



## Planning and Development Services Memo

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### Proposed Property Maintenance Ordinance

March 30, 2012

**TO:** Mayor and City Council  
Kevin Burke, City Manager  
Jerene Watson, Deputy City Manager

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

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

**RE:** Council Work Session – April 10, 2012  
Draft V6.1 of the Proposed Property Maintenance Ordinance

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This memorandum provides information on the proposed Property Maintenance Ordinance (PMO) for the City Council's April 10, 2012 work session. It documents the following topics;

- Brief overview of the City Council's last meeting on the PMO - December 6, 2011
- General description of the Draft PMO - V6.1 with an analysis of the source of the Draft's contents. It is anticipated that at a future work session a discussion on various policy issues will be conducted.
- Overview of the process to develop the PMO with a summary of the public outreach conducted thus far and public comments received (note that public comments provided at the April 5<sup>th</sup> public meeting/open house on the PMO will be forwarded to the City Council under cover of a separate memorandum before the April 10, 2012 work session)
- Discussion of a suggested schedule for the City Council's consideration and possible adoption of the PMO.

#### **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 buildings, structures, and property within the City limits. An overview of past meetings held by the City Council on the PMO is attached - see hand written page 11.

On December 6, 2011 the City Council last discussed the proposed PMO and in that meeting provided guidance to staff on the approach to writing the ordinance and its contents. A summary of the general consensus reached by the City Council on what the PMO should include follows:

- Content of the PMO:
  - A PMO is important 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 a building's interior
  - 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 enforcement approach)
  - Consider seek various funding sources to provide funds for property owners who cannot afford to bring their property into compliance with the PMO.
  
- Include with the PMO additional regulations to address:
  - graffiti and graffiti removal,
  - overgrown vegetation as it relates to the Wildland Urban Interface Code, and,
  - maintenance standards for fences.
  
- The PMO will be applied community-wide and must provide minimum standards for the community as a whole, which is different to the possibly more restrictive standards that may be applied through CC&Rs and HOAs in local communities/neighborhoods. It is important to define a positive message for the PMO.
  
- The PMO must be as objective as possible and have as its primary goal public health, safety, and welfare.
  
- Ensure that any provisions to control overgrown vegetation do not reduce the ability of a property owner to grow food.
  
- General support for a streamlined and coordinated enforcement approach of the PMO.

**Description of the Staff Administrative Draft V6.1:**

Property maintenance ordinances are not new in the United States or indeed in Arizona, and many communities have adopted these ordinances to provide minimum standards for the maintenance of buildings, structures, and property within the community as a whole, thereby protecting the public health, safety, and welfare. The International Code Council (ICC) – the organization that oversees the uniform application of building and safety codes across the United States – has developed an International Property Maintenance Code (IPMC) that is typically used by most communities as the template for their PMOs.

The IPMC provides standards for the maintenance of a building's exterior and surrounding property, and it also establishes minimum standards for the maintenance and habitability of a building's interior. The IPMC is the code most typically adopted by communities seeking to

develop a PMO. For example, 28 Arizona cities, counties, and towns have adopted a PMO and of these, 24 Arizona cities, counties, and towns have adopted either the 2006 or 2009 IPMC. The City of Phoenix developed its own variation of the 2009 IPMC which has now been recognized by the ICC as an acknowledged variant of the IPMC, while the City of Tucson modified the Phoenix Code and removed the maintenance requirements for a building's interior. The City's of Prescott and Chandler also developed their own PMOs.

The attached draft of the proposed PMO - V6.1 reflects City staff's work to date to develop a PMO consistent with the City Council's previous direction. This version of the PMO Draft also includes revisions suggested by the PMO Review Group from their March 22<sup>nd</sup> meeting, as well as various minor amendments proposed by staff. All amendments are highlighted in the Draft PMO in Track Changes format (~~strikeout~~ and new text).

The attached PMO as proposed by staff (see below) incorporates some ideas from the IPMC regarding standards for the maintenance of a building's exterior, and unlike the PMOs adopted in many other Arizona communities, the proposed Flagstaff PMO does not set maintenance standards for the interior of a building. While this section regarding the maintenance of a building or structure's exterior is new, the majority of the Flagstaff draft PMO is derived from existing City Code updated and revised as necessary. These provisions from the City Code will be consolidated into one location (Chapter 7-01, Property Maintenance) in the City Code, thereby eliminating the confusion present today as these provisions are spread throughout numerous titles and chapters, which makes it hard for Flagstaff residents, City staff, and other users to find, apply, and enforce. Assuming the PMO is approved, the existing City Code provisions will be repealed.

Thus the Flagstaff PMO is significantly less restrictive than many other Arizona PMOs, and very little of the Draft PMO that is being presented to the Council is new. Notes have been inserted throughout the draft ordinance indicating the source of the PMO's provisions from existing City Code, or if they are new. A summary/analysis of the Table of Contents of Draft PMO - V6.1 that shows the source of the regulations is attached – see handwritten page 37.

