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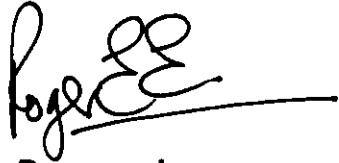
Planning and Development Services Memo

Proposed Property Maintenance Ordinance

November 18, 2011

TO: Mayor and City Council
Kevin Burke, City Manager

THROUGH: Mark Landsiedel, Community Development Director
Jim Cronk, Planning Director

FROM: Roger E. Eastman, AICP, Zoning Code Administrator 

RE: December 6, 2011 Council Meeting: Discussion on a Proposed Property Maintenance Ordinance (PMO)

This memorandum provides information relevant to the December 6, 2011 City Council work session on the proposed Property Maintenance Ordinance (PMO) for the City of Flagstaff. The purpose of the work session is to:

- Remind the Council of what progress has been made on the PMO in years past before work was suspended so that the new Zoning Code could be completed;
- Confirm the Council's previous direction on the contents of the PMO and how it would be implemented; and
- Review the path forward for adoption next year.

Background:

For several years the City has considered adopting a Property Maintenance Ordinance that would apply Citywide to provide clear enforceable regulations for the maintenance and upkeep of all privately owned property within the City limits. An overview of specific events summarized from the October 27, 2009 work session on the PMO with the City Council follows:

- **April 2006** - as part of budget discussions, the City Council first entertained the idea of a PMO and directed staff to commence work.
- **May 2006** - initial background research started, but staff was pulled away to work on proposed affordable housing amendments to the Land Development Code resulting from the work of the Community Housing Policy Task Force.
- **April 2007** - the first staff core group meeting to scope and charter the project was held. However, soon thereafter staff was once again asked to stop the project and to work on

the Traditional Neighborhood District ordinance and a comprehensive legal review of the LDC instead.

- **January 2008** – staff core group meeting convened again to work on the PMO, and the first public outreach with stakeholder interviews commenced. A very rough draft was produced that incorporated many untested concepts mostly based on the Phoenix PMO as well as ideas from other communities. This draft addressed minimum interior and exterior standards for the maintenance of buildings, as well as property.
- **March 10, 2008** – The City Council held a work session and provided initial direction on the content of the PMO. This included the following general consensus:
 - A PMO is important to the City Council and is necessary
 - It should apply to all property, i.e. residential, commercial, and industrial
 - The emphasis of the PMO should only be the exterior of a building and surrounding property conditions, and it should not apply to building interiors
 - The Flagstaff PMO should be modeled on the Phoenix code
 - Ensure that the PMO once adopted is enforced based on complaints received by the City, rather than being proactively enforced by staff. In the early phases of the PMO's implementation a strong emphasis on education about the new ordinance is needed and to assist residents achieve compliance (i.e. a complaint based lenient enforcement approach)
 - Seek CDBG funding or other funding sources if possible to provide funds for property owners who cannot afford to bring their property into compliance with the PMO.

This consensus is also generally consistent with a statement from the Sunnyside Neighborhood Association in support of a PMO, and the League of Neighborhoods vision for a PMO as presented in their Strategic Plan. A copy of both documents is attached – see handwritten page 7.

- **June 2008** – Work session with the City Council on the PMO to update newly appointed councilors.
- **July 2008** – Staff was directed to stop work on the PMO and instead draft an RFP for the rewrite of the LDC as this was a greater priority. All work on the PMO halted, and a letter was sent to stakeholders to inform them of this change in schedule.
- **October 2009** – With two new councilors recently seated, the City Council held a work session for an update and discussion of progress so far on the PMO.

Current Thinking on the PMO

While working on the LDC update, James Speed in the City Attorney's office was assigned to update, clean up, and repeal as necessary parts of the City Code that were out-of-date or redundant. During that process, staff made a number of important realizations that have significance to the proposed PMO:

