



City of Prescott

City Council - Study Session

August 22, 2023 | 1:00 PM
201 N Montezuma Street
City Council Chambers, 3rd Floor
Prescott, AZ 86301

MINUTES

1. CALL TO ORDER

Mayor Goode called the meeting to order at 1:00 p.m.

2. ROLL CALL

Phil Goode - Mayor
Brandon Montoya - Mayor Pro Tem
Connie Cantelme - Councilwoman
Eric Moore - Councilman
Cathey Rusing - Councilmember
Steve Sischka - Councilman
Clark Tenney - Councilman

3. DISCUSSION

- A. Presentation & Discussion Regarding Proposed Amendments to or the Replacement of the Following City Ordinances: Prescott City Code 5-9-1 Through 5-9-6, Section 5-1-3, and Section 5-10-2.

Mayor Goode announced the item and stated that city staff will review the proposed changes and then public comment will be taken.

City Manager Katie Gregory added that in March the Council heard from staff regarding these items. City Attorney Joseph Young has been getting public input and working with his staff in putting these together, and will provide the presentation today.

Mr. Young began the discussion regarding Prescott City Code 5-9-1. Staff have tried to come up with reasonable time, place and manner restrictions which were not previously addressed. He reviewed the Ordinance that was discussed in March with the Council and stated that there are additional revisions, given some of the "whereas" restrictions that were considered inhumane and derogatory. The Point in Time (PIT) Counts are done countywide here in Yavapai County and the information is outdated, but is all the city has at this time, so it needed to be removed from the "whereas" sections. He recommends using original definitions and not alternatives.

Time & Place Restrictions (Places & Times where Camping is Prohibited):

* Anytime in the entertainment district, sidewalks, trails, rights-of-way, streets, alleys, thoroughfares

* Between the hours of 8:00 am and 8:00 pm

* Within 500 feet of a preschool, kindergarten, elementary or secondary school or

childcare center

- * Areas posted no-trespassing by the city

- * Within five hundred feet of another person who is camping unless members of the same immediate family or in designated camping area

Manner Restrictions (A person camping on public property may not):

- * Obstruct access to private property or business adjacent to public right-of-way

- * State or maintain any fire for the purposes of burning any combustible material in or around the campsite

- * Use a gas heater in or around campsite

- * Erect, install, place, leave or set up any type of permanent or semi-permanent fixture or structure of any material(s) in or upon public property or right-of-way

- * Dig, excavate, terrace soil, alter the ground or infrastructure, cause environmental damage or damage vegetation or tress in or around campsite

- * Place or store personal belongings in a total area encompassing more than ten square feet outside tent or readily portable shelter

- * Accumulate, discard or leave behind garbage, debris, unsanitary or hazardous materials, sewage, drug paraphernalia, or syringes in the public rights-of-way, on public property or on any adjacent public or private property

Camping on Private Property:

- * No person shall camp on private property unless that person has permission from the property owner or lawful tenant of that property

- * Camping on private property shall not be permissible for any length of time exceeding fourteen (14) consecutive days and subject to the following conditions

 - Frequency may not exceed five (5) times per calendar year, with minimum

 - of thirty (30) day intervals between each fourteen (14) day period

 - No property owner or lawful tenant may charge rental or other fees for camping

 - Within the Prescott Entertainment District is prohibited, unless located behind a residential structure and not visible from an adjacent road or public right-of-way

 - Must meet the same setbacks applicable to a primary residence

 - It is a violation to accumulate, discard or leave behind garbage, debris, unsanitary or hazardous materials, sewage, drug paraphernalia, or syringes on private property

 - Recreational Vehicle (RV) camping shall be governed in accordance with the Prescott Land Development Code

Penalties:

- * Remain the same as the original ordinance

- * If property is not removed after 24-hours it is deemed abandoned and anything hazardous is immediately disposed of; all other items confiscated are retained for 14-days with written notice left at the site for the individual

Mr. Young stated that this brings the city into compliance with much of the case law from the Ninth Circuit.

Mayor Goode commented that there was already a camping ordinance in effect, but it was not up to date with current case law and also not enforceable.

Councilmember Rusing stated that these ordinances must be defensible if the city is sued by vagrants or the ACLU. This is a safety and health issue, and the city cannot continue to allow people to use city creeks as bathrooms. She suggested that language regarding camping not being allowed on condemned properties needs to be added to the ordinance, stating that there is a situation where a property owner and his vagrant friends are living on the property and doing suspicious activity.

