Congregate living is characterized by the residential occupancy of a structure by a group of people who do not meet the definition of Household Living (See 11.1.3C). Examples include dormitories, fraternities,

- G. The site shall be designed to prevent unnecessary light, noise, or activity from having negative impacts on adjacent uses.

2.4.25 / Greenhouse/Nursery Center, Retail (Retail, Service and Business Use Category, Retail Sales and Service)

Retail greenhouses and nursery centers shall be subject to the following standards:

- A. Permitted activities may include the off-site delivery of plant materials and the use and storage of all vehicles, equipment, and crew necessary for those activities.
- B. Off-site maintenance of plant materials and planting shall constitute landscape contracting and shall be subject to the Use Standards for a Landscape Contractor's Storage Yard.

Commentary:
The recommended Minimum Lot Area for greenhouse/nursery centers is 5 acres.

2.4.25 / Group Homes (Residential Use Categories, Household Living)

~~Group homes for the developmentally disabled may be occupied by a maximum of 8 unrelated persons. (See Definition of "Family," Sec. 11.2.5).~~

2.4.26 / Hazardous Waste Facilities (Industrial Use Category, Waste-related)

Hazardous waste or materials facilities may be permitted subject to all state and federal requirements. Council-approved Special Use Permits may be subject to additional requirements.

2.4.27 / Junkyards (Industrial Use Category, Waste-related)

Junkyard facilities, which may include storage, shall be subject to the following standards:

- A. The landscaping surrounding all outdoor storage areas shall include a solid wall at least 6 feet but no more than 10 feet in height. Storage between the street and such fence or screen, or above the height of such fence or screen, is expressly prohibited.
- B. All gasoline, motor oils, brake and transmission fluids, antifreeze, hydraulic fluids, battery acids and other fluids shall be removed immediately from all salvaged vehicles. Such fluids shall be stored and disposed of in such a manner to avoid soil and environmental contamination of the subject site and prevent contamination of surrounding properties and waterways.
- C. The site shall have frontage on, and access, to a collector or arterial street.
- D. The use shall not create excessive traffic, noise, light, or other activity that would have negative impacts on adjacent uses.

Commentary:
The recommended Minimum Lot Area for junkyards is 5 acres.

2.4.28 / Kennels, Veterinary Clinics with or without Kennels, Animal Shelters and Animal Training Facilities (Retail, Service, and Commercial Use Categories; Retail Sales and Service, Personal Service-Oriented)

Kennels (indoor or outdoor), veterinary clinics with or without kennels, animal shelters, and animal training facilities shall be subject to the following standards:

- A. The site plan shall show all fencing, berming, and building material soundproofing designed to mitigate the noise impact of the proposed use on the surrounding properties.
- B. Waste handling and ventilation shall be designed to control odors discernable off site.
- C. All kennels with outdoor runs shall be further subject to the following standards:
 - 1. **Minimum Setbacks:**
 - a. Residential Zoning: 150 feet
 - b. Residential Structures: 300 feet

Commentary:
The recommended Minimum Lot Area for kennels, animal shelters and animal training facilities is 2 acres.

Article 2 / Use Regulations

Recreational vehicle (RV) parks and incidental facilities shall be subject to the following standards:

- A. Minimum Space Area:
 - 1. Recreational Vehicle, Motor Home, Camp Trailer and Similar: 1200 square feet
 - 2. Cabin or Tent: 800 square feet
- B. Minimum Space Width: 30 feet
- C. Recreational vehicle parks shall be occupied only by persons using travel trailers, truck campers, small cabins without plumbing (traditional KOA-style), and tents for overnight, short duration, or seasonal camping;
- D. Each park shall be served by central water and sewer facilities;
- E. Each park shall provide common restroom and shower facilities in accordance with the requirements of the IPC (International Plumbing Code);
- F. No space shall be located more than 600 feet from common restroom and shower facilities;
- G. The City may require landscaping and screening pursuant to the provisions of Sec. 6.5, Landscaping and Screening; and
- H. One tree of a species suitable for the area shall be provided for each 2 spaces and shall be located in close proximity to those spaces. (Existing trees on the site may be used to satisfy this requirement.)

2.4.43 / Recycling Collection Centers (Industrial Use Categories, Waste-Related Use)

Recycling Collection Facilities shall be subject to the following standards:

- A. There shall be at least 2 parking spaces per 100 square feet of gross floor area.
- B. All processing operations shall be conducted within an enclosed structure.
- C. All vehicles, or parts thereof, on the premises shall be operable and shall meet all state and federal licensing requirements.
- D. Outdoor storage shall be limited to drop-off recycling bins and shall be fenced with a solid fence of at least 6 feet, but not more than 8 feet, in height. Storage may not exceed the height of the fence.

Commentary:

The recommended minimum lot area for Recycling Collection Facilities is 2 acres.

2.4.44 / Recreational Vehicle (RV) Storage Yards (Retail, Service and Business Categories, Self-Service Storage)

Recreational Vehicle (RV) Storage Yards may be permitted subject to the following standards:

- A. Screening shall be provided in accordance with the requirements of Sec. 6.5.8, Screening Standards; and
- B. All RV Storage Yards permitted in any residential zoning district shall be located on land owned and/or otherwise controlled by a subdivision homeowners association or similar entity and shall be reserved for the exclusive use of the subdivision residents. Notwithstanding other provisions to the contrary, such yards may be permitted by right when so approved on a Final Plat, otherwise a Conditional Use Permit shall be required.