- Much of the intent of the PMO as envisioned in the Council's previous direction as it relates to building exteriors and property conditions is covered in some form in numerous locations within the existing City Code. Consolidating these into one place (Chapter 7-01 of the City Code is probably the best location) as enumerated nuisance provisions allows the City to create a PMO from much of today's City Code, updated, amended, and expanded as necessary. New standards for the maintenance of buildings based on the Phoenix PMO, the International Property Maintenance Ordinance, or other city's PMO's can easily be incorporated. A DRAFT version of enumerated nuisance provisions is attached on hand written page 8.
- The PMO will apply to all property, i.e. residential, commercial, and industrial.
- As previously discussed by staff, the PMO should also include regulations to address graffiti and graffiti removal, overgrown vegetation as it relates to the Wildland Urban Interface Code, and maintenance standards for fences which are not well covered in the existing City Code.
- As the new Zoning Code did not include animal keeping provisions as they are nuisance provisions and therefore, not typically included within zoning regulations, it was agreed that new animal keeping standards would be developed at the same time that the PMO was drafted.
- The PMO will be enforced based on complaints received by the City, rather than being proactively enforced by staff. In the early phases of its implementation a strong emphasis on education about the new ordinance will be implemented to assist residents achieve compliance (i.e. a complaint based lenient enforcement approach)
- Staff is confident that writing the actual PMO text (including new animal keeping provisions) should not be that difficult or time consuming (2 months?)
- But it is critical to ensure that all City divisions and agencies understand and support the PMO.
- Similarly, while some neighborhood organizations have been vocal in their support for a PMO, it is unknown how the greater Flagstaff community will respond to such an ordinance. The public outreach component of the process in seeking adoption of the PMO will be critical to ensure its success. This may take at least 3-5 months prior to council hearings and adoption of the PMO.

An updated schedule (from the one previously provided to the Council in a memorandum dated June 28, 2011) that offers a timeline for the adoption of a PMO is provided below:

TASK:	Anticipated Completion:
Adoption of the Flagstaff Zoning Code	November 1, 2011
Implementation/public education of the new Zoning Code	November – December 2011
Effective date of Flagstaff Zoning Code	December 5, 2011
Council work session on PMO	December 6, 2011
Prepare for PMO project – regroup with City staff	December 2011
Prepare draft PMO and staff review	January – March 2012
Public meetings and group discussions	February – April 2012
Refine draft PMO	April 2012
Council hearings and adoption	May – June 2012
Effective date	End of July, 2012
Implementation and public education	July 2012 and following

Enforcement Strategy:

After adoption of the PMO, and consistent with community desires and the City Council’s direction thus far, it is anticipated that the PMO will be phased in with City staff initially seeking compliance via education and employing a lenient enforcement approach rather than achieving compliance through the courts. Staff will therefore, only respond to complaints rather than actively seek out possible violations.

The issue of potential level of impact to the City Attorney’s office and Municipal Court operations will need to be considered as the PMO is drafted, implemented, and ultimately enforced. The impact of the PMO on these divisions is directly related to the level of enforcement; minimal enforcement will result in minimal impact, while significant enforcement will see significant impact.

In the short term (i.e. FY 2012/13), assuming that the PMO is not actively enforced and that City staff employs a more educational approach rather than achieving compliance through the courts, no additional enforcement staff will be needed to handle the increased work load resulting from the adoption of a PMO. In the medium to long term however, and assuming a community desire for more active enforcement, there is likely to be a need for at least one additional Code Compliance Officer and there may be a potential impact on the City Prosecutor’s office and the Municipal Court.

Coordination and the possible future combination of City enforcement activities as they relate to the enforcement of the PMO will help to ensure the success of the PMO as it is implemented, and could realize cost savings and operational efficiencies within the organization, as well as improved customer service. As part of the PMO adoption process this concept will be explored further.

Conclusion:

In the December 6, 2011 work session staff is seeking confirmation of the Council's previously provided direction on the contents of the PMO and how it would be implemented, as well as the timeline for the adoption of the PMO next year.

If you have questions on this memorandum, or require additional information, please contact Roger E. Eastman AICP, Zoning Code Administrator at (928) 213-2640 or via e-mail at reastman@flagstaffaz.gov.

Attachments:

- Handwritten Page 7: Statement from the Sunnyside Neighborhood Association in Support of a PMO, March 2009
- Handwritten Page 9: League of Neighborhoods – Vision for a Proposed PMO (Undated)
- Handwritten Page 10: Draft Enumerated Nuisance Provisions prepared by the City Attorney's office (An Ordinance Amending Title 6, Police Regulations, Chapter 6-04, Nuisances)

STATEMENT FROM SUNNYSIDE NEIGHBORHOOD ASSOCIATION IN SUPPORT OF A PMO

March 2009

The Sunnyside Neighborhood Association has long been an advocate for property maintenance codes and indeed has brought many examples of codes to the council and city staff.