Mr. Young added that it is unconstitutional to criminalize status like homelessness. Court cases in the Ninth Circuit stated that if there are not enough beds, you cannot have a blanket ban on camping. He added that the current language will address camping on private property in an appropriate manner.

Councilman Tenney stated that the language in this ordinance reasonably and legally address the time, place and manner restrictions and he is in favor of what staff has put before Council.

Mayor Pro Tem Montoya concurred, and added that this is a much better version of the ordinance than was presented previously. He added that he does have concerns regarding the private property aspect because enforcement on private property doesn't sit well with him. There could be unintended consequences for homeowners, for example if a person is living on their property while they are constructing their home. Council must ensure that a bigger problem is not created. By and large, he is in favor of this proposal, but taking away private property rights is concerning for him.

Mr. Young responded that RVs are specifically exempt in this Ordinance because they are addressed in the Land Development Code and that is not allowed. As the ordinance stands today, it doesn't regulate camping on private property outside of RVs (with the 9 month permit following a natural disaster) and camping in a tent is allowed with permission from the owner. In the county there is an ordinance which allows for living in an RV while a property is being built.

Mayor Pro Tem Montoya said he would be in favor of seeing something that allows that use.

Councilwoman Cantelme stated she is in favor of this ordinance but would like to see much stricter penalties. She asked if it is possible to have a financial penalty for a "step two" after the initial citation is issued.

Mr. Young responded that punishment is limited to this misdemeanor enforcement under all city ordinances. There can be a monetary penalty or jail time depending upon the court's discretion.

Councilman Moore thanked staff for the work they have done. He feels this ordinance strikes a good balance and has enough teeth to prevent camping with time, place and manner restrictions.

Councilman Sischka asked if this will make enforcement easier for law

enforcement.

Mr. Young responded that it will, it is constitutional and enforceable.

Councilman Tenney added that the Council is a legislative body and not a judicial body with regard to penalties.

Mayor Goode commented that if a home is condemned, it applies to the structure being unsafe to occupy, however, the grounds are not so camping on that property would be very difficult to eliminate altogether.

Mr. Young concurred.

Councilman Moore asked how a private citizen could report for enforceability.

Mr. Young stated that it would be enforced as any other crime is enforced. Any reports from concerned citizens would be investigated and addressed, and if an officer sees something it will also be addressed.

Police Chief Amy Bonney added that if officers see issues they will take action when they can. She also said that if someone were to see something out on a trail, for example, citizens could report it.

Member of the public Sherrie Hanna addressed Council in support of adding wording to strengthen the current ordinance. We are living in difficult financial times and this type of action is necessary in order to preserve the way of life for all members of our community. There are many organizations that support the less fortunate.

Member of the public Linda Bray addressed Council encouraging them to consider California, which has a history of making all the wrong decisions with regard to homeless issues. We need to enforce this as much as we legally can.

Member of the public Cowboy Dave addressed Council regarding not allowing complacency. This is a never ending battle. Encampments should be broken down after 14 days and if they come back they should be incarcerated. Council needs to protect the entire community and not just the entertainment area.

Mr. Young responded that there is no "14 day notice". If a person violates the ordinance they are cited and have 24-hours to remove anything on the site. Additionally, camping on private property is limited to the person who owns the property, anyone else would be trespassing. Finally, he reminded Council and the public that ordinance does apply to the whole city.

Member of the public Edward Wolfe addressed Council on the socialist/communist effort to tear down cities by placing homeless individuals in cities across America to further their agenda. Prescott depends on sales tax and tourism to survive and people will no longer come if there is a tent city. He encouraged the city to vote no tent city.

Mr. Young stated that there is no camping at any time within 500 feet of anyone else's camping which eliminates the possibility of a "tent city" type of situation, additionally this ordinance limits the number of hours of the day when they can camp. There is no proposal of any kind for a "tent city".

Member of the public Eileen Wolfe addressed Council regarding people who choose to be homeless. Council cannot enable unacceptable behavior. This is a state and federal problem.

Member of the public Lorne Higgins addressed the Council regarding the history of homelessness in this country and in Arizona. Taxpayers are the ones paying for the cleanup.

Member of the public Ron Brown addressed Council and asked about enforcement of the noise ordinance in the city of Prescott as well as the issues regarding clearing of the sidewalks in the city of Prescott not being cleared. He added that the term "homeless" is a catchall for criminal behavior, and asked if they are from here or are coming from somewhere else.

