



**NOTICE OF MEETING**  
**REGULAR MEETING**  
**FOUNTAIN HILLS PLANNING AND ZONING COMMISSION**

**Chairman Peter Gray**

**Vice Chairman Scott Schlossberg**  
**Commissioner Jessie Brunswig**  
**Commissioner Clayton Corey**

**Commissioner Susan Dempster**  
**Commissioner Dan Kovacevic**  
**Commissioner Roderick Watts, Jr.**

**TIME: 6:00 P.M. – REGULAR MEETING**  
**WHEN: MONDAY, JANUARY 10, 2022**  
**WHERE: FOUNTAIN HILLS COUNCIL CHAMBERS**  
**16705 E. AVENUE OF THE FOUNTAINS, FOUNTAIN HILLS, AZ**

Commissioners of the Town of Fountain Hills will attend either in person or by telephone conference call; a quorum of the Town's Council, various Commission, Committee or Board members may be in attendance at the Commission meeting.

Notice is hereby given that pursuant to A.R.S. §1-602.A.9, subject to certain specified statutory exceptions, parents have a right to consent before the State or any of its political subdivisions make a video or audio recording of a minor child. Meetings of the Commission are audio and/or video recorded and, as a result, proceedings in which children are present may be subject to such recording. Parents, in order to exercise their rights may either file written consent with the Town Clerk to such recording, or take personal action to ensure that their child or children are not present when a recording may be made. If a child is present at the time a recording is made, the Town will assume that the rights afforded parents pursuant to A.R.S. §1-602.A.9 have been waived.

**REQUEST TO COMMENT**

The public is welcome to participate in Commission meetings.

**TO SPEAK TO AN AGENDA ITEM**, please complete a Request to Comment card, located in the back of the Council Chambers, and hand it to the Executive Assistant prior to discussion of that item, if possible. Include the agenda item on which you wish to comment. Speakers will be allowed **three contiguous minutes** to address the Commission. Verbal comments should be directed through the Presiding Officer and not to individual Commissioners.

**TO COMMENT ON AN AGENDA ITEM IN WRITING ONLY**, please complete a Request to Comment card, indicating it is a written comment, and check the box on whether you are FOR or AGAINST and agenda item, and hand it to the Executive Assistant prior to discussion, if possible.

**REGULAR MEETING**

- 1. **CALL TO ORDER, PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE** – Chairman Gray
- 2. **ROLL CALL** – Chairman Gray
- 3. **CALL TO THE PUBLIC**

*Pursuant to A.R.S. §38-431.01(H), public comment is permitted (not required) on matters NOT listed on the agenda. Any such comment (i) must be within the jurisdiction of the Commission, and (ii) is subject to reasonable time, place, and manner restrictions. The Commission will not discuss or take legal action on matters raised during Call to the Public unless the matters are properly noticed for discussion and legal action. At the conclusion of the Call to the Public, individual commissioners may (i) respond to criticism, (ii) ask staff to review a matter, or (iii) ask that the matter be placed on a future Commission agenda.*

- 4. **CONSIDERATION AND POSSIBLE ACTION:** approving the regular meeting minutes of the Planning and Zoning Commission December 13, 2021.
- 5. **Definitions related to detoxification uses and sober living homes**
- 6. **COMMISSION DISCUSSION/REQUEST FOR RESEARCH** to staff.
- 7. **SUMMARY OF COMMISSION REQUESTS** from Development Services Director.
- 8. **REPORT** from Development Services Director.
- 9. **ADJOURNMENT**

**CERTIFICATE OF POSTING OF NOTICE**

The undersigned hereby certifies that a copy of the foregoing notice was duly posted in accordance with the statement filed by the Planning and Zoning Commission with the Town Clerk.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Paula Woodward, Executive Assistant

*The Town of Fountain Hills endeavors to make all public meetings accessible to persons with disabilities. Please call 480-816-5199 (voice) or 1-800-367-8939 (TDD) 48 hours prior to the meeting to request a reasonable accommodation to participate in the meeting or to obtain agenda information in large print format. Supporting documentation and staff reports furnished the Commission with this agenda are available for review in the Development Services' Office.*