Zoning and code enforcement are important tools to be used to protect the public health, safety and welfare in all existing structures, residential and commercial and on all existing premises and exterior property by establishing minimum requirements and standards.

Some of these minimum requirements and standards should include:

- Property values protected by implementing standards for the exterior maintenance of buildings and property.
- Exterior property free of any accumulation of rubbish or garbage.
- Occupancy limitations should be established to promote safe living conditions.
- Plumbing and electrical facilities are to be maintained in a safe and operable condition.
- The storing of inoperable vehicles on premises and the abandonment of vehicles on streets and empty lots.
- Sanitation and health issues.

Residential landlord and Tenant rights and responsibilities should also be a part of this code. This should include residential and commercial properties as well as mobile home parks.

The Planning and Development Services Division should be responsible for administering the property Maintenance Code for the city. Properties in violation of the code should be notified via mail of the violation and provided with a time frame to make repairs. Repairs should be started within a reasonable time. (20 days or so) or at least that an owner contact the city during that time frame to discuss their repair timetable. The city should work with property owners who need additional time, provided there is progress being made. If there is a situation where improvements have not occurred within the allotted time frame, a 2nd notice should be sent, to be followed (if necessary) by a citation to the municipal court. An Appeals board should be established for this fee based option if an owner does not agree with staff's interpretation of the code. Notification is a key component of any code as is remedies for non-compliance.

Code violations should be complaint driven.

The city should take into consideration the plight of property owners who are on a fixed income, or if a financial situation exists that limits the ability of the property owner to

take action on a case by case basis, and work with other organizations, governmental, non-profit, and for profit to seek help to abate the situation. However this can only occur with the owners support, and organizations or businesses that are willing to assist.

Public meetings should be held to discuss the code and obtain public input. Written comments should also be accepted.

A complete copy of the final draft should be made available to interested parties. Perhaps on the city's web site and/or copies that can be viewed on display at the Development Services Department during regular business hours.

This code should be designed to maintain the character of the City of Flagstaff.

Above all this code should be enforced in a humane and equitable manner.

Goal: Influence City Council approval of complaint-driven property maintenance ordinance (PMO).

PROBLEM DEFINITION: There is a high incidence of abandoned vehicles, parking violations, trash build up and unkempt properties due to neglectful residents and non-owner occupied housing. Several communities in Arizona have PMOs and some neighborhoods in Flagstaff have home owner associations (HOAs). The neighborhoods represented by A League of Neighborhoods (ALN) do not have either of these protections. Therefore we believe that a PMO should be initiated for the reasons provided below:

A League of Neighborhoods (ALN) believes that the purpose of a city-wide property maintenance ordinance (PMO) should be "to assist in the provision of health, safety and well-being of city residents."

ALN believes that should the city decide to adopt a PMO, it should be adopted as a city-wide ordinance and not limit to certain neighborhoods or areas of town.

ALN believes that a PMO process should be complaint driven

ALN believes that a PMO process should attempt to work (within a reasonable amount of time) with the homeowner in finding solutions to identified Issues prior to the issuance of citations and fines.

ALN believes that a PMO process should be streamlined for optimal effectiveness and provide a central contact person/department/telephone number for citizens to use.

ALN believes that a city-wide PMO should at a very minimum address the following concerns:

- Health Issues (e.g. raw sewage, public urination, etc.)
- Dilapidated & Abandoned Buildings
- Abandoned Vehicles (e.g. junk cars)
- Alley Maintenance (e.g. trash, vegetation, etc.)
- Fire Wise Issues (e.g. dead trees, branches, overgrown brush, etc.)
- False Advertisement on Rental Properties
- Landlord Accountability

If individuals are educated then they will realize that the PMO is not be a low priority issue and is not a ordinance that will be Invasive to residents.

ORDINANCE NO. 2010-

AN ORDINANCE AMENDING TITLE 6, POLICE REGULATIONS, CHAPTER 6-04, NUISANCES.