2.4.45 / Transitional Housing (Residential Use Categories)

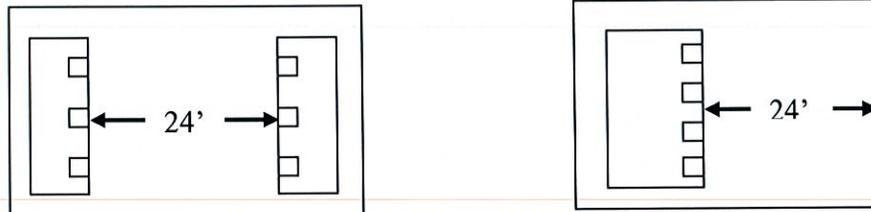
~~Includes variations of transitional housing types such as Crisis Center, Halfway House, Residential Treatment Center, Supervisory Care Shelter, and Temporary Shelter. Such use may be permitted subject to the following standards:~~

- ~~A. Whether allowed by right or by Conditional Use Permit, the request shall be evaluated based on occupancy load and parking adequacy. All such transitional housing providers shall register with the Community Development Department to assess whether the use is allowed at a location, or by right or by Conditional Use Permit.~~

- ~~B. There shall be a minimum 1,320-foot separation between such uses, as measured in a straight line from the nearest property line of an approved facility to the nearest property line of another Transitional Housing facility.~~
- ~~C. All such uses will be required to have a City of Prescott business license prior to operation.~~
- ~~D. Transitional Housing facilities requiring a Conditional Use Permit shall minimize any changes to the exterior of the property that alter the residential character of the site.~~

2.4.45 / Self-Storage or Mini-storage (Industrial Use Categories; Self-service Storage)

Self storage or mini-storage shall maintain a clear maneuvering/parking area at least 24 feet in depth directly in front of each storage bay.



2.4.46 / Senior Family Homes (Residential Use Categories, Household Living)

All Senior Family Homes of 9 – 10 residents shall be subject to the following standards:

- A. Senior Family Homes are subject to the same use standards as Single-Family Dwellings.
- B. Live-in or shift staff are not counted towards the permitted number of residents.

2.4.47 / Service Stations, Self Service and Full Service, Convenience Stores (Retail, Service and Business Categories; Vehicle Service, Limited)

Gasoline service stations may be permitted subject to the following standards:

- A. Minimum Standards
 1. Where such use is adjacent to any residential district screening shall be required in accordance with Sec. 6.13, Residential Protection Standards.
 2. Signs located on a canopy shall not extend above or below the fascia.
 3. All outdoor lighting shall be subject to the requirements of Sec. 6.11, Outdoor Lighting.
- B. Full Service
 1. All bay doors shall face away from adjacent thoroughfares and rights-of-way, unless doing so would orient toward an adjacent residence.
 2. Full Service stations shall not be permitted adjacent to residentially zoned uses.
 3. A use providing automobile-related repairs shall be considered “Vehicle Repair” (Refer to Sec. 2.4.9).

2.4.48 / Shooting/Archery Range, Outdoor (Retail, Service and Business Use Categories, Recreation and Entertainment, Outdoor)

Outdoor shooting or archery facilities shall be subject to the following standards:

- A. The applicant shall submit a detailed site plan showing the layout and design of the proposed outdoor shooting range including all required setbacks and landscaping and the existing and proposed structures, their gross floor areas and impervious surfaces. The scale of the

Commentary:
The recommended minimum lot area for outdoor shooting/archery ranges is as 20 acres.

Article 11 / Definitions

4. The customer type for each activity;
5. The relative number of employees in each activity;
6. Hours of operation;
7. Building and site arrangement;
8. Vehicles used with the activity;
9. The relative number of vehicle trips generated by the use; and
10. How the use advertises itself.

B. Use Interpretation Standards

1. No Similar Use Interpretation shall allow a use in a zoning district when that use is a permitted, special or conditional use in any other zoning district.
2. No Similar Use Interpretation shall permit any use in any zoning district unless evidence shall be presented demonstrating that it will comply with all applicable Use Standards and all other applicable requirements and standards of this Code.
3. No Similar Use Interpretation shall permit any use in a zoning district unless the use is more similar to the uses listed for the respective zone than to permitted, special and conditional uses allowed in other zoning districts.
4. If the proposed use is more similar to a use allowed only as a conditional or special use in the zoning district in which it is proposed to be located, then any Similar Use Interpretation permitting that use shall require a Conditional Use Permit or Special Use Permit.

C. Effect of Similar Use Interpretation

No Similar Use Interpretation finding a particular use to be permitted or conditionally permitted in a specific District shall authorize the establishment of such use or the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits and approvals that may be required by the codes and ordinances of the City of Prescott or other governmental agencies having jurisdiction. These permits and approvals include, but are not limited to Conditional Use Permits, Special Use Permits, Building Permits, and Certificates of Occupancy.