In the narrative that follows, a general description of the contents of the Draft PMO is provided.

**Chapter 7-01 Property Maintenance:**

This chapter of the City Code, formerly called Health and Sanitation, was repealed by the City Council in November 2010, and it is the logical location for the new PMO.

**Division 7-01-001 General Provisions:**

Consistent with the format and contents of any similar City Code chapter, this Division includes the usual Title, Purpose, Intent, and Applicability Sections as well as a Severability clause and Definitions.

The Purpose and Intent Sections are important as they frame the reason for the PMO and how it will be applied. Note that these sections are written for the PMO to only be applied to those buildings or structures that are in such an egregious condition that they cause blight (a defined term) or are a threat to public health, safety, and welfare. Thus, a building or structure that might have a fascia that is not weather protected or some other similar minor issue will not be subject to the PMO.

The PMO will be applied to all property within the City of Flagstaff (i.e. residential, commercial, industrial, and public) as well as to improved, unimproved, and vacant lands.

Most of the Definitions in the PMO come from existing City Code provisions, updated as necessary to ensure consistency with State law.

**Division 7-01-002 Maintenance Standards:**

This Division establishes maintenance standards for buildings and structures as well as property.

**Section 7-01-002-0001 (Building and Structure Exteriors)** is new to the PMO. It provides standards for the maintenance of the exterior of a building including for example, exterior surfaces, foundations, walls, roofs, doors, windows, fences, stairways, decks, and porches. The essential premise of this section is that the exterior of the building needs to protect the occupants of the building or structure from the weather, and that all other exterior elements should also be weather protected. A cross reference to the Fire Code standards for address display is also included.

**Section 7-01-002-0002 (Exterior Premises and Vacant Land)** is mostly derived from existing City Code provisions, such as the sections that address the accumulation of vegetation (this has been expanded), litter, drainage, exterior insect and rodent control, offensive materials and substances, exterior hazard from such things as abandoned refrigerators, hazardous pools or excavations, and displaying vehicles for sale. A cross reference to the Wildland Urban Interface Code is included relative to the storage of firewood, and a new section relative to the storage of building materials is included. Also new are two sections (7-01-002-0002 C. and D.) regarding the maintenance of ground covers, grasses, shrubs, and trees within the public right-of-way in the area from the back of curb to a property line by abutting property owners or tenants.

**Section 7-01-002-0003 (Buildings and Structures Constituting a Nuisance)** provides a cross reference to City Code Title 4, Abatement of Dangerous Buildings Code.

**Section 7-01-002-0004 (Abandoned and Junked Vehicles)** is based on existing City Code Chapter 6-07 (Abandoned Vehicles) updated and revised as necessary based on changes to State law.

**Section 7-01-002-0005 (Graffiti Prohibited)** is new to the PMO. This short section prohibits graffiti on any public or private property. The Flagstaff Police Department will continue to work with property owners to assist them with the removal of graffiti if their property is tagged, and the Police Department will be responsible for the enforcement of all State laws regarding graffiti.

**Division 7-01-003 Administration and Enforcement:**

The Administration and Enforcement Section of the Property Maintenance Ordinance is essentially identical to the enforcement procedures found in Division 10-20.110 of the Zoning Code. Once staff received direction from Council that initial violations of the PMO were to be civil offenses there didn't seem to be a reason to deviate from those procedures already set forth in the Zoning Code and the Civil Enforcement Procedures of Chapter 1-15, Municipal Court. For the Court, this unified enforcement approach simplifies the

processing and adjudication of civil complaints. Likewise, enforcement personnel and prosecutors, who will often be enforcing provisions of both the Zoning Code and the PMO, need only be familiar with a single civil complaint and summons and one set of civil enforcement procedures.

### **Overview of the Process to Develop the PMO:**

Following the December 6, 2011 City Council work session, staff developed a process diagram that showed the stakeholders and process for the development of a Draft PMO, the role of public participation in the PMO's development, and eventual adoption by the City Council. This process diagram is attached – see hand written page 41.

A core team of staff representing all City Divisions and Sections with an interest in the PMO has met on numerous occasions over the past few months to develop the latest Draft PMO. The purpose of the project was clearly defined, and based on preliminary drafts prepared by the City's Zoning Code Administrator and Senior Assistant City Attorney, multiple revisions to the text of the PMO were presented, discussed, and ultimately agreed to. By March 16<sup>th</sup>, a final Staff Administrative Draft was completed that was distributed to the PMO Review Group for their input and comment.