WHEREAS, The City of Flagstaff, incorporated under the laws of Arizona as a charter city, has the authority, pursuant to Arizona Revised Statutes § 9-240(21)(b), to "define, abate and remove nuisances, and punish persons committing nuisances"; and

WHEREAS, the City Council has determined that certain conditions present on public or private property within the City limits are nuisances and pose a threat to the public health, safety and welfare; and

WHEREAS, Chapter 6-04, Nuisances, adopted in October of 1936, does not provide City staff with a workable means of effectively and efficiently preventing nuisance conditions; does not reflect the nearly seventy-five years of amendments to the City Code and the changing roles of certain City officials; and no longer provides an adequate means of protecting the public health, safety and welfare from nuisance conditions; and

WHEREAS, amendments to Chapter 6-04, Nuisances, of the Flagstaff City Code are necessary in order to provide a just, equitable and practicable method of preventing, discouraging and abating those nuisance conditions which pose a threat to the public health, safety and welfare; and

WHEREAS, these proposed amendments will provide City staff with precise enforcement standards that can be effectively applied and administered in a fair and expedient manner; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. Flagstaff City Code, Title 6, Chapter 6-04, Nuisances, is hereby amended:

CHAPTER 6-04

PUBLIC NUISANCES

~~SECTION 6-04-001-0001 NUISANCES DESIGNATED:~~

~~Any building, shed or other structure of any kind which is or may hereafter become 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, or which constitutes a dangerous fire hazard or which is otherwise dangerous or detrimental to the public or injurious to the health and morals of the community is hereby declared a nuisance and the same shall not be occupied or maintained and shall be abated as hereinafter provided.~~

~~SECTION 6-04-001-0002 ABATEMENT OF NUISANCES:~~

The Mayor and Council may, on its own motion or upon complaint being made in writing by three (3) or more persons, owners of real estate residing in the City, cause any building, shed or other structure which may be reasonably regarded as a nuisance for any of the reasons set forth in the preceding Section to be inspected by the Health Authority, City Engineer and the Chief of the Fire Department, as a committee of inspectors, and if said inspectors, or a majority thereof shall report the same to be a nuisance, within the meaning of the preceding Section, setting forth the facts upon which they base their report, the Mayor and Council shall, if said report after due consideration be adopted, cause to be served by the Chief of Police upon the occupants and owners of any such premises, a notice in writing to abate said nuisance, either by repairing the same or removing it from the premises within twenty (20) days after receiving notice so to do, which said notice shall set forth the grounds for abatement and shall be signed by the Mayor and shall be served by delivering or offering to deliver a copy to the person to whom it is directed, or if such person cannot be found, by delivering a copy to his agent or by posting a copy in a conspicuous place on the premises sought to be abated.

SECTION 6-04-001-0003 FAILURE TO COMPLY:

Upon the failure of the owner to abate said nuisance within the time required by said notice, the Chief of Police or any member of the Health Department may file in the Police Court a complaint against such owner charging a violation of this Chapter, whereupon the Police Judge shall cause to be served upon the owner a notice commanding him to appear before said Police Judge to show cause why said building, shed or other structure should not be abated as a nuisance.

SECTION 6-04-001-0004 HEARING:

The time and place of said hearing shall be set forth in said notice and the hearing shall not be had in less than five (5) days after the service of such notice.

SECTION 6-04-001-0005 SERVICE OF NOTICE:

The said notice may be served upon the owner or his agent by any member of the Police Department by delivering a copy of said notice to the agent or owner, or by leaving a copy of said notice at his usual place of residence. And, in the event that the owner or agent as aforesaid is a nonresident of the City, said notice shall be served by publishing the same in the official newspaper of the City, one publication each week for at least two (2) weeks prior to the date set for the hearing, and a copy of such notice shall be mailed to the last known address of the nonresident agent or owner.

SECTION 6-04-001-0006 JUDGMENT:

If, upon a trial of the charge, the party against whom the said complaint is issued shall be convicted, he shall be subject to a fine and the judgment of conviction, in addition to the fine, shall order the abatement of the nuisance by repair or removal of the building, shed or other structure designated in said complaint; provided, however, that if the owner be a nonresident of the City and cannot be served personally with the notice herein provided, the fine shall not be imposed and the judgment of the Court shall only require the abatement of the nuisance by repair or removal of the structure so designated.