11.1.3 / Residential Use Categories

A. Assisted Living

1. Characteristics

Assisted Living is characterized by occupancy of a building by a group of aged people, those with ~~developmental~~ disabilities, or those in immediate crisis not related to criminal or substance abuse conduct. The residents do not function as a single housekeeping unit, and may live in individual or shared apartments. The residents may receive care, training, or treatment. Care givers are present at all times, and may (or may not) reside at the site. These structures may or may not have a common eating area.

2. Accessory Uses

Accessory uses include offices, cafeterias, parking, and maintenance facilities.

3. Examples

Examples of Assisted Living include nursing and convalescent homes and hospice facility. ~~homes for more than 8 resident clients who are physically disabled, mentally retarded, or emotionally disturbed—and may include temporary housing for battered persons (also referred to as a safe house).~~

B. Accommodations

1. Characteristics

Dwelling units arranged for short term stays of less than 30 days for rent, lease or interval occupancy.

2. Accessory Uses

Accessory uses may include pools and other recreational facilities, limited storage, and offices.

3. Examples

Examples include bed and breakfast establishments, hotels, motels, inns, and interval occupancy facilities. Also includes central reception and check-in facilities for resorts and interval occupancy facilities.

C. Community Residences

A Community Residence provides a living arrangement for persons with disabilities. The intent of a Community Residence is to provide a residence that assists in normalization and community integration. The residence may provide socialization training, life skills instruction, incidental medical care, and help with personal living activities.

1. Family Community Residences

a. Characteristics

Family Community Residences are characterized by the residential occupancy of a dwelling unit by a group of 9 or more disabled persons living as a single housekeeping unit and functioning as a family. Care givers and associated staff may or may not be present and may or may not reside at the site. Residents may receive care, training, or treatment. Tenancy is typically measured in years and is often permanent in nature.

b. Accessory Uses

Accessory uses commonly associated with Household Living are recreational activities, raising of pets, hobbies, home occupations, greenhouses, storage of household goods, storage of supplies and equipment for maintaining the dwelling and associated yard, and parking and occasional maintenance of the occupants' vehicles.

c. Examples

Examples of Family Community Residences include group homes for the disabled and residential living facilities for groups of disabled persons.

d. Exceptions

Exceptions include assisted living, nursing homes, institutions, congregate living, and any facility for sex offenders or juveniles.

2. Transitional Community Residences

a. Characteristics

Transitional Community Residences are characterized by the residential occupancy of a dwelling unit by a group of 9 or more disabled persons living as a single housekeeping unit and functioning as a family. Care givers and associated staff may or may not be present and may or may not reside at the site. Residents may receive care, training, or treatment. Tenancy is typically measured in weeks or months and is often transitional in nature.

b. Accessory Uses

Accessory uses commonly associated with Household Living are recreational activities, raising of pets, hobbies, home occupations, greenhouses, storage of household goods, storage of supplies and equipment for maintaining the dwelling and associated yard, and parking and occasional maintenance of the occupants' vehicles.

c. Examples

Examples of Transitional Community Residences are halfway houses, transitional homes, and recovery homes.

d. Exceptions

Exceptions include boarding houses, treatment centers for alcohol and drug abuse, detoxification facilities, and any facility for sex offenders or juveniles.

Article 11 / Definitions

D. Congregate Living

1. Characteristics

Congregate Living is characterized by the residential occupancy of a structure by a group of people who do not meet the definition of Household Living. The size of the group may be larger than the average size of a household. Tenancy is arranged on a monthly or longer basis. Uses where tenancy may be arranged for a shorter period are not considered residential. They are considered to be a form of transient lodging (see Resort Accommodations and Community Service categories). Generally, Congregate Living structures have a common eating area for residents. The residents may receive care, training, or treatment, as long as the caregivers also reside at the site.

2. Accessory Uses

Accessory uses commonly associated with Congregate Living are recreational facilities, dining facilities and parking of vehicles for occupants and staff.

3. Examples

Examples of Congregate Living include dormitories; fraternities and sororities; monasteries and convents.

4. Exceptions

- a. Lodging where tenancy may be arranged for periods of less than 30 days is classified in the Resort Accommodations category.
- b. Lodging where the residents meet the definition of Household and where tenancy is arranged on a month-to-month basis or for a longer period is classified as Household Living.
- c. Congregate care facilities where individual units meet the definition of a dwelling unit in Sec. 11.2 are classified as Household Living.
- d. Foster homes where more than 4 children reside are classified as a Foster Group Home.

E. Household Living

1. Characteristics

Household Living is characterized by the residential occupancy of a dwelling unit by a household. Tenancy is to be arranged on a month-to-month or longer basis. Uses where tenancy is arranged for a shorter period are not considered residential. They are considered to be a form of transient lodging (see the Retail Sales and Service and Community Service categories).

2. Accessory Uses

Accessory uses commonly associated with Household Living are recreational activities, raising of pets, hobbies, home occupations, greenhouses, storage of household goods, storage of supplies and equipment for maintaining the dwelling and associated yard, and parking and occasional maintenance of the occupants' vehicles. Home occupations, Caretaker's Quarters and Guest Houses are accessory uses that are subject to additional regulations.

3. Examples

Examples of household living use (structure) types include: Single-family Dwellings, Attached Single Family Dwellings, Duplexes, Patio Homes, Multi-family Dwellings, Townhouses, Workforce Housing, Mobile Home Parks, Group Homes, Senior Family Homes, Retirement Center Apartments, manufactured housing and other structures with self-contained dwelling units.