Member of the public Laurie Reiner addressed Council regarding her concerns about tent cities that are deteriorating the quality of life for citizens and visitors. Cities like New York and San Francisco are doomed due to these issues.

Member of the public Cindy Lee Davies addressed Council regarding the benefit of putting these things in place. She asked how people will be notified regarding their property if they are homeless. This has always been a safe and welcoming town and she wants it to stay that way.

Mr. Young responded that a note will be left at the location if the property is seized.

Member of the public Deborah Pernice addressed Council regarding meeting Ninth Circuit scrutiny and stated that she appreciates the proactive efforts to address these issues. She also validated other citizens' comments. This is a reasonable ordinance.

Member of the public Douglas Eckenrod addressed Council as a retired law enforcement official, and stated that Mr. Young made an over interpretation of what the Ninth Circuit has done and acquiesced to what they have put in place.

Member of the public Elaine Janks addressed Council regarding chaos across the country and urged them not to forget who Prescott is. She said she can no longer walk in Acker Park because of homeless and sexual acts in the bathroom, and asked if the Police Department has enough officers to enforce our laws and ordinances.

Member of the public Allison Lenocker with the Coalition for Compassion and Justice (CCJ) addressed Council regarding not wanting anyone camping. Her organization encourages not doing so. She thanked Mr. Young for reaching out to them for input, she added that the face of homelessness is seniors (many of the

citizens utilizing CCJ's services are over the age of 70) and low income of all ages. Where do we tell people to go though, her shelter can take up to 13 people a night and they are full every night as the only true emergency shelter. There are not enough beds, there is affordable housing going away, so she urges everyone to really think about this.

Member of the public Bailie Sanders addressed Council as a third generation Prescotttonian and member of Prescott Downtown Partnership, she stated that there is an increased problem with homeless on the Courthouse Square. She cannot use the Granite Creek Corridor because of campers, and stated that the personal property aspects of the ordinance is concerning to her. Need to work with the local shelters and implement some kind of warning system.

Member of the public Judy Sulltrop addressed Council as a resident who lives near Prescott National Forest and encouraged the Council to think about the unintended consequences of pushing people toward the forest, creating unregulated homeless areas. She suggested forming a task force between the PD, the Sheriff's Department and the Forest Service so there is coordination in addressing these issues. Finally, she commented that Prescott Council meetings shouldn't be talking about California, they should be talking about Prescott.

Member of the public Rebecca Horniman addressed Council and stated that she is grateful for this discussion. She asked if PD will receive more funding for enforcement of these ordinances and she also asked about the county's involvement in this process and these conversations.

Mayor Goode cut off public comment at this time.

Mr. Young continued the presentation regarding the Code Section regarding Curfew for Minors. The current curfew is 10 pm for minors with some exceptions. The staff is proposing an additional exception for religious or school events. This most often relates to sporting events when they have had to travel to the Valley.

Mayor Pro Tem Montoya asked how "minor" is defined in this sense.

Mr. Young stated that it is under the age of 18 and below but, under the age of 16 there are additional restrictions.

Finally, Mr. Young discussed the aggressive solicitation ordinance changes. There are a few revisions which prohibit badgering, pestering and other solicitation acts.

Prohibited Acts:

- * In an aggressive manner
- * In any public transportation vehicle or from any persons within twenty-five (25) feet of any transit stop, bus stop or taxi stand
- * Within fifty (50) feet of any entrance or exit of any bank, financial institution, ATM, without the consent of the owner
- * Within twenty-five (25) feet of the entrance and/or exit of any commercial business, school or privately owned establishment

- * From persons engaging in any financial transactions
- * Within twenty-five (25) feet from persons inside a business, including a patio area, except with consent of business owner
- * On a public sidewalk, street or other public grounds in a manner that impedes or obstructs the free flow of pedestrian traffic during any special event or parade
- * On private property, without the express permission and consent of the owner
- * From any operator of a motor vehicle that is in traffic on a public street or stopped for a traffic control device or stop sign on a public street, regardless of whether in exchange for cleaning the vehicle's windows or for blocking, occupying or reserving a public parking space, or directing the occupant to a public parking space or even if no services are received in exchange for responding to the solicitation
- * Under false or misleading representations

Councilmember Rusing commented that panhandlers sit on the curb right next to the tires of vehicles as they are trying to pass, particularly by the Big-O Tires on Iron Springs Road, which is a big problem. She feels this is something that needs to be cleared up because, as it is now, it's very unclear and it should be uniform for enforcement purposes.

