

To whom it may concern;

The City of Mesa is enforcing an International Fire Code written many years ago in the 2012 & 2018 IFC's. Every year the City of Mesa Fire Department has passed Fire Inspections & every year the AZ Department of Health Services has passed annual inspections for Assisted Living Homes in Mesa. Due to the quick decisions of the City of Mesa to implement an IFC code written many years ago and disregard of the Request for Reasonable Accommodation, Older Adults with Disabilities, on Federal Medicaid Programs and Veterans are being forced to move out of their homes against their will. **Any provision that prohibits a person in Assisted Living who is confined to a chair or a bed because of an inability to ambulate is a clear violation of the ADA.**

- -Residents contracted with ALTCS are financially supported by a Federally Funded Program therefore the Fair Housing Act is more strict, they cannot be asked to leave because of their disability.
- -Residents who don't qualify for ALTCS cannot afford Assisted Living Centers, Skilled Nursing Facilities have increased in COVID-19 Cases.
- -Many Residents will have nowhere to go.
- -Families will be forced to quit their jobs and care for their loved ones.
- -Assisted Living Homes will be forced to evict every Older Adult when they decline and need Hospice Services.
- -Families will most likely sue the City of Mesa due to the inability to find housing, inability to care for their loved ones and decline and death of loved ones due to transitional trauma.

****We currently have open cases with veterans and other residents being told they will need to leave their home in Assisted Living due to a current Fire Inspection.***

COVID-19 Update: Older Adults with Disabilities should not be required to find new housing when the state of Arizona has 1000+ Cases a Day. Because the elderly are more vulnerable and at risk to serious life-threatening responses to the virus, senior living communities are in a unique position where they have to protect their residents and housing options are limited.

AZDHS Licensing for Directed Care (Created accommodation for older adults with disabilities)

Arizona Department of Health Services has licensed ALL 154 Assisted Living Homes in Mesa as "Directed Care " providing Supervisory, Personal & Directed Care.

[R9-10-815. Directed Care Services \(AZDHS\)](#)

A. A manager shall ensure that a resident's representative is designated for a resident who is unable to direct self-care.

B. A manager of an assisted living facility authorized to provide directed care services shall not accept or retain a resident who, except as provided in **R9-10-814(B)(2)**:

1. Is confined to a bed or chair because of an inability to ambulate even with assistance; or
2. Has a stage 3 or stage 4 pressure sore, as determined by a registered nurse or medical practitioner.

R9-10-814(B)(2)

B. A manager of an assisted living facility authorized to provide personal care services may accept or retain a resident who is confined to a bed or chair because of an inability to ambulate even with assistance if:

1. The condition is a result of a short-term illness or injury; or
2. The following requirements are met at the onset of the condition or when the resident is accepted by the assisted living facility:
 - a. The resident or resident's representative requests that the resident be accepted by or remain in the assisted living facility;
 - b. The resident's primary care provider or other medical practitioner:
 - i. Examines the resident at the onset of the condition, or within 30 calendar days before acceptance, and at least once every six months throughout the duration of the resident's condition;
 - ii. Reviews the assisted living facility's scope of services; and
 - iii. Signs and dates a determination stating that the resident's needs can be met by the assisted living facility within the assisted living facility's scope of services and, for retention of a resident, are being met by the assisted living facility; and
 - c. The resident's service plan includes the resident's increased need for personal care services

Request for Reasonable Accommodation

Currently in Arizona the **Residency Authorization Form** is signed by the Resident or Resident Representative requesting reasonable accommodation by the Assisted Living Home and Resident's Primary Care Physician examines the resident at the onset of the condition, or within 30 days of acceptance, and at least every 6 months throughout the duration of the resident's condition, reviews the facilities scope of practice, signs and dates a determination that the resident's needs can be met by the facility, and the resident's service plan is revised to include the residents increased need for care.

Prohibiting any older adult from living in an Assisted living Home *who cannot exit in an emergency without any assistance* will NEVER allow an Older Adult to Age in Place. This is telling the Older Adult with Disabilities that they cannot choose where they want to live. This is also causing transitional trauma that will result in DECLINE and DEATH to hundreds of Older Adults with Disabilities in Arizona.

"These laws also prohibit housing providers from refusing residency to persons with disabilities, or placing conditions on their residency, because they require reasonable accommodations or modifications." <https://www.ashaliving.org/wp-content/uploads/2020/11/2020-FALL-SIB-Fair-HousingFHA-ADA-Update.pdf>

International Fire Codes (<https://codes.iccsafe.org/content/IFC2018P5>)

Current zoning from R3 & R4 cannot be changed to (i), that is for institutions not residential non medical facilities.

California, Florida & Texas have all encountered these IFC Codes and have made addendums and waivers allowing Older Adults with Disabilities to age in place.

Residential Care Homes care for Bed Bound & Directed are Residents throughout our Nation. I believe we in Arizona can make an amendment to the ICF Codes as well and provide safe housing to older adults without trauma and the need to relocate when they are unable to exit without assistance during an emergency.