4. Exceptions

Lodging in a dwelling unit or where units are rented on a less than monthly basis is classified in the Accommodations category.

~~E. Transitional Housing~~

1.—Characteristics

Transitional Housing includes lodging or dwelling unit, or a portion thereof, which is provided to a person or persons for a period usually less than 180 days and which lodging or dwelling unit is not the legal permanent address of the lodger.

2.—Accessory Uses

Accessory uses may include counseling; transportation to social, job training, court, or other service providers; mail and message services, assistance with self medication and the like.

3.—Examples

Examples include, but are not limited to, Crisis Center, Halfway House, Residential Treatment Center, Supervisory Care Center, and Temporary Shelter (see 11.2 Terms Defined).

4.—Exceptions

Exceptions include foster homes, group homes, safe houses, single family and multifamily dwellings and other forms of Household Living.

11.1.4 / Public, Civic and Institutional Use Categories

A. Educational Facilities

1. Characteristics

This category includes public and private schools at the primary, elementary, middle, junior high, or high school level that provide state-mandated basic education. This category also includes colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree. Colleges tend to be in campus-like settings or on multiple blocks.

2. Accessory Uses

Accessory uses at schools include play areas, cafeterias, recreational and sport facilities, auditoriums and before- or after-school day care. Accessory uses at colleges include offices, housing for students, food service, laboratories, health and sports facilities, theaters, meeting areas, parking, maintenance facilities and support commercial.

3. Examples

Examples include public and private daytime schools, boarding schools, military academies, universities, liberal arts colleges, community colleges, nursing and medical schools not accessory to a hospital and seminaries.

4. Exceptions

- a. Preschools are classified as Day Care uses.
- b. Business and trade schools are classified as Retail Sales and Service.
- c. Governmental uses are technically exempt from these regulations; however; such uses are encouraged to comply.

B. Community Service

1. Characteristics

Community Services are uses of a public, nonprofit, or charitable nature generally providing a local service to people of the community. Generally, they provide the service on-site or have employees at the site on a regular basis. The service is ongoing, not just for special events. Community Services or facilities that have membership provisions are open to the public to join at any time, (for instance, any senior citizen could join a senior center). The use may provide special counseling, education, or training of a public, nonprofit or charitable nature.

2. Accessory Uses

Accessory uses may include offices; meeting areas; food preparation areas; parking, health and therapy areas, and athletic facilities.

3. Examples

TABLE 11.2.5 (CONT'D.)		GENERAL TERMS	
Term	Definition		
Building Site	The total horizontal area included within the setbacks.		
Bulk Containers	Large containers designed to hold bulk materials, including but not limited to, cargo cars, sea containers, hot tubs, sheds larger than 48 square feet in size.		
Business or Commercial	The purchase, sale or other transaction involving the handling or disposition of any article, substance, service or commodity for profit, gain, livelihood (whole or partial), or consideration conducted at any location.		
Cabin	A building used, or designed, or intended for use or occupancy by not more than one family as living quarters, including all necessary domestic employees of such family, having only one (1) kitchen or kitchen facility, and not having a private indoor toilet. No space hereafter constructed or altered for such purpose shall be used for such purpose unless it comprises not less than 320 square feet of gross floor area.		
Campground	Public and quasi-public open space areas, with or without sanitation facilities or water, for overnight camping. Campground may also include the overnight parking of recreational vehicles. (See also Recreational Vehicle Parks Sec. 2.4.42,		
Car Wash	A facility for the cleaning and washing of motor vehicles which may include interior cleaning, vacuuming, and waxing by means of self-service, mechanical apparatuses, manual labor, or a combination thereof. A car wash may be in conjunction with an automobile Service Station.		
Casita or Cottage	A small, detached house or dwelling unit that may be used for short-term rental purposes in the manner of a motel room.		
Certification	A written statement of the fact to be certified and made under oath by the applicant and notarized.		
Child	Any person through the age of fourteen years.		
City	Shall mean the City of Prescott, Arizona, and shall include the Planning and Zoning Commission and the City Council.		
City Council	Shall mean the City Council of Prescott, Arizona.		
Collector Street	A street or road that serves local traffic movement within an area and traffic between major arterials and local streets and provides a means of ingress and egress to local streets and sometimes to abutting property. A collector street also serves to connect adjacent neighborhoods and includes the principal entrance streets into residential neighborhoods. There may also be provisions for parking and loading or unloading on collector streets.		
Commercial	See "Business".		
Communications Tower	A tower, pole, or similar structure which supports a telecommunications antenna operated for commercial purposes above ground in a fixed location, free standing, guyed, or on another structure.		
Community Residence	<u>A residential living arrangement for 9 or more unrelated individuals with disabilities, who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents. The purpose of a Community Residence is to integrate residents into the community and is considered a residential use of property for purposes of all zoning and building codes. (See definitions for Family Community Residence and Transitional Community Residence.)</u>		
Condominium	An estate in real property consisting of an undivided interest in common in a portion of a parcel of real property, together with a separate interest in air space in a residential or commercial complex located on such real property. Condominium may include cluster housing or semi-detached housing. In addition, a condominium may include a separate interest in other portions of such real property, such as common area.		
Conceptual Plan	A written and graphic plan submitted for consideration of a Planned Area Development that indicates in a conceptual form, the proposed land uses and their overall impact on the subject land and surrounding lands		
Corner Lot	See Lot, Corner.		
Cornice	The molded and projecting horizontal member that crowns an architectural composition.		
Cottage	See Casita.		
Court	Any space other than a yard on the same lot with a building or group of buildings and which is unobstructed and open to the sky from and above the floor level of any room having a window or door opening on such space. The width of a court shall be its least horizontal dimension.		

