



# MEMORANDUM

**TO: MAYOR AND COUNCIL**

**City Council Work Session**

**7.**

**Meeting Date:** 01/08/2013

**Submitted For:** Roger Eastman

**Co-Submitter:**

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**TITLE:**

**City Code Amendments – Property Maintenance Update.**

**DESIRED OUTCOME:**

Staff will be seeking comments, suggestions, and direction on how to proceed with possible amendments to the City Code regarding property maintenance from the Council.

**INFORMATION:**

At this work session, staff will be providing a progress report/update on the so-called Property Maintenance Ordinance (PMO) since the Council's last work session on this topic in April 2012. A review of how staff has dealt with certain properties of concern will be provided, as well as some suggestions for moving forward by proposing amendments to various existing provisions of City Code, rather than creating a new and separate PMO. Comments, suggestions, and direction on how to proceed into the future from the Council will be also be solicited.

On April 10, 2012 the City Council held a work session on a proposed PMO. During this meeting staff presented an overview of progress on the PMO since the idea of creating new standards for the maintenance of property was first articulated by the Council in early 2006, a review of a proposed draft PMO was presented, and opportunity was provided for the Council and members of the public to express their opinions on the proposed draft. At least 21 Flagstaff residents addressed the City Council, the majority of whom were opposed to the draft PMO.

A summary of Council concerns and comments with the draft PMO is listed below:

- Written to broadly and vaguely allowing for interpretation challenges
- Too difficult to enforce and too overreaching in its intent and purpose
- Will weaken relationships between neighbors – may result in neighborhood disputes
- Issues with a complaint-based PMO and how it will be interpreted and applied
- Need a simpler and better mechanism for dealing with abandoned buildings and the most egregious conditions
- Be thoughtful of any unintended consequences as a result of a new PMO
- Suggestion to modify existing codes rather than creating a new comprehensive PMO – will require an understanding of all existing codes and where there may be gaps.

Since the April 10<sup>th</sup> work session staff has not actively worked on specific amendments to the last draft PMO, nor have detailed amendments to existing City Codes been formulated. However, some progress

has been made to abate some well known properties that have been a source of concern for many years to community residents, the Council, and staff.

### **Activity following the April 10, 2012 Work Session**

The City Attorney's office has worked with the City Building Program to develop a broader interpretation of the 1997 Abatement of Dangerous Building Code than was applied in the past. As a result significant progress has been made with three specific properties, namely:

- 1805 – 1811 Arrowhead Avenue in Sunnyside
- 523 Ernest Street in Southside
- 1726 North Kutch Drive in Kaibab Plaza Unit 3 Subdivision

The property located at **1805 through 1811 Arrowhead Avenue in Sunnyside** was four lots that were combined into one parcel with a single owner some years ago. The property has been extensively graded, and an existing single-family residence is still present elevated about 15 feet above the level of the graded area. Photographs of the property are attached as Attachment A. Under the authority of the 1997 Abatement of Dangerous Building Code a Notice and Order of the City Building Official was issued to the property owner requiring him to either make the structure livable and in compliance with all applicable Building Codes, or to demolish it. In September, 2012 a woman was observed living in the home. City staff was able to locate and talk with the property owner about the property and the person living in the structure. The property owner agreed to rehabilitate the building and correct the issues that made it uninhabitable including repairing the faulty plumbing in the kitchen and the lack of a kitchen sink. As this work was relatively minor in nature no building permit was required. The broken front porch as seen in the attached photographs has also been replaced with a new porch, stairs, and railings. By the end of November, a building inspector signed off on the work and agreed that the building was habitable under current City Codes despite the obviously poor appearance of the residence (for example, the roof does not leak even though the roof tiles are extremely weathered) and it requires a coat of paint which should occur in the next few months once the weather has improved.

The former residence located at **523 Ernest Street in Southside** was damaged by fire in October 2005, following which the remaining structure (see Attachment B) was boarded up and secured as required under the 1997 Abatement of Dangerous Building Code. Since then no improvements to the property and remaining structure have been made, and it has become a source of frequent complaints from surrounding property owners as it has on occasion become an attractive nuisance drawing the attention of unauthorized occupants. The Building Official issued a Notice and Order for Demolition on July 12, 2012 and the demolition was to have been completed by August 12, 2012. In October 2012, Mayor Nabours contacted the property owners in an attempt to provide options for the clean-up of this property, including that they clean it up themselves, or that they consider donating the property to the City as it may be cost prohibitive to rebuild on the property because it is encumbered with the flood plain of the Rio de Flag. If it was donated to the City, then the City would be responsible for the removal of the structure. However, the property owners decided to keep this property, and as such they are still obligated to demolish the structure. A final Notice and Order of the City Building Official requiring the demolition will be mailed to the property owners in January 2013. In the event the property owner fails to demolish the structure, the City has the authority to demolish it and remove the materials from the property, the cost of which will be billed to the property owners. If the cost of abatement is not paid, then a lien will be placed on the property.