SECTION 6-04-001-0007 DUTY OF STREET SUPERINTENDENT:

Whenever there shall be a conviction under the preceding Section, if said nuisance shall not have been abated within five (5) days after judgment, the Street Superintendent shall abate and remove the structure designated in the complaint upon which said conviction was had or he may contract with some suitable person or persons for said purpose, and the same shall be at the cost of the owner or owners thereof, which cost if not paid by the owner may be paid by the City and the amount so expended may be recovered by the City by suit in any court of competent jurisdiction. (Ord. 297, 10-14-36)

SECTION 6-04-001-0001 DEFINITIONS

For the purposes of this chapter, the following words, terms and phrases shall have the following definitions, unless the context clearly indicates otherwise:

Attractive nuisance means a condition, instrumentality, machine or other agency, which is dangerous to children because of their inability to appreciate peril and which may reasonably be expected to attract them.

Infestation means the presence or apparent presence of insects, rodents, birds, animals or other noxious pests of a kind or in a quantity that may have an adverse affect upon a building, structure or property or upon the health, safety, or general welfare of citizens.

SECTION 6-04-001-0002 PURPOSE AND INTENT

The purpose and intent of this Chapter is to promote the health, safety and welfare of the citizens of Flagstaff.

SECTION 6-04-001-0003 PUBLIC NUISANCES PROHIBITED

- A. Except as otherwise permitted by law, each of the following conditions is a public nuisance on any land or in any building in the City and is unlawful when the condition is or may be (i) discomforting or offensive to a reasonable person of normal sensitivity, or (ii) detrimental to the life, health or safety of individuals or the public:
1. Filthy, littered, debris or trash-covered exterior areas, including exterior areas under any roof not enclosed by the walls, doors or windows of any building; including, but not limited to, areas that contain items such as cans, bottles, wood, metal, plastic, rags, boxes, paper, tires, auto parts; unused, inoperable, worn out, discarded appliances or other household items; lumber, scrap metal not neatly piled, or anything whatsoever that is or may become a hazard to public health and safety, or that may harbor insect, rodent or vermin infestation;
 2. Animal manure that is neither used for fertilizing lawns or gardens nor securely protected from insects and the elements;
 3. Putrid, unsound or unwholesome bones, meat, hides, skins or other animal parts; dead animals, fish or fowl; butcher's trimmings and offal; waste vegetation; liquid waste; animal matter; garbage; human or animal excreta, sewage and other similar offensive substances;
 4. Noxious exhalations and other airborne irritants, including, but not limited to, smoke, soot, dust, fumes or other gasses, offensive odors, mold or other annoyances;
 5. An unsecured or abandoned excavation, pit, well, other hole or pool;
 6. A privy, vault, cesspool, sump, pit, pool, accumulated water or similar condition that is foul, malodorous, or subject to infestation, pollution or stagnation;
 7. An unsecured building that is vacant, abandoned, dilapidated, structurally unsound, partially destroyed or left partially constructed under a lapsed building permit for more than forty-eight (48) consecutive hours;
 8. An abandoned, unattended or discarded icebox, refrigerator or other container that has an attached airtight door or lid, snaplock or other locking device that may not be released from the inside;

9. Plant growth or any other condition, sign, structure, vehicle or watercraft that obstructs or interferes with sight distance or the visibility of any traffic control device or sign;
10. Any object, building, tree, bush or vehicle that interferes with, obstructs, tends to obstruct, or renders dangerous the free passage, use or vision in the customary manner of any sidewalk, street or highway in the City;
11. Plant growth or any other condition that constitutes a fire hazard or encourages infestation or noxious pests;
12. Willfully or negligently permitting or causing the escape or flow of water into the public right-of-way in such quantity as to cause flooding, to impeded vehicular or pedestrian traffic, or to cause damage to the public streets or alleys of the City through the failure or neglect to operate or maintain properly any water facility or device, including, but not limited to, swimming pools, architectural pools, spas, sprinklers, hoses, pipes, ditches and standpipes;
13. Any inoperable or unregistered vehicle, or parts thereof, outside of or under a roof area not enclosed by walls, doors or windows of any building on any lot, except the safe and neat keeping of:
 - a. Substantially complete inoperable or unregistered vehicles with inflated tires under the roof area of any building;
 - b. A vehicle undergoing repair, titled to the owner or resident of the property, provided that the repair is complete within fourteen (14) days after the repair was begun, provided that not more than three (3) such fourteen (14) day repairs will be permitted in any twelve (12) month period;
 - c. Not more than two (2) ongoing restoration projects or inoperable or unregistered vehicles in a backyard area, screened by a substantially opaque fence at a minimum height of five (5) feet or the height of the vehicles, whichever is more, provided that any fence constructed or modified pursuant to this subsection must meet any and all other requirements of the city code;
 - d. Lawful commercial activities involving vehicles as allowed by the Land Development Code; or
 - e. Operable, off-road vehicles, under the roof area of any building, or in a backyard area, screened by a substantially opaque fence at a minimum height of five (5) feet or the height of the vehicles, whichever is more, provided that any fence constructed or modified pursuant to this subsection must meet any and all other requirements of the city code;
14. Infestation;
15. Attractive nuisances;
16. Making, causing or permitting to be made any vibration or artificial illumination of such intensity as to interfere substantially and unnecessarily with the use and enjoyment of public or private property, or as to constitute a threat to the public health, safety or welfare.