The PMO Review Group has been formed from interested citizens to assist staff refine the draft PMO. It is comprised of a broad cross-section of Flagstaff residents and stakeholders so that a balanced perspective can be brought to the PMO. Members of the PMO Review Group represent the following organizations in Flagstaff:

- Northern Arizona Association of Realtors
- Northern Arizona Builders Association
- Friends of Flagstaff's Future
- Flagstaff Chamber of Commerce
- Arizona Multi-family Housing Association
- League of Neighborhoods
- Sunnyside Neighborhood Association
- Southside Neighborhood Association
- La Plaza Vieja Neighborhood Association
- Residential and commercial property managers
- A Flagstaff home and small business owner

As noted below, on March 22, 2012 the PMO Review Group held their first meeting. Following a brief overview of the Draft PMO by staff, useful discussion and comment on the PMO followed. The attached Draft PMO (V6.1) includes many of the ideas and comments suggested at this first meeting of the PMO Review Group.

So far two opportunities for Flagstaff residents to provide comments, ideas, and suggestions on the Draft PMO have been scheduled. On April 5<sup>th</sup>, a public meeting/open house was held in the City Council Chambers. A memorandum summarizing the comments provided at this meeting will be provided to the City Council under separate cover before the April 10, 2012 work session. This meeting was advertised in a number of ways, including publication of a ¼-page advertisement in the Arizona Daily Sun, via e-mail to stakeholder groups and interested residents who have provided their names to staff, radio announcements by the City's Public

Information Officer, and postings on free on-line community bulletin boards with KNAU and the Arizona Daily Sun. In addition staff has met with some of the principal stakeholder groups with an interest in the PMO, and additional meetings have been scheduled in the coming weeks. The second opportunity for Flagstaff residents to participate in the development of the Draft PMO will be the City Council's April 10, 2012 work session.

To date staff has received few written comments from Flagstaff residents on the Draft PMO. Attached are copies of the written comments so far received – see Attachment E on handwritten page 45.

**Checking-in on the Schedule for Adoption:**

Assuming adoption of the PMO by the current City Council before new councilors are seated (i.e. by mid-June 2012), a schedule for future City Council meetings has been developed as described below:

**March 16** – The Staff/ Administrative Draft – V6 was released to the PMO Review Group and the public for review and comment.

**March 22** – First meeting of the PMO Review Group at which staff presented an overview of the Draft PMO. The PMO Review Group provided useful critical comment on this first draft, except for the Administration/Enforcement section. Additional meetings of the PMO Review Group have not yet been scheduled.

**April 5** – Public meeting/open house at Flagstaff City Hall for residents to provide their ideas, comments, and suggestions on the PMO.

**April 10** – City Council work session/discussion on the PMO. This work session provides another opportunity for the public to weigh in on the PMO and for the Council to provide further direction.

**April 24** – City Council work session night; Agenda Review for first reading of PMO on May 1<sup>st</sup>.

**May 1** – City Council 1<sup>st</sup> reading of PMO

**June 5** – Last meeting of the current City Council - 2<sup>nd</sup> reading of PMO/adoption.

This schedule is tight, but manageable. However, it is based on an important assumption, namely that the new Animal Keeping provisions of the City Code would be developed, reviewed, and adopted after the PMO's adoption. Originally staff had contemplated developing new Animal Keeping provisions for inclusion into Title 6 (Police Regulations) on a parallel track with the PMO. The Council may recall that it was decided not to include these in the Zoning Code as they are more like nuisance provisions. As this section has the potential to be controversial and time consuming, staff recommends that the Animal Keeping provisions should be developed separately from the PMO after it has been adopted.

If the City Council would prefer to allow more time before the PMO's adoption then it will need to be reviewed and adopted in late summer/early fall by the new City Council.

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### Implementation Challenges

In previous meetings with the City Council, staff has discussed a general concern in the implementation of the PMO for homeowners who cannot afford to address the identified issues with their property, as for example, they may be on a fixed income and the cost of repairs is unaffordable to them. Staff has also heard from local residents and stakeholders that this is a source of concern for them as well.

In limited circumstances, the City's existing Owner Occupied Housing Rehabilitation Program (OOHR) may be able to assist. However, as the funding for the OOHR program comes from the Arizona Department of Housing or the US Department of Housing and Urban Development, only units owned and occupied by low income households would be eligible. There are a number of additional requirements and limits that may or may not allow the PMO violations to be addressed by the OOHR Program, including for example, a stipulation that any funds must be used to remediate health and safety issues only, and they cannot be used to only address cosmetic concerns. Given the approach taken with the crafting of the City's Draft PMO, this should not be an issue as the intent of the ordinance is not to regulate cosmetic/aesthetic issues, and rather its purpose is to ensure public health and safety.

In order to create an alternative funding source for property owners who cannot afford to bring their homes into compliance with the PMO, staff thought about establishing a revolving loan fund with general funds. However, this is not possible because state law prohibits a City from loaning its general funds for these purposes. Four other possible ideas are presented below for the City Council's review to possibly establish a revolving fund to assist home owners who cannot afford to do the repairs. Essentially the intent is to find a way that funds could be made available to qualified home owners at a low interest rate and subject to an administration fee so that repairs to their homes could be completed.

