



## **Summary of Community Meeting on Substance Abuse Treatment Centers, Community Residences, and Related Enforcement Activities**

**September 10, 2015**

Mayor Kuykendall and Mayor Pro Tempore Kuknyo welcomed the group of approximately 100 persons, explained the purpose and format of the meeting, and introduced the topic. The following City Council members and personnel were present:

Mayor Kuykendall  
Mayor Pro Tem Kuknyo  
Councilman Arnold  
Councilwoman Wilcox  
Craig McConnell, City Manager  
Alison Zelms, Deputy City Manager  
Jon Paladini, City Attorney  
Jerry Monahan, Police Chief  
Dennis Light, Fire Chief  
George Worley, Planning Manager  
Michael Fleming, Chief Code Compliance Officer  
Catherine Sebold, Communications and Public Affairs Manager

City personnel provided a presentation regarding code changes, enforcement activities and state and local regulations regarding medical treatment centers and non-medical housing components related to the treatment of drug and alcohol addiction.

Following this presentation, Representative Noel Campbell provided an update of his Legislative efforts during the 2015 session and the new Legislative Ad Hoc Committee on Drug Rehab/Recovery Homes that he initiated at the Legislature, and which has since begun meeting regularly.

### **Questions and Comments voiced at the Meeting**

Archived video of the Community Meeting on September 10, 2015 can be viewed on demand at <http://access13.pegcentral.com> – click on the September 10, 2015, Community Meeting.

### **General Terminology in this Report**

Congregate Living –Language within the current Land Development Code, which replaced the term “community residence” and is defined as “a building or part thereof that contains sleeping units where residents share bathroom and/or kitchen facilities. Non-Transient 12 or fewer occupant load is R-3, 13 or more occupant load is R-2. Transient 10 or fewer occupant load is R-3, 11 occupant load or over is R-1.

Community Residence/Group Home – This generally refers to a location at which multiple unrelated individuals reside within one dwelling unit. Not all community

residence/group home are operated as drug/alcohol recovery or sober living. Other examples include student housing, group homes for the developmentally disabled, housing for individuals with serious mental illness, and homes for victims of domestic violence.

Licensed Facility – The Arizona Department of Health Services (ADHS) licenses each physical location for medical facilities providing treatment either as a Residential Behavioral Health Facility, Outpatient Treatment Facility, Counseling Facility, or Detoxification Center, if the facility meets the requirements of the State for licensure based on their operation. If licensed, the facility must meet physical plant standards based on the type of care provided, and is subject to inspection and enforcement by ADHS. The State does not license locations where treatment or supervisory care (medical definition) is not provided.

Sober Living Home – Sober Living Housing is a type of group housing that offers an alcohol and drug-free living environment for individuals recovering from alcohol or substance use disorders. Most sober living homes are considered “group homes for disabled persons” and therefore entitled to some level of protection under the Fair Housing Act of 1986, as amended. As one of the conditions of occupancy, residents agree not to use alcohol or prohibited substances. While there may be exceptions, “sober living homes” are best characterized as transitional community residences since they tend to limit how long occupants may live there. Medical services, treatment, supervision and supervisory care services may not be provided at this type of site, unless it is a facility licensed in accordance with ADHS. According to A.R.S. § 36-401, “supervision” means direct overseeing and inspection of the act of accomplishing a function or activity, and “supervisory care services” means general supervision, including daily awareness of resident functioning and continuing needs, the ability to intervene in a crisis, and assistance in the self-administration of prescribed medications. “Supervision” is provided by employees of the operation receiving some type of compensation, not fellow housemates.