SECTION 6-04-001-0004 REMEDIES NOT EXCLUSIVE

Violations of this Chapter are in addition to any other violation established by law, and this Chapter shall not be interpreted as limiting the penalties, actions or abatement procedures which may be taken by the City or other entities under other laws, ordinances or rules.

SECTION 6-04-001-0005 AUTHORITY TO ADMINISTER STANDARDS

- A. The Flagstaff Community Development Division, the Flagstaff Public Works Division, or such other City divisions as the City Manager may designate, is hereby authorized to make inspections for violations of this Chapter in the normal course of job duties or in response to a citizen complaint that an alleged violation of the provisions of this Chapter may exist or when there is reason to believe that a violation of this Chapter has been or is being committed.
- B. No person shall, by threat or use of violence or physical force, or by threatening to do or doing any other act that can be reasonably anticipated to cause physical harm to any person including the perpetrator, intentionally obstruct, impede, or interfere with any officer, employee, contractor or authorized representative of the City who is lawfully and constitutionally engaged in the enforcement or execution of the provisions of this Chapter.

SECTION 6-04-001-0006 PRESUMPTIONS

- A. The owner of land, as recorded in the Coconino County Recorder's Office, is presumed to have control over the land and buildings and accessory improvements on the land. If more than one (1) person is recorded as the owner of land, all persons on record are presumed to have joint and several control over the land and buildings and accessory improvements on the land. The occupant residing or operating a business on land or in a building is presumed to have control over the building and land on which it is located. These presumptions shall not prevent the enforcement of this chapter against persons other than record owners.
- B. A sign or structure is presumed to be owned by or under the control of:
 - 1. The person whose name, address, email address or phone number appears on it; and/or
 - 2. The person whose business, product or service appears on it;
 - 3. The person whose business benefits by it;
 - 4. The person who owns or controls the land upon which the structure is placed; and/or
 - 5. The person who installed or placed it.
- C. All presumptions are rebuttable.

SECTION 6-04-001-0007 INSPECTIONS

- A. The Community Development Director and Public Works Director, or their designees, may inspect buildings or land to determine compliance with this chapter.
- B. Building exteriors and unscreened land may be inspected at any time with or without the presence of the owner or occupant in conformance with legal requirements governing administrative inspections of buildings and land.

C. Except in a situation presenting an imminent hazard to life, health or public safety, screened land shall be inspected during the normal business hours of the City, unless otherwise arranged, upon:

1. The owner's or occupant's consent; or
2. Any administrative court order.

SECTION 6-04-001-0008 VOLUNTARY COMPLIANCE

The Community Development and Public Works Directors, or their designees, may seek voluntary compliance with this Chapter through warnings, notices, compliance agreements, or other means to achieve efficient and effective compliance.

SECTION 6-04-001-0009 COOPERATION OF OTHER DEPARTMENTS

Upon request of the Community Development or Public Works Director, or their designees, the Police Department, or any other department of the City, has authority to assist and cooperate with the Directors or their designees in the performance of their duties under this Chapter.