The FHAct prohibits municipalities and other local government entities from making zoning or land use decisions or implementing land use policies that exclude or otherwise discriminate against individuals protected by fair housing law, whether intentionally or by discriminatory effect. The FHAct also requires municipalities and local governments to make reasonable accommodations to zoning and land use rules, policies, practices and procedures as necessary to provide an individual with a disability equal housing access.

We need all members of our community to understand, the population of seniors is growing. As a state we are obligated by law to provide accommodations to seniors with disabilities. Fire Departments, Health Department, Senior Housing and all others impacted by this increase need to work together and be prepared to provide services to Older Adults with Disabilities. We cannot blame each other, or point fingers. Senior Communities have had a caregiver shortage for years. Fire Departments are battling excessive 911 calls. We need to work together and create education, programs and solutions for the Aging Population in Arizona.

The Fair Housing Act

An Older Adult with a Disability has a right to request reasonable accommodation without discrimination based on disability. [Fair Housing Act 42 U.S.C. §§ 3601-19](#).

"A reasonable accommodation is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with disabilities to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces, or to fulfill their program obligations."

"Arizona law protects your right to have a place to live and makes it unlawful for any person to discriminate in connection with housing because of an individual's race, color, religion, sex, national origin, familial status or physical or mental disability."

<https://www.azag.gov/civil-rights/fair-housing/what-is-fair-housing>

We are asking the City of Mesa to put a hold on evicting any Older Adult out of Assisted Living Homes due to their disability and due to COVID-19. We are asking the Mesa Fire Department to pass Assisted Living Home Fire Inspections until the City, AZDHS and Aging Organizations have come to an agreement for safe housing and created an addendum to the International Fire Codes.

Definitions per AZDHS (<https://hsapps.azdhs.gov/ls/sod/ALProvTypes.aspx>)

Adult day health care facility: A facility providing adult day health services during a portion of a continuous twenty-four hour period for compensation on a regular basis for five or more adults not related to the proprietor.

Assisted living facility: A *residential care institution* (see definition below), including adult foster care, that provides supervisory care services, personal care services or directed care services on a continuing basis.

Assisted living center: An *assisted living facility* (see definition above) that provides resident rooms or residential units to eleven or more residents.

Directed care services: Programs and services, including personal care services, provided to persons who are incapable of recognizing danger, summoning assistance, expressing need or making basic care decisions.

Personal care services: Assistance with activities of daily living that can be performed by persons w/o professional skills or professional training and includes coordination or provision of intermittent nursing services and the administration of medications and treatments by a licensed nurse.

Supervisory care services: 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.

Assisted living home: An *assisted living facility* (see definition above) that provides resident rooms to ten or fewer residents.

Directed care services: Programs and services, including personal care services, provided to persons who are incapable of recognizing danger, summoning assistance, expressing need or making basic care decisions.

Personal care services: Assistance with activities of daily living that can be performed by persons w/o professional skills or professional training and includes coordination or provision of intermittent nursing services and the administration of medications and treatments by a licensed nurse.

Supervisory care services: 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.

Group Homes (Group Homes for the Developmentally Disabled) **not to be confused with Assisted Living Homes***

Nursing Home: Skilled nursing home is defined as an institution (or a distinct part of an institution) which is primarily engaged in providing skilled nursing care and related services for residents who require medical or nursing care, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons, and is not primarily for the care and treatment of mental disease.

Intermediate Care Facilities for the Intellectually Disabled (ICF/IID): The primary purpose of the institution is to provide health or rehabilitative services for the intellectually disabled individuals or persons with related conditions and receives active treatment.

Residential care institution: A health care institution other than a hospital or a nursing care institution which provides resident beds or residential units, supervisory care

services, personal care service, directed care services or health-related services for persons who do not need inpatient nursing care.

To date who has been contacted or copied in this email and regarding this matter;

Adult Protective Services, American Seniors Housing Association, Area Agency on Aging, Arizona Assisted Living Federation of Arizona, Arizona Assisted Living Homes Association, Arizona Department of Health Services, Arizona Department of Veterans Services, Arizona LeadingAge, Assisted Living Homes Organization, Foundation of Senior Living, INtouch Senior Services, House of Representatives District 5, Long Term Care Ombudsman, Mesa Assistant Fire Marshal Kevin Bush, Mesa City Manager Chris Brady, Mesa Development Services, Deputy Director John Sheffer, Mesa Development Services, Director Christine Zielonka, Mesa Housing Authority, Mesa Mayor John Giles, Mesa Planning Director/Zoning Administrator Nana Appiah, Mesa Principal Planner Rachel Prelog, National Placement & Referral Alliance (AZ Chapter PASRS), Nursing Care Institution Administrators and Assisted Living Facility Managers Board, Department of Justice, Office of Arizona Governor Doug Ducey, Residential Assisted Living National Association, Romanian American Chamber of Commerce

Thank you,
(The best way to reach me is through email or text)

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