1. Establish a surcharge that would be paid into a separate revolving fund in addition to any fines that may be levied by the courts. Under this scenario, fines would be reduced as much as possible so that the surcharge could provide the most benefit to the revolving fund without making the fines too onerous. However, the obvious problem with this scenario is that it has been agreed that City staff should enforce the PMO by seeking compliance as much as possible, rather than prosecuting property owners through the courts.
2. Invite local businesses to donate money to a revolving fund that is managed by the City.
3. If the courts order abatement of a property, it is possible that assistance could be provided to the property owner if the City had to have the work completed by a licensed contractor, and the cost of the abatement would be recovered by imposing a lien on the property. Once again, this idea is contrary to the stated policy of seeking compliance as much as possible.
4. The City could donate money to a fund managed by an outside organization such as United Way, Habitat for Humanity, Bothands, or a similar group to be used to provide assistance to home owners who cannot otherwise afford to do necessary repairs. Using these funds, a licensed contractor could be hired to complete the necessary work.

Staff looks forward to discussing these options with the City Council so that a mechanism for assisting home owners who cannot afford to come into compliance with the PMO can be established. In addition, there are numerous volunteer organizations with the City that can assist with non-structural repairs and maintenance, such as painting, removal of vegetation and litter, and other general clean-up.

**Conclusion:**

The purpose of the April 10, 2012 City Council work session is to enable staff to present the latest Draft PMO - V6.1 to the City Council and to confirm that the approach taken with the PMO is in accord with the Council's desires and direction. Flagstaff residents will also be provided with an opportunity to offer their thoughts, comments and ideas on the proposed PMO to the City Council and staff.

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](mailto:reastman@flagstaffaz.gov).

**Attachments:**

- A. Summary of Past City Council Meetings on the PMO
- B. Final Draft of the Proposed Property Maintenance Ordinance, V6.1
- C. Analysis of Table of Contents - PMO V6.1
- D. PMO Process Flow Diagram, December 13, 2011
- E. Comments received by April 3, 2012 from Flagstaff residents on the proposed PMO.

## ATTACHMENT A: Summary of Past City Council Meetings on the PMO

- **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.

- **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.

**ATTACHMENT B: Final Draft of the Proposed PMO, V6.1**



# PMO:

## Draft Property Maintenance Ordinance – V6.1 (Amended Final Staff Administrative Draft)

December 29, 2011  
Updated: March 30, 2012

### CHAPTER 7-01 PROPERTY MAINTENANCE

#### DIVISION 7-01-001 GENERAL PROVISIONS

7-01-001-0001 Title

7-01-001-0002 Purpose

7-01-001-0003 Intent

7-01-001-0004 Applicability

7-01-001-00054 Permit Required

7-01-001-00065 Conflict of Ordinances

7-01-001-00076 Severability

7-01-001-00087 Definitions

#### DIVISION 7-01-002 MAINTENANCE STANDARDS

7-01-002-0001 Building and Structure Exteriors

A. Exterior surfaces

1. Weather protection

2. Protective treatment

3. Boarded window or door openings

B. Foundations, walls, roofs, and chimneys

C. Doors, windows, and skylights

D. Fences, screen walls, and retaining walls

E. Exterior stairs, railings, balconies, porches, and decks

F. Address display

7-01-002-0002 Exterior Premises and Vacant Land

A. Accumulation of vegetation prohibited

B. Litter

C. Maintenance of ground covers and grasses abutting public sidewalks, streets, and alleys

- D. Pruning, maintenance, removal, and replacement of vegetation ~~in~~ abutting public sidewalks, streets, and alleys
- E. Drainage
- F. Exterior insect, rodent, and animal control
- G. Offensive materials and substances
- H. Exterior hazard and attractive nuisance
  - 1. Abandoned refrigerators
  - 2. Hazardous excavations
  - 3. Hazardous pools
  - 4. Building materials
- I. Firewood
- J. Displaying vehicles for sale on property

7-01-002-0003 Buildings and Structures Constituting a Nuisance

7-01-002-0004 Abandoned and Junked Vehicles

A. Permitted storage

B. Prohibited storage

7-01-002-0005 Graffiti Prohibited

A. Intent

B. Graffiti prohibited

**DIVISION 7-01-003 ADMINISTRATION AND ENFORCEMENT**

7-01-003-0001 Violations

7-01-003-0002 Enforcement Authority

7-01-003-0003 Remedies not Exclusive

7-01-003-0004 Interference with Enforcement Personnel

7-01-003-0005 Inspection

7-01-003-0006 Cooperation of Other Departments

7-01-003-0007 Civil Enforcement; Penalties

7-01-003-0008 Criminal Enforcement; Penalties

7-01-003-0009 Emergency Abatement

## DIVISION 7-01-001 GENERAL PROVISIONS

### 7-01-001-0001 TITLE

This Chapter shall be known and may be cited as the "Property Maintenance Ordinance of the City of Flagstaff". Within this Chapter, it may also be known as "this Chapter".