Article 11 / Definitions

TABLE 11.2.5 (CONT'D.)		GENERAL TERMS	
Term	Definition		
Crisis Center	A facility, or portion thereof, used for purposes of emergency shelter, crisis intervention, including counseling, referral or other human services functions. Such a facility may provide shelter, meals and/or merchandise distribution. Such a facility may include a Crisis Nursery.		
Cutoff Fixture	Outdoor light fixtures shielded or constructed so that the light rays emitted by the fixture are projected below a horizontal plane passing through the lowest point on the fixture from which light is emitted. Drop or sag lens type fixtures shall not be allowed.		
Day Care	Day Care uses provide care, protection and supervision for children or adults on a regular basis away from their primary residence for less than 24 hours per day. Day care uses providing care for up to 4 persons are considered "Babysitting".		
Day Care Business	Any facility in which day care is regularly provided for compensation for 9 or more children or adults not related to the proprietor or operator.		
Day Care, Home-based	A facility in which 5 to 8 children or adults who are not members of the family residing therein are cared for in return for compensation.		
Dead-end Street	A street or road having a traffic outlet on one end only. A dead-end street shall have temporary provisions at or near the end for the turning around of vehicular traffic. (See Sec. 7.4.3C, Dead-end Streets.)		
Deck	A flat floored, roofless area adjoining a house.		
Density	Means the number of dwelling units for each acre of land.		
Development	The making of any material change in the use or appearance of any structure or land, the creation of a subdivision or the creation of 2 or 3 parcels pursuant to a land split division over which the City has regulatory authority. Development includes, but is not limited to, such activities as the construction, reconstruction or alteration of the size or material change in the external appearance of a structure or land; trenching or grading; demolition of a structure or removal of vegetation; deposit of fill; or the alteration of a floodplain, bank or watercourse.		
Developmental Disability	<u>Mental or physical impairment which substantially limits one or more major life activities. The term mental or physical impairment may include, but are not necessarily limited to, conditions such as blindness, hearing impairment, mobility impairment, HIV infection, mental retardation, alcoholism, drug addiction, chronic fatigue, learning disability, head injury, and mental illness. The term major life activity may include seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, or working. Current users of illegal controlled substances, persons convicted for illegal manufacture or distribution of a controlled substance, sex offenders, and juvenile offenders, are not considered disabled under the Fair Housing Act or federal law, by virtue of that status.</u>		
Direct Glare	Glare resulting from the arc tube being visible in the field of view.		
District	Any area or areas similarly classified, whether contiguous or not, and shown by specific and similar designations on the maps which are a part of this Code.		
Disturbable Area Envelope	That designated portion of a lot or tract that is approved for grading and grubbing (including driveway grading) but excluding any public or private street.		
Dormitory	Any structure with 6 or more rooms specifically designed for the exclusive purpose of housing students of a university, college or school, excepting resident staff.		
Double Frontage Lot	A lot having street frontage on both the front and rear property lines. Double frontage lots have two "front" lot lines.		
Drainage Regulations	The regulations contained in Title VIII, Chapter 7 of the Prescott City Code, and Sec. 7.4.10, Drainage, this Code.		
Drainageway	A natural or man-made path of flow for stormwater.		
Drive-through Window	An establishment which by design, physical facilities, service, or packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.		