## TOWN OF FOUNTAIN HILLS

### STAFF REPORT

**Meeting Date:** 01/10/2022

**Meeting Type:** Planning and Zoning Commission

**Agenda Type:**

**Submitting Department:** Development Services

**Prepared by:** Paula Woodward, Executive Assistant

**Staff Contact Information:**

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**Request to Planning and Zoning Commission (Agenda Language): CONSIDERATION AND POSSIBLE ACTION:** approving the regular meeting minutes of the Planning and Zoning Commission December 13, 2021.

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#### **Staff Summary (Background)**

The intent of approving meeting minutes is to ensure an accurate account of the discussion and action that took place at the meeting for archival purposes. Approved minutes are placed on the Town's website and maintained as permanent records in compliance with state law.

#### **Related Ordinance, Policy or Guiding Principle**

N/A

#### **Risk Analysis**

N/A

#### **Recommendation(s) by Board(s) or Commission(s)**

N/A

#### **Staff Recommendation(s)**

Staff recommends approving the meeting minutes of the regular meeting minutes of the Planning and Zoning Commission December 13, 2021.

#### **SUGGESTED MOTION**

**MOVE** to approve the regular meeting minutes of the Planning and Zoning Commission December 13, 2021.

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#### **Attachments**

Draft PZ MM 12.13.21



# DRAFT

1. **TOWN OF FOUNTAIN HILLS  
MINUTES OF THE REGULAR MEETING  
OF THE FOUNTAIN HILLS PLANNING AND ZONING COMMISSION  
DECEMBER 13, 2021**

**CALL TO ORDER, PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE**

Chairman Gray called the meeting of December 13, 2021, to order at 6:00 p.m.

2. **ROLL CALL**

Present: Chairman Peter Gray; Vice Chairman Scott Schlossberg; Commissioner Jessie Brunswig (Telephonically); Commissioner Clayton Corey (Telephonically); Commissioner Susan Dempster; Commissioner Dan Kovacevic; Commissioner Roderick Watts, Jr.

Staff Present: John Wesley , Development Services Director; Paula Woodward , Executive Assistant

3. **CALL TO THE PUBLIC**

4. **CONSIDERATION AND POSSIBLE ACTION:** approving the regular meeting minutes of the Planning and Zoning Commission November 8, 2021.

**MOVED BY** Commissioner Roderick Watts, Jr., **SECONDED BY** Commissioner Susan Dempster to approve the Planning and Zoning Commission minutes of the Regular Meeting of November 8, 2021.

**Vote:** 7 - 0 - Unanimously

5. **PUBLIC HEARING, CONSIDERATION AND POSSIBLE ACTION:** Regarding Ordinance 21-17, amending Chapter 10, Single-Family Residential Zoning Districts, Section 10.04, General Provisions, to add design standards for single-family dwellings.

John Wesley explained that this item was discussed on last month's agenda and continued to the December 13, 2021 meeting in order to respond to the Commission's questions and suggestions. Recently new home building permit submittals have caused some concern. After review it was concluded that the home could easily be converted from single family to duplex. They could be converted to vacation rentals as

well. Mr. Wesley explained that the code would be changed externally and internally to prevent the single family residence from looking and functioning as a duplex.

Ron Thompson, Fountain Hills resident, thanked the Commission for considering these modifications to help protect single family zoning and make Fountain Hills a desirable place for single family homes. He thanked John Wesley for working with him and the 26 neighbors who recently saw one of these homes appear in their neighborhood.

Commissioner Dempster suggested that the code include the allowance of one water service and one sanitary sewer to the property. This seems ideal since the summary already includes the limited number of electrical panels. This would then include all the utilities.

Discussion ensued regarding sub panels, garages, livable space, secondary structures (casitas), front entrance recognition and accessory kitchen size.