### 7-01-001-0002 PURPOSE

A. The purpose of the Property Maintenance Ordinance (PMO) is to:

- A1. Protect and promote the health, safety and welfare of the citizens of Flagstaff, Arizona; and
- B2. Protect neighborhoods against hazardous and deteriorating influences or conditions that cause blight and contribute to the decline of neighborhood property values by establishing minimum requirements for the maintenance of all residential and nonresidential buildings, all structures of whatever kind, and vacant, improved, and unimproved land.

### 7-01-001-0003 INTENT

- AB. This Chapter shall be applied and enforced fairly, sensibly, consistently, and reasonably to promote the maintenance of all buildings and land in the City. The intent is to ensure that individuals and families do not suffer undue hardship.
- BC. Repairs, additions, or alterations to a structure, demolition, or removal, or changes of occupancy, shall be completed in accordance with the procedures and provisions of the building, administrative and technical codes adopted by the City of Flagstaff and in effect at the time of such repair, addition, alteration, demolition, or removal, as well as all applicable federal and state regulations.

### 7-01-001-00043 APPLICABILITY

- A. This Chapter serves these purposes by establishing minimum standards for the maintenance of all residential and nonresidential buildings, structures of whatever kind, and vacant and improved land within the City without regard to the use or the date of construction, improvement or alteration; and by prohibiting acts and conduct that diminish quality of life.
- B. This Chapter shall not require changes in existing buildings and utilities when alterations were installed and have been maintained in accordance with the building code in effect at the time of construction or alteration of the subject building or utilities unless the Building Official determines that the building is an imminent hazard, unsafe, unhealthy, or deteriorated, or when it has been moved to another location.
- C. This Chapter shall supplement and in no way supersede other provisions of the Flagstaff City Code, including but not limited to; Chapter 7-04, Municipal Solid Waste Collection

Service; Chapter 8-01, Sidewalks; and, Chapter 8-03, Streets and Public Ways with specific reference to Section 8-03-001-0004, Removal of Snow and/or Ice.

| 7-01-001-00054    **PERMIT REQUIRED**

No building, structure or building service equipment regulated by this Chapter or by the technical codes adopted by the city shall be built, erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished unless a permit has first been obtained from the Building Official in the manner provided in the City of Flagstaff's adopted administrative and building codes.

| 7-01-001-00065    **CONFLICT OF ORDINANCES**

To the extent that any provision of this Chapter conflicts with or is preempted by any state or federal law, including state and federal laws concerning the construction and maintenance of manufactured homes and mobile homes, the provision of this Chapter shall not apply.

| 7-01-001-00076    **SEVERABILITY**

If a Section, Subsection, sentence, clause or phrase of this Chapter is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Chapter.

| 7-01-001-00087    **DEFINITIONS**

For the purpose of this Chapter, certain terms, phrases, words and their derivatives shall be defined as specified in either this Chapter or as in the Building Code. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used.

**Abandoned:** A vehicle that is unclaimed or discarded. Evidence that a vehicle is without current licenses or tabs for a period of fifteen (15) successive calendar days on private property, and without any repairs during that period, shall be prima facie evidence of intent to abandon. (See also the definition for Inoperable.)

**Abatement of Dangerous Buildings Code:** Those codes currently in effect establishing minimum standards for the abatement of dangerous buildings and structures.

**Attractive nuisance:** 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.

**Authorized container:** Any container provided by the City of Flagstaff or an authorized private refuse collector for the collection of refuse.

**Blight or Blighted:** Unsightly conditions including accumulation of debris; fences characterized by holes, breaks, rot, crumbling, cracking, peeling or rusting; landscaping that is dead, characterized by uncontrolled growth or lack of maintenance, or is damaged; any other similar conditions of disrepair and deterioration; and the exterior visible use or display of tarps, plastic

sheeting, or other similar materials as flexible or inflexible screening, fencing, or wall covering upon a lot; regardless of the condition of other properties in the neighborhood.

**Building Code:** Those codes currently in effect establishing minimum acceptable levels of safety for the construction, renovation, demolition, and occupancy of buildings and structures.

**Building Official:** The Chief of Building Inspectors or his official representative, charged with the administration and enforcement of the building code.

**Community Development Director:** The City of Flagstaff Director of the Community Development Division or designee as authorized by City Code Title 10, Zoning Code.

**Dangerous Building.** A dangerous building is any building or structure deemed to be dangerous by the Building Official under the provisions of the Abatement of Dangerous Buildings Code promulgated by the International Conference of Building Officials, as adopted and amended by the City of Flagstaff.