## **Compilation of Questions and Comments of Attendees Responding to the Questionnaire Provided at the Meeting**

### ***I. General Comments***

- Why didn't the *Prescott Daily Courier* cover this meeting? Travesty.
- Stop pandering to these drug addict/alcoholic facilities – they are not “group homes” or “community residences”.
- Rehab facilities and so-called group homes related to drug addicts/alcoholics have saturated Prescott, AZ, a small mountain community for more than 5 years.
- The City Council held a position of a “blind-eye” mentality for years even though they knew what was happening.
- Prescott police and fire departments are presently overwhelmed with drug addict/alcoholic related calls and this places a burden on the entire town and the

taxpayers. The emergency room at Yavapai Regional Medical Center is also overwhelmed with drug related issues. (Public Safety Issue)

- The drug addict facilities have brought the dregs of society into a small mountain community and ruined the atmosphere and living conditions. These drug addicts/alcoholics are taxing the judicial system, our jail system, the police department and fire department. Police and fire sirens rushing to another drug related overdose/crime are a daily occurrence.
- There has been a huge increase in court sentencing of probation and they are almost all drug related crimes.
- A crazed drug addict attacked an ER employee at YRMC.
- Poorly written zoning codes with ambiguous and conflicting language make the codes virtually unenforceable. Also, a lack of substantial fees for violations render the present codes and zoning worthless.
- Rewrite the codes with enforcement clout, or cutback on expensed, delete the entire zoning/code enforcement department. This department is totally worthless as it operates now.
- These are not group homes. They are hideouts for law breaking criminals that choose not to enter society productively. They do not belong in our community.
- The City is doing a great job.
- There are too many group homes/facilities too close to schools and other facilities with children.

## ***II. Concerns regarding community residences/sober living homes in neighborhoods:***

- Noise, profanity, cigarette butts into brush – possible fires.
- I hate the very loud music played during alley way drop offs and pick-ups – if they used the street for drop off I would not be awakened by very loud music.
- The public alley-way is blocked off during food giveaways which blocks access to other residents.
- I have lived in my home since 1980 and feel the City cares more about keeping these businesses happy than in helping long term homeowners find help, information, and answers.
- Bad behavior and attitudes of residents in the rented home, lack of supervision, number of police visits to residence.
- Without state licensing and enforcement the number of homes is out of control and clearly impacts property values and public safety.
- There was one across the street that was leased but has since moved out. The residents were a bit older than most and overall they were quiet. The biggest issue was the number of cars on the narrow street, and unwillingness to comply with the HOA regulations.

- Theft, needles in my front yard, noise, speeding down the neighborhood roads, offensive language, damage to public beauty of Prescott.
- There are 15 drug and alcohol addiction/community residences near my home.
- Location within single family areas – the loss of property values, loss of taxes due to devaluation.
- Ignore private property rights (of long term single-family residences).
- The coming and going of members and parking in unauthorized areas. Rental agencies must be regulated in renting single family homes to the “Group home” personnel.
- Non-property owners walking the streets at all hours.
- I am concerned about proliferation of drug addicted men and women here in this town and how it effects our safety and our way of life. The drug world is not something I want living in my neighborhood – more crime, more drug availability, more tax on our police, firemen, hospitals, etc.
- When I contacted the City about a non-licensed property on Estrella, I received no follow-up from the City. They stole furniture off of our property. Police reports filed and property later returned.
- They are starting one up across the street from my home.
- Noises level and cursing/fighting concern us. Also volleyball court that attracts even more trouble. (This same comment was made by two different people)
- These establishments put no accountability requirements on individuals and should, including having City notification within 24 hours of release from home.
- Turn residential neighborhood into commercial transitory residents. No concern with background of residents. Excessive traffic on one-lane street.
- Starting to affect tourism and people who like to move here, families and senior population.
- Disrespectful – don’t care about neighbors. Don’t seem serious about staying sober, just going through the programs because it is court ordered.
- Lack of respect for others’ property, noise, trash, cigarettes.
- Noise, trash, burglary, group home managers being unwilling to work together for the good of all neighbors.
- Concerned about petty crime and effects on our property values.
- Historic and non-historic neighborhoods are exposed on a daily basis to drug addict/alcoholic behaviors that are totally unacceptable.
- All these derelict drug addict wanderers swarm neighborhoods in packs....increase the traffic in the area with their constant comings and goings, all smokers pitching their cigarette butts everywhere.