Lori Troller, Fountain Hills resident, commented that the definition of "livable space" needs a better definition regarding the primary and secondary structures.

Mr. Wesley replied that this is covered in another part of the code regarding large and small accessory structures. Accessory buildings (attached or detached) are limited to the 30% of the livable area of the primary structure. There are also limits on lot coverage. They all work to keep balance between the primary and accessory structures.

**MOVED BY** Commissioner Susan Dempster, **SECONDED BY** Commissioner Dan Kovacevic to forward a recommendation to the Town Council to approve Ordinance 21-17, amending Chapter 10, Single-Family Residential Zoning Districts, Section 10.04, General Provisions, to add design standards for single-family dwellings with the following stipulations; The dwelling if it is designed with more than one distinct living area must contain six of the eight items listed, remove the three-car garage items, Section C – clarify the living space in relation to guest houses.

**Vote:** 7 - 0 - Unanimously

6. **CONTINUE DISCUSSION** related to detox facilities and associated drug and alcohol treatment services.

Mr. Wesley said that at the September 13, 2021, meeting the Chairman asked that a future agenda include a discussion related to detox facilities and associated drug and alcohol treatment services. The discussion took place at the November Commission meeting. At that time the Commission agreed to move forward with the topic and provided input for staff. Mr. Wesley said that the January meeting will focus on input from the public and at a later date back to the Commission for the ordinance review.

Liz Gildersleeve, Fountain Hills resident, thanked the Commission for taking a very

pro-active approach to the ordinance issues surrounding detoxification facilities. She said that "Reading the attachments to this agenda item, I do have a few questions and concerns that I hope you can address during your discussion tonight.

First, you rightfully asked the Town Attorney to get a second opinion regarding his original opinion that the Town could not prohibit a detoxification facility in Fountain Hills. According to the attachment to this agenda item, a second attorney was found and the second attorney stated Aron's initial analysis was "Spot On" and he did not find anything to change or contradict his opinion. Who is this mystery second attorney? Did the Mystery Attorney render a written opinion that we can consider? Also, based on his memo, how are sub-acute detox facilities as described any different from a sober home? Wouldn't that be a zoning issue, a commercial enterprise existing in a neighborhood?

Secondly, regarding Mr. Wesley's research with Prescott and other towns, I'm left with more questions than answers. For example...

1. What prompted the proliferation of sober homes in Prescott to balloon to 200 homes? Was it a detoxification facility?
2. What specific problems and consequences did Prescott have to deal with when the town had 200 sober homes?
3. Mr. Wesley noted that Prescott took "some action that led to the State creating pre-emptive regulations." What specific regulations? Were these regulations considered when the Town Attorney rendered his opinion about detox facilities?
4. How specifically did Prescott reduce their number of sober homes from 200 to 30? Seems to me that would be helpful information to Fountain Hills. And Prescott obviously had to significantly reduce the number due to negative consequences to their town, not positive consequences, as organizations like Fountain Hills Recovery desperately want us to believe.

In closing, I believe we are a long way from finalizing ordinances. More research and discussion are warranted as the decisions you and ultimately the Town Council make will have significant impacts to the residents and businesses in this town."

Crystal Cavanaugh, Fountain Hills resident, said that she" supports the Commission addressing this important use tonight. Defining the various terminology is so important in helping the residents of Fountain Hills to understand and discuss what is at stake if inpatient detox units or partial hospitalization businesses are allowed in the community. Currently there are outpatient treatment locations and residential sober living business located in the Town's single-family neighborhoods. The expansion of these businesses is a detriment to our property values and quality of life in the community of Fountain Hills just as it has been in other communities that have needed to deal with proliferation of these businesses. To those who would say to me, "Oh, you're one of those-not in my backyard types." I respond of course I am. If not me, who is going to fight to protect my own backyard? I was disappointed that the Town Attorney's opinion was that he believes the Town cannot prohibit these drug businesses. After being directed to research this further, he apparently spoke to another attorney who agreed completely with our Town Attorney's analysis. I would certainly hope that we could get even further legal action assistance, with a written opinion from an attorney who is experienced with the issue and with land use statutes. We need to think about solutions that are outside the box and I feel strongly that we need to explore all legal options in order to protect our community. This would be