TABLE 11.2.5 (CONT'D.)		GENERAL TERMS	
Term	Definition		
Duplex Dwelling	See Dwelling, Duplex		
Dwelling Unit	A residential unit providing complete, independent living facilities for one family including permanent provisions for living, sleeping, cooking, eating and sanitation.		
Dwelling, Attached Single-family	A dwelling unit on its own individual lot that shares one or more common or abutting walls with one or more dwelling units. An attached single-family dwelling (or townhouse) does not share common floors/ceilings with other dwelling units.		
Dwelling, Duplex	A building, or portion thereof, having 2 dwelling units on a single lot designed or intended for use or occupancy by 2 families living independently of each other, including all necessary domestic employees of each family, and having both kitchen or cooking facilities and private, indoor toilet within each such housekeeping unit, and conforming to the IBC of the City of Prescott.		
Dwelling, Multiple-Family	A building, or portion thereof, having 3 or more dwelling units on a single lot, used, or designed or intended for use or occupancy as living quarters by 3 or more families living independently of each other, including all necessary domestic employees of each family and having both kitchen or cooking facilities, private, indoor toilet within each such housekeeping unit, conforming to the IBC of the City of Prescott. This definition shall also include any number of dwelling units in a nonresidential structure, but shall not include recreational vehicle parks, motels, or hotels. No such unit hereafter constructed or altered for such purpose shall be used for such purpose unless it comprises gross floor area in conformance with that specified in the IBC.		
Dwelling, Senior Apartment	An age-restricted (generally 55 years or older) multi-unit housing development with self-contained living units for older adults who are able to care for themselves. Usually no additional services such as meals or transportation are provided but may be offered as an option.		
Dwelling, Single-Family	A detached dwelling unit designed for occupancy by one family and built to IBC-Standards.		
Easement	A grant of one or more property rights (e.g., access) by the owner to, or for the use by the public, a corporation, or another person or entity.		
Egress	That movement of traffic from the abutting properties to the street.		
Electric Transmission Line	An electric line used for the bulk transmission of electricity between generating or receiving points and major substations or delivery points.		
FAA	The Federal Aviation Administration.		
Facade	A structure's entire single elevation, including wall face, parapet, windows, doors, awning or canopy.		
Fairgrounds	An area consisting of both open spaces and structures, owned by a governmental entity, at which activities generally associated with a fairgrounds take place, including but not limited to, carnivals, bazaars, midways, horse racing, exhibitions, amusements and education displays excluding vehicular racetracks other than as incidental use to a county fair		
Family	<p>A. An individual, or 2 or more persons related by blood, marriage, or adoption, including any live-in domestic help, living together as a single housekeeping unit in a dwelling unit; or</p> <p>B. A group of not more than 8 persons who need not be related, living together as a single housekeeping unit in a dwelling unit</p>		
Family Community Residence	One of two Community Residence (see Definition) categories. A living arrangement for a group of 9 or more disabled persons living as a single housekeeping unit and functioning as a family. Care givers and associated staff may or may not be present and may or may not reside at the site. Residents may receive care, training, or treatment. Tenancy is typically measured in years and is often permanent in nature.		
Family Game Center	An establishment or enterprise whose primary business is to provide arcade-type entertainment that can include video/electronic games, pinball, billiards/pool, and other forms of family games.		
Fence	A structure erected to provide privacy or security that defines a private space or is used to constrain domestic animals.		

Article 11 / Definitions

TABLE 11.2.5 (CONT'D.)		GENERAL TERMS
Term	Definition	
Final Plat	The final drawing of a property being subdivided as prepared by a land surveyor or engineer for recording and approval by the City Council and prepared in accordance with Sec. 9.10.9B.1 of this LDC.	
Flag	Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision or other entity.	
Flag Lot	See Lot, Flag	
Floor Area, Net (Net Floor Area)	For the purpose of applying the requirements for off-street parking, the term "floor area," in the case of offices, merchandising or service types of uses, shall mean the gross floor area used or intended to be used by tenants, or the service to the public as customers, patrons, clients or patients, including areas occupied by fixtures and equipment for display or sale of merchandise. It shall also include restrooms, fitting or dressing rooms, and kitchen areas in the case of restaurants. It shall not include areas used principally for non-public purposes such as storage, incidental repair, processing or packaging of merchandise, or for offices incidental to the management or maintenance of stores or buildings.	
Floor Area, Gross (Gross Floor Area)	The total enclosed area of all floors of a building measured to the outside face of the structural members in exterior walls, and including halls, stairways, elevator shafts at each floor level, service and mechanical equipment rooms, and basement or attic areas having a height of more than 7 feet, but excluding areas used exclusively for vehicle parking or loading and, in industrial areas, storage sheds with less than 150 square feet of space, bunkers, electrical substations, smoking shelters, instrument shelters, and similar enclosures.	
Foot Candle (FC)	The unit of luminance when the foot is taken as the unit of length. It is the luminance on a surface one square foot in area on which there is a uniformly distributed flux of one lumen, or the luminance produced on a surface all points of which are at a distance of one foot from a directionally uniform point source of one candela.	
Foster Home	A home licensed by the Arizona Department of Economic Security maintained by persons having care or control of one to 5 minor children, other than those related by blood, marriage, or adoption.	
Foster Home, Group	A foster home licensed by the Arizona Department of Economic Security suitable for the placement of 6, but not more than 10, minor children.	
Fraternity or Sorority House	A residence hall or building used as living quarters for members of an approved college or university group while enrolled at an institution of higher learning	
Garage, Private	An accessory to, or a portion of, a main building, utilized or intended for use by motor vehicles of the individuals residing on the lot, including the use of a reasonable portion of such garage for the storage of tools equipment and other items belonging to the individuals residing on the lot. A private garage shall not be available for rent or rented to members of the public.	
Garbage	"Garbage" is putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.	
Gazebo	A free-standing structure of no more than 150 square feet which may be roofed or unroofed, enclosed by an open railing or parapet sides where solid/opaque walls are used, said walls may not be more than 4 feet in height as measured from the floor of said structure. Where a cross lattice or similar transparent/open type of wall material is used, said wall(s) may extend from the floor to the ceiling. Any combination of cross lattice or similar transparent/open type wall materials and solid/opaque type wall materials may not cover more than 75 percent of the total wall area.	
General Plan	A council-adopted municipal statement of land development policies, which may include maps, charts, graphs and text, which set forth objectives, principles and standards for local growth and redevelopment enacted pursuant to the provisions of ARS 9-416.06 or any prior statute.	
Grading	Any change of existing surface conditions by excavating, placing of any soils or rocks, or stripping of vegetation.	
Grading, Mass	See Mass Grading	
Group Home	A home serving 8 or fewer mentally or physically handicapped persons provided the home provides care on a 24-hour basis and is approved or licensed by the State for that purpose. A group home shall be considered a single family dwelling.	
Guard House	An accessory structure designed or used to provide shelter for security personnel.	