- One woman said she was an alcoholic and was threatened by another alcoholic regarding ruining her life unless she accommodated him by partnering in an unlicensed rehab in her neighborhood.
- I lock my doors 15 times a day out of fear of drug addicts/alcoholics wandering unsupervised in my area.
- Property values are declining – this was a quiet neighborhood before.
- Uncertain of who is living in our neighborhoods.
- Property values in small neighborhood.
- Monitoring resident numbers, transitory residence/permanent residence - it is difficult to determine how many residents are actually living there because there is no oversight by any entity.

**III. Concerns regarding Drug and Alcohol Addiction Treatment/Community Residences overall within the community:**

- I work with a homeless Veteran and have heard the dropouts of treatment are violent in the street.
- Downtown on streets – walking through large groups of smoking rehab guys.
- There was no citizen representation at the Health and Human Services Committee but Prescott residents are the MOST affected by this industry.
- My kids go to school close to some group homes and my kids are growing up and wanting more independence in our City, but it terrifies me to let them go out around town when I know so many of these homes exist and I don't know where they are.
- The public is being accosted by panhandlers/beggars/drug addicts/alcoholics for handouts at the Courthouse square, parking lots of grocery stores, and some on Willow have stated they knock on their doors for money handouts, etc.
- It is documented and reported that: there have been break-ins/assaults/theft/burglary, scams, etc. on the Prescott retirement population by drug addicts/alcoholics. Try Granite Creek history for starters. A very unsafe place. (Public Safety Issue)
- Folks in this meeting have stated they are afraid to walk in this town; that their children have picked up syringes/needles; have been poked, have had to go thru testing as a result of the poke, etc., that their children have been assaulted by addicts. (Public Safety Issue)
- Anyone that has a teenager that lives in Prescott, AZ. is exposed to these drug addicts/alcoholics on a daily basis which comprises their children's well-being. (A mega Public Safety Issue)
- I no longer walk the square or use the public restrooms out of fear of drug addicts/alcoholics. (published in the *Prescott Daily Courier* recently...an addict overdosed and was lying on the floor in the courthouse public restrooms and a police officer broke his hand in a scuffle with the addict and a citizen had to help

apprehend the addict. What if a small child had to use the bathroom facility and walked in on this situation?

#### **IV. Questions and Answers**

**Q: How do I stop the parking and blocking of alleyway, and who do I contact who can answer questions about blocked driveways?**

A: If your alleyway, driveway, or street is blocked, contact the Police Dispatch non-emergency number, 928-445-3131. Please have available the location, your contact information, a description of your concern and a description of the vehicle that is blocking the alleyway (color, type of vehicle, license number, etc.). If this is a repetitive occurrence in your neighborhood, please contact Code Enforcement to submit a complaint. Chief Code Compliance Officer Mike Fleming is available at 928-777-1320 or [michael.fleming@prescott-az.gov](mailto:michael.fleming@prescott-az.gov).

**Q: Who should I contact with zoning questions?**

A: If you have a concern about the zoning of a residence, business, or other use located in the City of Prescott, contact the Planning Division at 928-777-1207. If you are interested in building a new structure, or operating a new community residence/group home or other residential facility, it is your responsibility to seek proper guidance as to appropriate zoning, distance requirements from other facilities, and whether or not the specific use identified is allowed in the specific area.

**Q: Who should I contact regarding general concerns about community residences, a particular sober living home, or about a licensed treatment center?**

A: For concerns regarding community residences or treatment centers located in the City of Prescott, contact Code Enforcement at 928-777-1320. Code Enforcement Division personnel are regularly in the field working on reported complaints or preventative calls, but emails and phone messages are checked daily. Your call or email will receive a response within one to three working days. Investigation into a complaint usually begins within seven working days, depending upon the volume and complexity of complaints received. Life-safety issues receive priority response. You may also submit a complaint with the Arizona Department of Health Services at <http://www.azdhs.gov/licensing/>, click on "Online Complaint Forms". This section of their website also includes links to a provider and facility database of licensed facilities, and a map of those facilities.