money well spent. If these businesses cannot be banned outright, perhaps we need ordinances that make it less profitable for these drug businesses to operate here such as restricting the number of untreated people residing within these sober house businesses. With legal guidance, hopefully we could deter them for locating here. Perhaps we also need to contact State Legislators, if necessary, to assist us in modifying current laws in order to protect our quality of life within our small town. I also have concerns that we do not actually know what types of treatments are going on within these sober houses and whether they already conduct services such as partial hospitalization. Accountability is definitely needed."

Larry Meyers, Fountain Hills resident, told the Commission that the Fountain Hills Recovery website is advertising that these facilities (one that is 268 feet from his house) are partial hospitals. These people are receiving treatment in my neighborhood on Nicklaus Drive. The Neighbors have been finding crack pipes and needles. This is a detriment to the neighborhood. I know what happens in these places from experience. They call their friends; they meet up and get their drugs. This is not legal.

Commissioner Watts said that he found some of the wording in the recap ambiguous. He said he would like to know what the Commissioners are allowed to do – what the bumpers are on a grand scale and what are those bumpers within limits of the law. It seems Prescott has answers since they have already been through the same situation.

Mr. Wesley replied that with regard to Prescott, their issue was sober living homes not detox facilities. They had some really bad actors in the community that generated community concern. This prompted them to address it locally and then the state got involved. The state created the rules we are all under now. The rules helped flush out those bad actors.

Commissioner Watts said there are many things to look at; taxation, revenue, business licenses, resident ratios and number of locations in town.

In response to Chairman Gray, Mr. Wesley said that the situation in Prescott got out of control and the community voiced their concern.

Chairman Gray said the issue isn't the detox facilities or sober living homes, it is the bad actors that come along with the good intentions. This is very complex and agreed that more time, beyond January, may be needed for clarification.

Chairman Gray told Mr. Wesley he had a couple different thoughts, that others brought up, regarding occupancy limitations. He said he would like to suggest that occupancy limitations on the number of occupants in a home which offers supervision or monitoring of residents or registration of that address for a unique use of no more than six persons. The number would include staff. The reason for this would be to mirror medical provider ratios.

Chairman Gray commented that he would like to see the language regarding homebased businesses enhanced. It should require the license holder for the business owner to also have that home as their primary place or residence or domicile. This

honors the integrity of the zoning and adjacent stakeholders. He also suggested that perhaps a residential use permit be required. He said he supports that the tenants of these homes sign a lease directly with the landlord. The purpose of this would be for health and public safety. All tenants are named and known and would not be subject to HIPAA. Currently a sex offender could stay at a sober living home unknown to the neighbors. Their required registered address remains with their permanent address not the sober living address. In addition, he said he would like more information on the work flow and where would the Town allow detox facilities. Location is probably the easiest to figure out as far as zoning, all of the other things fall into place.

Chairman Gray said he would like to see the percent of sober living homes owned by individuals' verses by corporations. He would like to see non primary home owners prevented from calling the business "home based."

In response to Commissioner Watts, Mr. Wesley said that there are currently up-front inspections when a sober living home is established. There are no inspections thereafter.

Commissioner Brunswig said there is a lot to look at since the policies can be different for the state compared to a town or city. This is a big issue and goes well beyond January. She suggested that questions should be submitted in advance in order for staff to research.

In response to Commissioner Dempster, Mr. Wesley, replied that the separation distance was created by the town to prevent clusters of assisted living/sober living homes. The occupancy limit of ten occupants per home is per the town. This is standard in most municipalities. It ties in with the building code classification.