TABLE 11.2.5 (CONT'D.)		GENERAL TERMS	
Term	Definition		
Guest Quarters	A room or rooms, including a kitchen, accessory to the primary single-family use and located in a portion of the main residential building or in a separate building located on the same lot as the primary residential building.		
Halfway House	A residential facility which offers temporary (usually up to 180 days) housing, for compensation or not for compensation, to adults who are personally committed or required by a court system or otherwise legally obligated to participate in a rehabilitation/treatment/recovery program for alcohol, drug/substance abuse or other behaviors.		
Hazardous Materials	Those chemicals or substances, which are physical hazards or health hazards, whether the materials are in usable or waste condition, as defined and classified in the Uniform Fire Code, 1988 Edition, as adopted by the City Council.		
Hazardous Waste	"Hazardous waste" is defined under ARS 49-921 et. seq. and rules promulgated thereunder.		
Health Care Practitioner	Health care practitioner shall include massage therapists and similar health services providers.		
Height, Building	Per zoning district, See Table 2.7.1 and 2.7.2.		
Hillside Subdivision	A subdivision with slopes of 20 percent or greater.		
Home Occupation	Means an occupation for monetary gain conducted in a dwelling unit, garage, or accessory building in a residential district that is incidental to the principal residential use of a lot or site. (See also Sec. 2.5.7, Home Occupations)		
Hotel	Same as motel.		
IBC	International Building Code, including any amendments, as adopted by the City Council of the City of Prescott.		
Impermeable Cover or Coverage	Those portions of a lot that are covered by principal and accessory buildings or structures, and by surfaces that prevent the passage or absorption of storm water such as paving and driveways.		
Industrial Street	A street or road that serves local traffic movement within and provides access to industrial areas.		
Influence Area	The geographic area surrounding the site from which the development is likely to draw a high percentage (80 percent or more) of the total site traffic.		
Ingress	The movement of traffic from the street to abutting property.		
Junkyard, including Scrap and Salvage	The use of a lot, or portion thereof, whether inside or outside a building, for the storage and/or sale of scrap metal, waste paper, rags, non-operated vehicles or other junk materials and including non-commercial storage of non-operating or non-drivable motor vehicles, dismantling or storage of such vehicles or parts thereof, or used machinery, and regardless of whether repair or any other type of commercial operation occurs, but excluding scrap for use in manufacturing processes on the premises, or waste materials resulting from manufacturing processes, or resulting from the construction or elimination of facilities for such processes.		
Kennel	The boarding and/or breeding of domestic animals for sale, as a business activity.		
Key Lot	The first lot to the rear of a corner lot, the front line of such key lot fronting upon the side street for such corner lot.		
Kitchen	Any room or portion of room used, intended, or designed to be used for cooking and/or the preparation of food, except cooking facilities of a recreational or incidental nature such as barbecues, food bars, hot plates, and the like shall not be considered kitchen facilities.		
Landing	A level part of a staircase at the end of a flight of stairs		
Landside	All areas not considered to be "airside" (Refer to "airside" definition).		
Landside Signage	All signage within the City of Prescott that is not intended solely for air traffic.		
Livestock	Animals such as, horses, ponies, mules, sheep, goats, cattle and other meat animals.		

Article 11 / Definitions

TABLE 11.2.5 (CONT'D.)		GENERAL TERMS	
Term	Definition		
Recycling Facility	A totally enclosed building within which recyclable materials are converted into new products by reprocessing or remanufacturing. A recycling facility may also include collection and processing of recyclables for more efficient shipment. Outdoor storage of materials is acceptable on an area surfaced with a permanent, dust-free pavement behind an opaque fence or wall and landscaping in accordance with Municipal Code Sec. 4-62-A-4.		
Refuse	"Refuse" is all putrescible and nonputrescible solid waste, including garbage, rubbish, ashes, street cleanings, dead animals, and solid market and industrial wastes.		
Residential Street	A street or road within a residential area containing single-family homes, (e.g. townhouses, condominiums, mobile home subdivisions, or apartments). It also includes regional parks and cemeteries.		
Residential Treatment Center	A residential facility offering temporary housing which typically includes, but is not limited to, alcohol, drug/substance abuse or other treatment/recovery programs and which provides at a minimum 1) on-site staff who may provide supervision, personal care, meals, education, participation in community activities, counseling, treatment, or therapy for the residents thereof; 2) Administration of an in-house program of guidelines and goals for the expected conduct, achievement, performance and participation of the residents in an established treatment/recovery program; 3) Dispensing, storage and/or oversight of prescription medications by responsible individuals who are properly trained to do so; 4) Is recognized by potential referral agencies, public or private; and 5) A facility may be required to be licensed by, certified by, registered with, or otherwise authorized, funded or regulated, in whole or in part, by an agency or the State or the Federal government.		
Ridge	An elongated crest or series of crests of a hill.		
Ridgeline	A ground line located at the highest elevation of and running parallel to the long axis of the ridge.		
Right-of-way	The entire dedicated tract, usually in a strip, of land for public use for street, highway, or other public improvement.		
Rubbish	"Rubbish" is nonputrescible solid waste consisting of both combustible and noncombustible waste such as: paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, weeds, brush, wood, glass, bedding, crockery, or other accumulation of filth or debris.		
School	School shall mean, unless otherwise specified, private or public places of general instruction for the education of children through grade 12 which is licensed by the Arizona Department of Education but shall not include pre-schools, dancing schools, riding academies, or trade or specialized vocational schools.		
Senior Family Home	A residence for 9 - 10 people age 60 and over, who operate as a family, with supportive staff as necessary to meet the needs of the residents.		
Separation Facility	The actual separation of recyclable materials prior to disposal at the landfill.		
Service Station	An establishment engaged in the sale of motor vehicle fuel.		
Sidewalk	That paved portion of a right-of-way between the curb lines or lateral lines of the roadbed and the boundary line of said right-of-way designed and intended for the movement of and use of pedestrian traffic.		
Setback Line	A line that marks the minimum distance a structure must be located from the property line, and establishes the minimum required front, side or rear yard space of a building plot.		
Sight Distance	A sight distance triangle as defined in Sec.6.3.10, Corner Setbacks and Intersection Visibility, or where determined by the Public Works Director as a location that would hinder intersection visibility.		
Significant Traffic Impact	See Area of Significant Traffic Impact.		
Single-family Dwelling	See Dwelling, Single Family.		
Site Development Plan, Preliminary	A tentative site plan including, but not limited to, uses, building footprints, access and parking, drainage, landscape areas, and other information sufficient to allow the possible issuance of a grading permit.		