**Debris.** Substances or materials of little or no apparent economic value, which may be present in accumulations in excess of six inches in height and ten inches in diameter, including but not limited to deteriorated lumber, old newspapers, furniture parts, stoves, sinks, cabinets, household fixtures, refrigerators, car parts, abandoned, broken or neglected equipment, or the scattered remains of items. (Exceptions: construction materials for a valid unexpired building permit or collected items that are neatly stacked, arranged in racks, stored inside legally conforming shelters that are kept from public view).

**Fire Code:** Those codes currently in effect establishing minimum acceptable levels for life safety and property protection from the hazards of fire or dangerous conditions in new and existing buildings, structures, and premises.

**Garbage:** The putrescible solid wastes (excluding ashes), consisting of both combustible and noncombustible solid wastes such as food waste, yard clippings, trimmings, bulk waste and similar material. (See definition for Solid Waste)

**Graffiti:** Unauthorized writing or drawing on a public or private surface.

**Infestation:** 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.

**Inoperable:** A vehicle which cannot be driven on the public streets for reason including but not limited to, being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

**Junked:** A vehicle that is dismantled, inoperable, not used for transportation, unsalvageable, stripped or scrapped. Evidence that a vehicle is inoperable and without repairs necessary to result in its operability for a period of fifteen (15) successive calendar days on private property shall be prima facia evidence of its junked status.

**Land, Improved:** Land that has been developed, graded or disturbed, or upon which site improvements including, but not limited to, utility installations, paving, or the construction of a building or structure.

**Land, Unimproved:** Woodlands, grasslands, prairies, wetlands and other undisturbed land that is not used for any purpose as may be permitted under City Code Title 10, Zoning Code, and that has not been materially disturbed.

**Land, Vacant:** Land that is not currently used for any purpose as may be permitted under City Code Title 10, Zoning Code, but that has been materially disturbed.

**Litter:** Refuse and rubbish and all other waste materials which if thrown, deposited, or not contained in a waste receptacle, contributes to a blighted appearance or that is or may become a hazard to the public health and safety. The term litter does not include waste materials stored or otherwise kept on a property as permitted by City Code Title 10, Zoning Code.

**Owner:** The owner of real property, the owner's authorized agent, or the owner's statutory agent.

**Private property:** Any land within the corporate limits of Flagstaff owned by any person, firm, partnership or corporation other than the United States, the State, the County, the City of Flagstaff, or other public agency, including streets, rights of way, easements, and open spaces not dedicated to the general public for unrestricted public use.

**Public nuisance.** Any condition that is or may be discomforting or offensive to a reasonable person of normal sensitivity or detrimental to the life, health, welfare, or safety of individuals or the public.

**Refuse:** All putrescible and non-putrescible solid wastes (except septic, industrial, medical, contagious or infectious wastes, hazardous wastes, and flammable or explosive wastes), including garbage, ashes, street cleanings, dead animals, and solid waste and industrial waste. (See solid waste definition.)

**Rubbish.** Non-putrescible solid wastes consisting of either combustible or noncombustible wastes including paper, wrappings, cigarettes, cardboard, tin cans, construction materials, yard clippings, dead leaves, tree trimmings, glass, bedding, crockery, paper cartons, aluminum foil, plastic materials, trash, ashes or other accumulation of filth or debris.

**Solid waste:** Garbage, trash, rubbish, or refuse and sewage, septic, or water treatment sludge that has been dehydrated.

**Unsheltered:** Any vehicle outside a covering specifically manufactured for use as a vehicle cover, carport, garage, or other building, unscreened, or otherwise within public view from a public right-of-way.

**Vehicle:** Any vehicle, trailer, or semi-trailer of a type subject to registration under Title 28 of the Arizona Revised Statutes.

**Weather protection:** The protection of all exterior surfaces from decay and the admittance of rain or snow by approved protective coverings or treatment.

**Weed:** Any plant considered undesirable, unattractive, or troublesome, especially one growing where it is not wanted and usually of vigorous growth that tends to overgrow or choke out more desirable plants.

**Wildland Urban Interface Code:** Those codes currently in effect establishing minimum acceptable regulations consistent with nationally recognized good practice for the safeguarding of life and property.