Commissioner Dempster said that the main comment she's received from others is that the continual coming and going of individuals at these homes. It is a constant revolving door. She said that short term rental rules/terms may apply depending on the locations. When looking at the material regarding sober homes and partial ho9spilation homes it talks about the safety and welfare of the program. She said we need to think about the safety and well fair of the people living near or next to this business.

Commissioner Watts mentioned that not all sober living residents are there as a result of a court order. Some are there on their own volition. He said that he is not a proponent to stretching the process out.

Mr. Wesley thanked the Commissioner for their input.

7. **DISCUSSION and provide comments** on issues to be addressed in an update of Zoning Ordinance Chapter 7, Parking.

Mr. Wesley said that as he has been working on updating the parking ordinance, he came across some things that were not yet part of the code. He would like the Commissions comments and suggestions on whether any or all would be beneficial to the Town. They are:

- Adding a requirement for bicycle parking.
- Setting a maximum parking allowed to prevent over-parking.
- Adding a general allowance for shared or time-of-use parking.
- Allowing the use of tandem parking.
- Allowing for off-site parking.

Discussion ensued regarding parking for bicycles, shared, tandem and off-site parking.

Mr. Wesley asked should more be done with Uber and Lyft drop-off spaces and electronic charging stations.

Commissioner Brunswig suggested that there be a designated parking space for Uber and Lyft drop-offs.

Mr. Wesley said he would be coming back with a draft for future review.

**8. COMMISSION DISCUSSION/REQUEST FOR RESEARCH** to staff.

**9. SUMMARY OF COMMISSION REQUESTS** from Development Services Director.

Mr. Wesley wished everyone a happy holiday. At this point the January meeting regarding detox facilities will be promoted for public input.

**10. REPORT** from Development Services Director.

**11. ADJOURNMENT**

The Regular Meeting of the Fountain Hills Planning and Zoning Commission held December 13, 2021, adjourned at 7:50 p.m.

PLANNING AND ZONING COMMISSION

\_\_\_\_\_  
Chairman Peter Gray

ATTESTED AND PREPARED BY:

\_\_\_\_\_  
Paula Woodward, Executive Assistant

**CERTIFICATION**

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Meeting held by the Planning and Zoning Commission Fountain Hills in the Town Hall Council Chambers on December 13, 2021. I further certify that the meeting was duly called and that a quorum was present.

DATED this day of December 20, 2021.

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Paula Woodward, Executive Assistant



## TOWN OF FOUNTAIN HILLS

### STAFF REPORT

**Meeting Date:** 01/10/2022

**Meeting Type:** Planning and Zoning Commission

**Agenda Type:**

**Submitting Department:** Development Services

**Prepared by:** John Wesley, Development Services Director

**Staff Contact Information:** John Wesley, Development Services Director

### **Request to Planning and Zoning Commission (Agenda Language): Definitions related to detoxification uses and sober living homes**

#### **Staff Summary (Background)**

At the January 10, 2022, Planning and Zoning Commission meeting the public will be given the opportunity to provide the Commission and staff with their thoughts, concerns, and suggestions regarding potential amendment(s) to the Town's zoning ordinance as it pertains to detoxification uses and sober living homes. There have been a number of discussions regarding these topics over the last year. In many cases the comments and ideas expressed have blended some of these uses and activities.

In order to help everyone speak clearly and understand the topics, staff is providing the following definitions. Some of these are from our zoning ordinance, others are as the term is commonly used in land use documents or other professional material. The sole purpose of these definitions is to help facilitate clear and accurate discussion on at the January 10th Commission meeting. While it may be necessary at some point in the adoption of new regulations to amend existing definitions in the ordinance, or add new definitions to help address the topics, it is not the intent of the definitions provided here at this time.

Definitions in standard font are current definitions in our zoning ordinance. Definitions in *Italics* are ones that have been added for use at this meeting. Any commentary or discussion about a definition is provided in (brackets) following the definition.

*Assisted Living:* A residential living environment for seniors or people with disabilities who require help with some of the routines of daily living as well as access to medical care when needed. (Assisted living can take place in a group home environment for places with 10 or fewer residents or in facilities for places with 11 or more residents.)