**Q: Are food giveaways legal, and under what conditions?**

A: Delivery of food, by a company (e.g., Schwann's or Shamrock) is not regulated by the City, although applicable traffic and parking rules generally apply. The City does not allow the operation of a "food truck" other than for a permitted special event meeting all County Health requirements. Food service and preparation is licensed and inspected by the Yavapai County Health Department, Environmental Services

Division, at 928-771-3149. The Yavapai County Health Code can be viewed at: <http://www.yavapaihealth.com/LinkClick.aspx?fileticket=xlwZyHbYeE4%3d&tabid=128&portalid=0>.

**Q: Why doesn't the City control the number of community residence/group home locations and the follow-up on a constant basis? What can the City change in zoning to permit proper areas for these homes (not single family residential zones)?**

A: The City has modified its Land Development Code (zoning and permitted uses throughout the City), and City Code (building safety standards, inspections, and code enforcement activities) three times in recent years, beginning in September 2013, to address community residences/group homes, including drug/alcohol recovery and sober living homes, in Prescott, while remaining in compliance with Federal Fair Housing Act requirements. As part of these updates, in 2013 a voluntary registry of existing community residences/group homes was enacted. Approximately 150 community residence locations, most of which were related to drug/alcohol recovery, were identified through this process. In addition to the voluntary registry, distance separation requirements between group homes were enacted, 1200' initially, and subsequently 800'.

The Land Development Code provides the following restrictions on group homes established after March 2015:

- ✓ Reduces the number of unrelated persons defining a "family" from 6 to 4, and allows them in residential districts without restriction
- ✓ Allows from 5 to 12 persons in a family community residence (more permanent arrangement) in single-family residential zoning, subject to existing Building Code requirements relating to occupancy and a permit; the permit enables the City to perform compliance inspections upon proper notice
- ✓ Allows from 5 to 12 persons in a transitional community residence (less permanent arrangement) in multifamily residential zoning, subject to existing Building Code requirements relating to occupancy (the number and sizes of bedrooms) and a permit; the permit enables the City to perform compliance inspections upon proper notice
- ✓ Reduces the spacing (buffer) between large community residences from 1,200' to 800' (to align this criterion with prevailing national practice/case law)
- ✓ A new formula for calculation of the required number of parking spaces

If a community residence/group home began operation AFTER March 2015, in a single-family residentially zoned area, it would require contact with the City, unless housing four or fewer unrelated persons. Please contact the City Code Enforcement office at 928-777-1320 if you know of a site in violation of the above Criteria and Restrictions. The Code Enforcement Division will investigate to determine compliance, time of occupancy, and whether further action is warranted.

The City's ability to deny occupancy of existing "sober living homes" in single family residential zoning is limited by Arizona statutes. A legal non-conforming use, often referred to as a "grandfathered status," protects existing uses. Federal law also protects individuals in recovery from alcohol and drug addiction as disabled persons, and precludes a City from discriminating in the housing of disabled people.

The City has recently discussed the possibility of instituting a local business license, which could help to better identify existing locations, types of uses, and whether new uses constitute a transitional or more permanent sober living arrangement. It is well settled that for zoning purposes, a community residence is a residential use, not a business use. The Fair Housing Amendments Act of 1988 specifically invalidates restrictive covenants that would exclude community residences from a residential district. (*H.R. Report No. 711, 100th Cong., 2d Sess. 311 (1988), reprinted in 1988 U.S.C.C.A.N. 2173, 2184. The overwhelming majority of federal and state court that have addressed the question have found that a subdivision's restrictive covenants that exclude businesses or "non-residential uses" do not apply to community residences for people with disabilities.*)

**Q: What are the current regulations for community residence/group homes? (City Code)**

A: Current City regulations are described in the prior response – also attached is the application for operation of a community residence which outlines the requirements for facilities. Community residences/group homes are required to meet the same building/safety standards as residences, as well as all other applicable City Codes and state and federal law. Since 1989, the federal Fair Housing Act has required all cities, counties, and states to make a "reasonable accommodation" in their zoning when the number of residents exceeds the local cap on the number of unrelated people who can live together in a dwelling, so that community residences for people with disabilities can locate in all residential zoning districts.