## DIVISION 7-01-002 MAINTENANCE STANDARDS

7-01-002-0001 **BUILDING AND STRUCTURE EXTERIORS** *[This Section is new in its entirety. Also repeal Chapter 6-04, Nuisances]*

### A. Exterior surfaces.

1. Weather protection. All exposed exterior surfaces, windows, doors, exterior structural elements, and weather-exposed exterior surfaces of every building or structure shall provide weather protection. Every building shall be weather protected to provide shelter for the occupants against the elements and to exclude moisture and dampness. All siding and masonry joints as well as those between the exterior wall and the perimeter of windows, doors, and skylights shall be maintained in a weather resistant and water tight condition.
2. Protective treatment. All exterior wood surfaces, except for decay-resistant woods, shall be protected from deterioration and from the elements by paint or other protective treatment or covering. Exterior wood surfaces with paint that is peeling, flaking, cracked, blistered or chipped, resulting in bare, unprotected surfaces or the presence of mildew, shall be maintained and repainted to eliminate the deteriorated condition. All metal surfaces subject to corrosion or rust must be treated or coated to inhibit corrosion and rust, unless corrosion or rust is a design element.
3. Boarded window or door openings.
  - a. ~~No occupied structure may have boarded window or door openings, except as necessary on a temporary basis to keep the structure secure while under repair.~~
  - b. While vacant structures or structures under repair may temporarily be secured by boarding up window and door openings in accordance with the applicable City Abatement of Dangerous Buildings Code requirements, having or maintaining boarded window or door openings on a vacant structure for one hundred eighty (180) days or more in any one-year period is prohibited. The materials used to board window or

door openings shall be painted to match the primary color of the building or structure.

**B. Foundations, walls, roofs, and chimneys.**

1. All exterior wood showing evidence of insect or animal damage or decay (e.g. termites) shall be replaced.
2. Exterior walls. The exterior walls shall be free from holes and breaks to provide weather protection and be substantially free from dry rot and mildew, and shall be maintained in sound condition and good repair so as to prevent infestation. Exterior walls must be free of loose, crumbling or deteriorated plaster or rotted, split or buckled exterior wall coverings. All exterior surfaces, other than decay-resistant materials, shall be protected from the elements by painting or other protective covering according to manufacturer's specifications.
3. Roofs and Drainage. Roofs shall be maintained in a safe condition and shall provide weather protection for that building or structure. Roof coverings shall not be rotted, broken, split, buckled or otherwise deteriorated. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Water from a roof shall not be discharged in a manner that creates a public nuisance. See also Section 7-01-002-0002.D, Drainage.
4. Chimneys. All chimneys shall be maintained in a safe and sound condition. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
5. Decorative Features. All cornices, belt courses, corbels, ~~terra-cotta trim~~, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.
6. Overhang Extensions. All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

**C. Doors, windows, and skylights.**

1. Every door, window, skylight, door and frame (including insect screens) shall be kept in sound condition, good repair, and weather-tight.

2. All windows, skylights, and other glazing materials shall be maintained free from cracks and holes.
3. Every basement window that is openable shall be supplied with rodent shields, storm windows, or other approved protection against infestation.

**D. Fences, screen walls, and retaining walls.**

All fences, screen walls, and retaining walls on the premises shall be in a safe and sound condition, properly anchored so as not to be in danger of failure or collapse, and uniform in color and structure, and shall be maintained so that they do not constitute a hazard, blight, or condition of disrepair. Examples of hazards, blight or conditions of disrepair are inclusive of, but not limited to;

1. Leaning fences or walls to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the width of the wall or fence at its base.
2. Fences and walls that are missing slats or blocks, or that have rot or damage;
3. Graffiti;
4. Peeling paint; and
5. Deteriorated paint or materials

**E. Exterior stairs, railings, balconies, porches, and decks.**

All exterior stairs, railings, balconies, porches, and decks, and all appurtenances attached thereto, shall be maintained so as to be safe and in a sound condition, in good repair, with proper anchorage.

**F. Address display.**

Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property in compliance with the Fire Code.

**7-01-002-0002 EXTERIOR PREMISES AND VACANT LAND**

**A. Accumulation of vegetation prohibited. [Repeal Chapter 8-04]**

1. All land within the City, except for unimproved land, shall be maintained so it is free of the accumulation or untended growth of vegetation, the presence of which creates a safety, fire, or health hazard, or that attracts ~~infestation~~ ~~vermin~~ either on the property, on neighboring properties, or on both, and includes but is not limited to:
  - a. Any lawn grass that exceeds twelve (12) inches in height.

- b. All weeds that exceed twelve (12) inches in height.
  - c. Dead plants or dead parts of plants of any kind.
  - d. Any tree, shrub, or other form of vegetation of any kind on the property or on the adjoining right-of-way, street, public easement, or alley that extends over ~~or under~~ the sidewalk space or roadway in a manner that may interfere with the reasonable use of the street, sidewalk, or alley for pedestrian or vehicular traffic of any kind or that may obstruct the view or light distribution of traffic-control devices, street signs, or street lights.
2. The provisions of Subsection 1. of this Section does not prohibit the maintenance of a compost pile on residential property, so long as the compost pile does not create a hazard and is: *[Repeal 6-06-001-0003]*
- (1) Contained;
  - (2) Maintained so as not to produce offensive odors or attract flies or vermin; and
  - (3) Located, insofar as reasonably possible, so that it is not visible from abutting properties or streets;
- B. **Litter.** *[Repeal parts of 6-06-001-0001, as well as 6-06-001-0002 through 6-06-001-0005]*
1. All properties as well as abutting public sidewalks, streets, easements, and alleys, shall be maintained to be free from any unreasonable accumulation of litter.
  2. Handbills posted on public and private property are prohibited.
  3. All accumulated litter on a property shall be cleared by 9:00 AM of each day from the previous day's use.
  4. Every occupant of a structure shall dispose of all litter in a clean and sanitary manner by placing such litter or garbage in authorized containers.
  5. The owner of every occupied premise shall supply authorized covered containers for litter, and the owner of the premises shall be responsible for the removal of such litter.
  6. The open burning or incineration of refuse and other materials is prohibited (Refer also to the Wildland-Urban Interface Code).]
- C. **Maintenance of ground covers and grasses abutting public sidewalks, streets, and alleys** *[This Subsection is new.]*