Clinic: A place for the provision of group medical services, not involving overnight housing of patients. (While the land uses listed in Chapter 12 never specifically list "clinics", medical services and uses are allowed in all commercial zoning districts, C-O to C-3.)

*Detoxification: The process of clearing the body of drugs or alcohol.*

*Drug and Alcohol Detoxification Facilities: Facilities engaged in either inpatient or outpatient treatment and care of individuals going through withdrawal and detoxification from drugs or alcohol. The facilities can provide either, or both, acute, inpatient services, or sub-acute, outpatient services.*

Dwelling, Single-Family: A detached building...designed exclusively for occupancy by or occupied by one (1) family for residential purposes.

Group Home for the Handicapped and Adult Care: A dwelling shared by handicapped and/or elderly people as their primary residence and their resident staff, who live together as a single housekeeping unit, sharing responsibilities, meals, and recreation. The staff provides care for the residents. A Group Home for the Handicapped and Adult Care does not include nursing homes, alcohol or other drug treatment centers, community correction facilities, shelter care facilities, or homes for the developmentally disabled as regulated by the Arizona Revised Statutes Section 36-582. (Includes a wide variety of types of homes but the most common type is elderly assisted living homes; also covers sober living homes. Based on a recent review of approved group homes and business licenses, there are nine assisted living group homes and four sober living group homes in Fountain Hills. These homes have between 5 and 10 residents.)

Home Occupation: Any occupation or profession which is incidental and subordinate to the use of the dwelling unit for dwelling purposes and which does not change the character thereof, and in connection with which there are no employees other than members of the immediate family residing in the dwelling. A home occupation may not generate traffic as a result of patronage and/or shipping and receiving of materials beyond five (5) trips a day. Shipping and receiving shall only be by a vehicle customarily used for residential purposes.

Family: An individual, or two (2) or more persons related by blood or marriage, or a group of persons not related by blood or marriage, living together as a single housekeeping group in a dwelling unit.

Handicapped: A person who: (a) has a physical or mental impairment which substantially limits one or more of such person's major life's activities so that such person is incapable of living independently; (b) has a record of having such an impairment; or (c) is regarded as having such an impairment. However, "handicapped" does not include current, illegal use of or addiction to a controlled substance as defined in the Controlled Substance Act (21 United States Code 802).

*Partial Hospitalization: A type of program used to treat mental illness and substance abuse. In partial hospitalization, the patient continues to reside at home, but commutes to a treatment center up to seven days a week. Partial hospitalization focuses on the overall treatment of the individual and is intended to avert or reduce in-patient care. (Note: A person could live at home or in a group home and participate in a partial hospitalization program. The treatment programs take place at a medical facility away from the home.)*

Shelter Care: Short term residential care facilities providing lodging on a temporary basis, meals and counseling to individuals and groups such as, but not limited to, the homeless, pregnant teenagers, victims of domestic violence, neglected children, and runaways. (Defined in the ordinance but not used anywhere in the ordinance.)

*Sober Living Home. A type of group home, licensed by the State, for individuals who have completed, or are in the process of completing a drug or alcohol rehabilitation program and seek to live in a supportive, safe, family-like setting in which some services and assistance may be provided to help continue the rehabilitation process.*

Treatment Center: Facilities providing lodging and meals and, primarily, treatment, training or education as a part of an alcoholism or drug addiction program. (Defined in the zoning ordinance but not listed as a use in any zoning district.)

**Related Ordinance, Policy or Guiding Principle**

N/A

**Risk Analysis**

N/A

**Recommendation(s) by Board(s) or Commission(s)**

N/A

**Staff Recommendation(s)**

The definitions provided above are intended to help facilitate discussion by providing a common vocabulary for use of words and terms related to detoxification and sober living homes. No recommendations are being made.

**SUGGESTED MOTION**

This is just a discussion item, no motions will be made or action taken.

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