The property located at **1726 North Kutch Drive in Kaibab Plaza Unit 3 Subdivision** has been unoccupied for many years even though it is fully furnished with numerous personal items inside including books, clothes, food, etc. Over past few the years it has been broken into by unauthorized individuals, and the personal items have been broken and scattered throughout the home. Also, there has been no maintenance of the yard resulting in trees, shrubs, and bushes growing uncontrollably resulting in an unsightly and unkempt condition that has been a consistent concern to neighboring property owners (See Attachment C). A complaint from a neighbor has also been filed asserting that the residence has become infested with rats. In November 2011 a Notice and Order of the Building Official was sent to the current property owner requiring the residence to be secured because doors were open and a window was broken allowing unauthorized individuals into the house. Shortly thereafter the residence was secured in compliance with City Codes. In November 2012 it was determined that the building is no longer secure and a second Notice and Order of the Building Official was sent to the property owner. Compliance is expected by January 2013. In January the City Building Official with a

County Health Inspector will inspect the residence and property to determine if it is a health and/or safety hazard under the 1997 Abatement of Dangerous Building Code and the 1997 Housing Code, and if a hazard is determined, a further Notice and Order will be issued. Unfortunately there are no provisions in any current City Codes to require the removal of the overgrown vegetation on the premises unless the County Health Inspector determines that the overgrown vegetation is a source for rat and other vermin harborage.

### **Existing City Code Provisions:**

There are nuisance provisions (i.e. standards and regulations to prevent nuisance and a threat to public health, safety, and welfare) in many titles and chapters of the City Code that are consistent with the original intent and purpose of the PMO. A brief summary follows:

#### Title 4: Building Regulations

This Title includes all the building codes adopted by the City, including the **1997 Uniform Code for the Abatement of Dangerous Buildings**. Its purpose is to ensure that “buildings or structures which from any cause endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants may be required to be repaired, vacated or demolished.” A dangerous building is broadly defined (see Attachment D.) from the Code, as any one of the 18 conditions listed in the definition may be used to declare a building to be dangerous if the life, health, property or safety of the public or its occupants are endangered.

Also included in Title 4 is the **1997 Uniform Housing Code** whose purpose is “to provide minimum standards to safeguard life or limb, health, property, and public welfare by regulating and controlling the use and occupancy, location, and maintenance of all residential buildings and structures”. It is intended primarily to ensure that residential structures are fit for human habitation.

#### Chapter 6-04 Nuisances

Provides enforcement and abatement tools in the event that a shed, building or structure is declared to be a nuisance by becoming “dilapidated or so unsanitary or out of repair from age, neglect or other cause as to render it unfit or unsafe for habitation for occupancy”.

#### Chapter 6-06 Littering

Provides the standards and tools for the control and enforcement of littering within the City.

#### Chapter 6-07 Abandoned Vehicles

Provides the standards and enforcement and abatement tools for abandoned vehicles within the City.

### **Suggestion for a Path Forward in lieu of a PMO:**

Staff suggests that in lieu of creating a new PMO that would replace existing City Code sections and add any new sections as may be directed by the City Council, simple updates and amendments to existing City Codes would be easier and perhaps more palatable to the community. As explained in the narrative below, some updates are necessary because existing City Code is out dated, difficult to enforce, and in some instances, references to state statute citations are incorrect. Other amendments would add suggested new text to fill identified gaps in existing Codes.

1997 Uniform Code for the Abatement of Dangerous Buildings: Staff suggests that no amendments are needed to this Code, and it will continue to be applied and enforced by the Building Official.

1997 Uniform Housing Code: Staff suggests that no amendments are needed to this Code, and it will continue to be applied and enforced by the Building Official.

Chapter 6-04 Nuisances: Staff suggests that this outdated and very old chapter of the City Code (it was last amended in 1936) should be repealed and replaced with a new updated nuisance section that would clearly define what conditions constitute a nuisance, including for example, objective standards regarding the overgrowth of vegetation (to address the property at 1726 N. Kutch as an example), exterior insect and rodent control, offensive materials and substances, and graffiti (a requirement that a property owner must remove graffiti within a specified period of time). There is no need to include provisions for “buildings, sheds or other structures as nuisances” (as provided for in Chapter 6-04) as more detailed standards are established in the 1997 Uniform Code for the Abatement of Dangerous Buildings.

Chapter 6-06 Littering: This chapter requires simplification and most state statute citations need to be updated and corrected. An updated and simplified enforcement section will also be proposed. Some minor language clean-up may also be needed.

Chapter 6-07 Abandoned Vehicles: This chapter requires simplification and most state statute citations need to be updated and corrected. An updated and simplified enforcement section will also be proposed. Some minor language clean-up may also be needed.

**A Thought for Implementation**

The Housing Section in the Community Development Division currently administers a Housing Rehabilitation Program that is limited to owner-occupied structures. Its purpose is to comprehensively address health and safety issues in the structure itself as required by its funding sources. It does not apply to cosmetic concerns or issues not associated with the primary structure (out-buildings, property exteriors, etc.).

Thus, a framework is already in place through the current Housing Rehabilitation Program to operate an assistance program for those homeowners who are unable to address property maintenance issues on their own. Procedures and tools already exist for ensuring income qualification, scope write-up, contractor procurement, document preparation, etc. It would be simple to modify these to incorporate new specifications for an additional funding source. If Council is interested in this option, staff will bring back a discussion on how to fund such a program.

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**Attachments**

Photographs

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**Form Review**

<b>Inbox</b>	<b>Reviewed By</b>	<b>Date</b>
Planning Director	jcronk	01/02/2013 12:05 PM
Form Started By: reastman		Started On: 12/28/2012 11:29 AM
Final Approval Date: 01/03/2013		