- Land Development Code: Community Residences and Congregate Living: Ordinance No. 4925-1463 [http://www.prescott-az.gov/d/ord\\_4925-1463.pdf](http://www.prescott-az.gov/d/ord_4925-1463.pdf) (March 24, 2015)
- City Code – Square Footage Requirements for Congregate Living Facilities (2 per 120 sq ft bedroom, and requiring an additional 120 sq ft for each additional occupant): Resolution No. 4286-1495 <http://prescottaz.suiteonemedia.com/web/GenFile.aspx?ad=1968> (April 14, 2015)
- City Code – Removing exemption of residential remodels and additions from obtaining a new Certificate of Occupancy: Resolution No. 4285-1494 <http://prescottaz.suiteonemedia.com/web/GenFile.aspx?ad=1967> (April 14, 2015)
- City Code – Criminal Penalty for Violation of Building Standards: Ordinance No. 4929-1467 <http://prescottaz.suiteonemedia.com/web/GenFile.aspx?ad=1965> (April 14, 2015)
- City Code – Criminal Penalty for Violation of Code Enforcement Citation: Ordinance No. 4928-1466 <http://prescottaz.suiteonemedia.com/web/GenFile.aspx?ad=1964> (April 14, 2015)



- City Code – Designation of Occupancy Loads for Congregate Living in R-1, R-2, and R-3 Zoning (creates inspection authority): Resolution No. 4288-1497 <http://prescottaz.suiteonemedia.com/web/GenFile.aspx?ad=2013> (April 14, 2015)

**Q: Are the community residence/group home properties inspected?**

A: Any new community residence/group home is required to submit an application to the City of Prescott Community Development Department (see [attached](#)). One of the requirements for approval is an inspection by the Building Division to establish maximum safe occupancy, and assure that the structure meets life/safety code requirements. Any existing community residence/group home location may be inspected annually, whether or not located on the voluntary registry and regardless of grandfathered status of zoning rights.

**Q: Yavapai County closed a rehab house in the Paulden area as it was not approved. Why doesn't the City do the same thing?**

A: The community residence/group home in Paulden is understood to have provided medical services on-site. These types of uses require State licensure, and in this case did not qualify as a residential use.

**Q: When will this be a high priority for the City?**

A: Addressing drug rehab/recovery homes and sober living residences is a high priority. The City is currently working with the State Legislature and the Arizona Department of Health Services to change State Statutes to enable better regulation and oversight of drug and alcohol recovery homes. This statutory "fix" would address a significant shortcoming in the State regulatory system for drug and alcohol recovery. The City has also changed local laws to allow for better oversight of community residences for recovering substance abusers. The City will continue to address this important public issue through the applicable legislative, zoning, and building safety processes. Adjustments will be made as needed.

**Q: Do Prescott taxpayers cover all police and hospital costs for patrons?**

A: Code Enforcement, Police and Fire Services (approximately \$20 million annually) in Prescott are primarily paid for by a portion of City sales tax, and a portion of State Revenue (income tax, State sales tax, vehicle license tax) that is returned to the City based on population. A significant amount of the tax base comes from visitors and non-City residents that shop here, but live in unincorporated parts of the region, as well as residents of Chino Valley, Prescott Valley, and Dewey-Humboldt. Hospital costs are not incurred by the City.