Mr. Young stated that if uniformity in distances is the consensus of Council, that is something staff can do, uniform 50 feet is enforceable.

Councilman Moore asked about Section 4 and the word "or" in Section A which is confusing to him. He is also concerned about individuals standing on street corners soliciting and wonders if this would eliminate only aggressive soliciting.

Mr. Young responded that A through J are prohibited acts in those sections, the "or" represents that. He added that this ordinance would eliminate all soliciting on street corners, and if a person is soliciting individuals driving whether they are stopped or not, it is a violation of the ordinance and within 25 feet. If they have permission from the owner of the private property to solicit there is nothing that can be done, but if they don't, then it wouldn't be allowable and they could also specify that it is written permission.

Councilwoman Cantelme asked Mr. Young what the punishment is if a person does this. She stated that she would prefer the 50 foot uniform restriction.

Mr. Young responded that this is a misdemeanor level so it would be citation or court process.

Chief Bonney added that there is an agreement with Yavapai County Sheriff's Department to enforce outside of the County, she would want to get a clearer directive on the Courthouse square, etc. as there is a "county island" set up.

Mayor Pro Tem Montoya asked where the numbers for distance restrictions came from, and added that he is also in support of a 50 foot minimum and feels uniform distances are simpler.

Mr. Young responded that they review similar ordinances and try to establish

what a standard and reasonable distance would be, and if it could be enforceable as well.

Councilman Tenney echoed comments about uniform distances; and stated that 50 feet makes a lot of sense.

Councilmember Rusing added that in paragraph D where commercial businesses are addressed, she feels schools and hospitals should be added.

Mr. Young stated that schools and hospitals are addressed.

Member of the public Ralph Hess addressed Council stating that at the time this ordinance was previously updated, when you aren't dealing with aggressive panhandling you are dealing with a right to free speech and that the original distance of 25 feet from an entrance or exit of a business in downtown would prohibit any type of solicitation in that entire area because of how close all those businesses are.

Member of the public Mary Fredrickson addressed Council and asked if "aggressive" is objective or subjective and what the standard is.

Mr. Young responded that it is all clearly defined as physical contact, following someone, continuing to ask after they have said no or fear of bodily harm. These are reasonable standards and they are defined.

Councilman Sischka asked if this is solely about aggressive solicitation.

Mr. Young responded that it primarily focuses on this, but also other categories that may fall under excessive solicitation. For example, near a bank or ATM, from someone in a motor vehicle, engaging in a financial transaction. It is meant to protect people who are in a vulnerable state.

Councilmember Rusing asked if there is anything that prevents the solicitor from having a child with them.

Mayor Goode asked about Mr. Hess' concerns regarding free speech.

Mr. Young stated there is not anything prohibiting a person having their child with them. He stated that with regard to the free speech comments, that is always a concern but these are rational and reasonable limitations.

Deputy City Manager Tyler Goodman added that the Change for the Better donation meters are still in the downtown area and available.

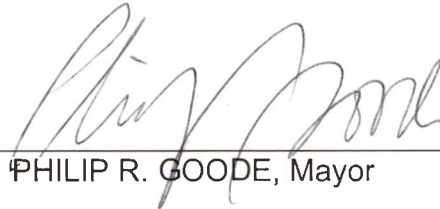
Member of the public Lois Fruhwirth addressed the Council and commented that many of the businesses shopping centers and the solicitors and panhandlers on the corners are very distracting and they can cause issues in these areas. She feels that adding on entry and egress to parking lots of commercial businesses would be important as well, and that she agrees with a universal 50 foot enforcement.

Councilmember Rusing asked for signage on the outskirts of town referring to these Ordinances so people are aware when they come into town.

This item was for discussion only, no formal action was taken.

4. ADJOURNMENT

There being no further business to discuss, Mayor Goode adjourned the meeting at 2:42 p.m.



PHILIP R. GOODE, Mayor

ATTEST:



SARAH M. SIEP, City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Voting Meeting of the City Council Voting Meeting of the City of Prescott, Arizona held on August 22, 2023. I further certify the meeting was duly called and held and that a quorum was present.



Sarah M. Siep, City Clerk