SECTION 6-04-001-0010 COMMENCEMENT OF AN ACTION

- A. The Community Development and Public Works Directors, or their designees, are hereby authorized to commence an enforcement action under this Chapter by issuing a civil citation pursuant to Chapter 1-15-001-0011, Civil Enforcement Procedures. They may also seek the issuance of a complaint by the Chief Prosecutor of the City of Flagstaff for criminal prosecution for habitual offenders as defined in this Chapter.
- B. The authority of the Community Development and Public Works Directors, or their designees, to enforce provisions of this Chapter is independent of and in addition to the authority of other City officials to enforce the provisions of any other Chapter of the Flagstaff Municipal Code.
- C. Nothing in this Section shall preclude City employees from seeking voluntary compliance with the provisions of this Chapter or from enforcing this Chapter through notices of violation, warnings, or other informal devices to achieve compliance in the most efficient and effective manner.

6-04-001-0011 VIOLATIONS

- A. No person shall create, maintain or permit a public nuisance as defined in Section 6-04-001-0003 above.
- B. No person shall create, maintain or assist any violation of this chapter, or fail to perform any act or duty required by this chapter.
- C. No person shall interfere or attempt to interfere with a City agent investigating or abating a violation of this chapter.
- D. No person shall knowingly make a false statement or knowingly mislead a City agent investigating or abating a violation of this chapter.

6-04-001-0012 CIVIL PENALTIES

- A. Any owner, occupant or responsible party who is found responsible for a civil violation of this Chapter, whether by admission, default or after a hearing, shall pay a civil sanction of

not less than one hundred (\$100.00) or more than two hundred fifty dollars (\$250.00). A second finding of responsibility within thirty-six (36) months of the commission of a prior violation of this Chapter shall result in a civil sanction of not less than two hundred fifty dollars (\$250.00) or more than five hundred dollars (\$500.00). A third finding of responsibility within thirty-six (36) months of the commission of a prior violation of this Chapter shall result in a civil sanction of not less than five hundred dollars (\$500.00) or more than one thousand dollars (\$1000.00).

- B. The thirty-six month provision of paragraph (A.) of this Subsection shall be calculated by the dates the violations were committed. The owner, occupant, or responsible party shall receive the enhanced sanction upon a finding of responsibility for any violation of this Chapter that was committed within thirty-six (36) months of the commission of another violation for which the owner or responsible party was convicted or otherwise found responsible, irrespective of the order in which the violations occurred or whether the prior violation was civil or criminal.

6-04-001-0013 EACH DAY SEPARATE VIOLATION

Each day in which a violation of this Chapter continues or the failure to perform any act or duty required by this Chapter by the Civil Hearing Officer shall constitute a separate civil offense.

6-04-001-0014 HABITUAL OFFENDER

- A. A person who commits a violation of this Chapter after previously having been found responsible for committing three (3) or more civil violations of this Chapter within a twenty-four (24) month period, whether by admission, by payment of the fine, by default, or by judgment after hearing, shall be charged with a class one criminal misdemeanor. The Chief Prosecutor of the City of Flagstaff is hereby authorized to file a criminal misdemeanor complaint in the Flagstaff Municipal Court against habitual offenders who violate this Section. For purposes of calculating the twenty-four (24) month period under this paragraph, the dates of the commission of the offenses are the determining factor.
- B. A violation of this Section shall constitute a class one misdemeanor. Upon conviction of this Section, the Court may impose a sentence of incarceration not to exceed six (6) months in jail or a fine not to exceed two thousand five hundred dollars (\$2500.00), exclusive of penalty assessments proscribed by law, or both.
- C. Criminal actions to enforce the provisions of this Chapter shall be brought in accordance with applicable laws and rules of criminal procedure.

6-04-001-0015 RESTITUTION

In addition to the penalties of Sections 6-04-001-0012 and 6-04-001-0014, the court shall impose restitution as part of its sentence, to compensate the city for its costs to enforce this Chapter and bring a building or land into compliance with this Chapter. Restitution shall include all costs of abatement, including inspection fees and prosecution of the case.

6-04-001-0016 JURISDICTION

- A. Jurisdiction of all proceedings to enforce the civil and criminal provisions of this Chapter shall be in the Flagstaff Municipal Court.
- B. The Flagstaff Municipal Court shall have jurisdiction to issue orders permitting the City to abate conditions that constitute a violation of the provisions of this Ordinance.

- C. The Court shall follow the City's Civil Enforcement Procedures, Section 1-15-001-0011, for civil complaints to enforce this Chapter.
- D. The Court shall follow the Arizona Rules of Criminal Procedure for criminal actions to enforce this Chapter.
- E. The Court may order abatements to enforce this Chapter in addition to civil or criminal penalties when requested by the City.