**Q: What can be done to increase the effectiveness of Code Enforcement investigations into complaints about the rehab houses? Do you keep track of complaints?**

A: Investigations regarding unregistered homes are documented in the same

manner as other permitting, land use regulation, enforcement, and inspection activities pertaining to properties throughout the City. Noise and smoking complaints are documented and forwarded to the Police Department to determine appropriate enforcement techniques. Citizens can assist in a more thorough and timely investigation by providing the following information when making a complaint:

- The address of the home suspected to be in violation
- The violation that is being observed and the times/dates violations occurred
- The number of people seen living in the home
- Any information about the company running the home
- The time of day when people are home and when they leave
- Your name and contact information if you would like to receive follow-up information about the investigation

**Q: Can all the neighbors submit a group petition to stop the opening of one (group home) on our street/cul-de-sac?**

A: Concerned neighbors can contact the City of Prescott Planning Division at 928-777-1207 to assure that proper application has been made for the particular location. This will assist with ensuring compliance with City codes. Compliance with the Fair Housing Act will be a significant consideration in review of all applications.

**Q: How can I request the home next door be inspected for safety and fire codes?**

A: If you have a concern about safety, proper zoning, occupancy, or other aspects of a community residence/group home, please contact Code Enforcement at 928-777-1320 or [michael.fleming@prescott-az.gov](mailto:michael.fleming@prescott-az.gov) to file a complaint and initiate an investigation. If the concern is related to a treatment center, or if you are concerned that treatment is occurring on-site, it is also recommended that you submit a complaint with the Arizona Department of Health Services at <http://www.azdhs.gov/licensing/>, click on “Online Complaint Forms”. This section of their website also includes links to a provider and facility database of licensed facilities, and maps of those facilities.

**Q: How do I get some new regulations applied to the “grandfathered” homes?**

A: The City investigates complaints as they are reported. If warranted, a code enforcement or building safety inspection may be initiated. If violations are found, regulatory and legal enforcement will be initiated.

## **V. *Suggestions/Ideas***

- Business Licenses
- Institutional residences NOT in residential areas (i.e., cluster services and make sure you are helping those served)

- Disclosure of location so that neighbors/buyers know what is reality for their neighborhoods
- Licensing and regulation and enforcement are a must
- Make a stand with the federal government and state
- Tax the group home industry
- Licensing needs to be enforced
- Need license and regulation
- Think again about the moratorium idea. There is always a way to get things done. Stop with the City employees' negative attitudes that "it just won't work"
- The drug addict/alcoholic rehab facilities should be charged large impact fees for every drug related call to the police and fire depts. As well as the ER at YRMC.
- Every effort needs to be taken to delete drug addicts and alcoholics from the American Disabilities Act. Lobbyists for the addict/alcoholics industry did their number one job, convincing the government to include these by-choice loser/addicts to be covered under the American Disabilities Act at the expense of the unsuspecting taxpayer. Addiction is a choice and is not a decision for the actual disabled folks. This is the largest sham on the American taxpayers ever pulled off.
- Patients should have to post a bond with the City, returned when treatment is complete, or forfeited if patient relapses or is arrested.
- Property should be hotel-quality
- There should be drug dog inspections without prior notice once a week at each location
- They need to be licensed, they need to be monitored
- The rehab facilities need to be held responsible for the impact on the community. If one of their patients does some damage or causes our police and fire to respond, make them pay for it
- Area residential homes should be notified that group homes are being started
- There should be a big fine if the home is set up illegally/without notice to the City
- Homes should be properly supervised
- State and local licensing and regulation
- The number of people at each location should be regulated
- Management should be effective
- Curfews should be in effect while in residence
- Immediate dismissal for relapse
- Requirements for time in therapy - groups and individual
- More regulation of pharmaceuticals/prescription distribution

- Know who comes here, where they are from, their criminal background, etc.
- Licensing and regulation
- Paying their fair share of taxes for cost of public services
- Business License
- Abandonment of Nonconforming Uses and Enact Nuisance Property rules
- Residential Rental Inspection
- State Licensure