Article 11 / Definitions

TABLE 11.2.5 (CONT'D.)		GENERAL TERMS	
Term	Definition		
Subdivision	Improved or unimproved land or lands divided for the purpose of financing, sale or lease, whether immediate or future, into 4 or more lots, tracts, or parcels of land, or, if a new street is involved, any such property which is divided into 2 or more lots, tracts, or parcels of land, or any such property, the boundaries of which have been fixed by a recorded plat, which is divided into more than 2 parts. A subdivision also includes any condominium, cooperative, community apartment, townhouse, or similar project containing 4 or more parcels in which an undivided interest in the land is coupled with the right of exclusive occupancy of any unit located thereon, but plats of such projects need not show the buildings or the manner in which the buildings or airspace above the property shown on the plat are to be divided.		
Supervisory Care Center	A 24-hour supervised residence used as temporary living quarters for adults, and providing transitional housing and rehabilitation opportunities for persons experiencing an unstable or crucial time. Such use may or may not be licensed, certified or registered, in whole or in part, by an agency of the State or the Federal government.		
Swimming Pool	A contained body of water, including spas and hot tubs, used for bathing or swimming purposes, either above or below ground level, with the container being 18 or more inches in depth and/or wider than 8 feet at any point measured on the long axis.		
Technical Review Committee	The Technical Review Committee (TRC) of the City of Prescott.		
Telecommunications	A communications tower or antenna and any associated accessory structures and equipment. (See Also "Communications Tower" and Sec. 2.4.51, Telecommunications Facilities)		
Temporary Shelter	<p>Also known as Homeless Shelter. A residential facility which offers short term, temporary (up to 7 days); housing to indigent, needy, homeless or transient persons and which typically includes, but is not limited to, the following programs: 1) Beds, showers, personal-grooming facilities; 2) Mail and telephone message services; 3) Guidance to obtain assistance from social service agencies or other agencies which can provide more permanent housing, transportation, etc. for residents of the Temporary Shelter.</p> <p><u>A facility or portion thereof, used for purposes of emergency shelter, crisis intervention, including counseling, referral or other human services functions. Such a facility may provide shelter, meals and/or merchandise distribution.</u></p>		
Townhouse	See Dwelling, Single-family Dwelling.		
Traffic Generation	The estimation of the number of origins from and destinations to a site resulting from the land use activity on that site.		
Traffic Generator	A designated land use (residential, commercial, office, industrial, etc.) that generates vehicular and/or pedestrian traffic to and from the site.		
Traffic Impact Analysis (TIA)	Traffic impacts study (TIA) that determines the potential traffic impacts of a proposed traffic generator. A complete analysis will include an estimation of future traffic with and without the proposed generator, analysis of the traffic impacts, and recommended roadway improvements that may be necessary to accommodate the expected traffic.		
Traffic Mitigation	The reduction of traffic impacts on roadways and/or intersections to an acceptable level of service.		
Transitional Community Residence	<u>One of two Community Residence (see Definition) categories. A living arrangement for a group of 9 or more disabled persons living as a single housekeeping unit and functioning as a family. Care givers and associated staff may or may not be present and may or may not reside at the site. Residents may receive care, training, or treatment. Tenancy is typically measured in weeks or months.</u>		
Transportation Plan	That portion of the General Plan adopted by the Planning and Zoning Commission and City Council designating and defining the physical street system for Prescott, Arizona.		
Treadway	That portion of a trail, sidewalk or multi-use path improved for walking or riding upon; excludes slope easements and the like.		
Use	The purpose for which premises or a building thereon is designed, arranged, or intended, or for which it is or in the future may be actually occupied or maintained.		
User	A single dwelling or a structure used by a single business.		