Groundcovers and grasses planted or existing in the public right-of-way between the back edge of the curb and a property line or within and adjacent to alleys, shall be

trimmed and maintained to no greater than twelve (12) inches in height by the owner, lessee, tenant, or occupant of any premises abutting such public sidewalks, streets, and alleys to ensure the health, safety, or welfare of persons using ~~such public sidewalks, streets, and alleys.~~

D. **Pruning, maintenance, removal, and replacement of vegetation in abutting public sidewalks, streets, and alleys** [*This Subsection is new.*]

1. Trees and shrubs planted in the public right-of-way between the back edge of the curb and a property line or within and adjacent to alleys, shall be pruned, trimmed, and maintained by the owner, lessee, tenant, or occupant of any premises abutting such public sidewalks, streets, and alleys to ensure the health, safety, or welfare of persons using such public sidewalks, streets, and alleys except as provided in paragraph 3 below.
2. Except as provided in paragraph 3 below, in the event that trees, shrubs, groundcovers or grasses in the public right-of-way between the back edge of the curb and a property line or within and adjacent to an alley should be damaged or dies due to whatever cause, the owner, lessee, tenant, or occupant of any premises abutting such public sidewalks, streets, and alleys shall be responsible for the removal of the damaged or dead tree, shrub, ground cover, or grasses, and they shall be replaced the removed tree, shrub, ground cover, or grass with a similar species in accordance with the City of Flagstaff Landscape Plant List (Refer to City Code Title 10, Zoning Code, Appendix 3) and sized in accordance with the City of Flagstaff Engineering Standards.
3. Trees, shrubs, groundcovers or grasses planted within public rights-of-way as part of a City of Flagstaff capital improvement project shall be pruned, maintained, removed, or replaced by the City for the first five (5) years following completion of the project, or when the irrigation system is shut off and the trees are fully established as determined by the Public Works Director, which ever event comes first. Thereafter, all trees, shrubs, groundcovers or grasses shall be pruned, maintained, removed, or replaced by the abutting owner, lessee, tenant, or occupant as stipulated in paragraphs 1 and 2 above.

E. **Drainage.** [*Repeal 6-01-001-0017*]

1. All premises shall be maintained so as to prevent the accumulation of stagnant water when such water causes a hazardous or unhealthy condition, becomes a breeding area for insects, or which is causing soil erosion or damage to foundation walls.
2. ~~The W~~willfully or negligently permitting or causing of 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 is permitted. [*Repeal 7-01-002-0002.E*]

F. **Exterior insect, rodent, and animal control.** *[Repeal 7-01-002-0002.B and F.]*

All premises shall be kept free from insect and rodent infestation and other noxious pests. This provision shall not require action to disturb the natural or cultivated activity of bees, rabbits, or other insects and animals where such activity is not a danger or nuisance to any resident or residents of the area, and where other applicable legal requirements are met.

G. **Offensive materials and substances** *[Repeal 7-01-002-0002.H]*

The following offensive materials and substances are prohibited:

1. Animal manure that is neither used for fertilizing lawns or gardens nor securely protected from insects and the elements;
2. 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 feces, sewage, and other similar offensive substances;
3. Noxious exhalations and other airborne irritants, including, but not limited to, smoke, soot, dust, fumes or other gasses, offensive odors, or other annoyances; and
4. A privy, vault, cesspool, sump, pit, pool, accumulated water or similar condition that is foul, malodorous, or subject to infestation, pollution, or stagnation;

H. **Exterior hazard and attractive nuisance.** *[Repeal 7-01-002-0002.I]*

All premises shall be kept free of any condition that constitutes a health hazard, imminent hazard, or attractive nuisance. Such prohibited conditions include, but are not limited to, the following:

1. Abandoned refrigerators. ~~All properties shall be kept free of Abandoned iceboxes, refrigerators, freezers, cabinets, or other similar containers shall not be kept on a property for more than thirty (30) days.~~ For such iceboxes, refrigerators, freezers, cabinets, or other similar containers with a capacity of one and one-half (1 1/2) cubic feet or greater that are abandoned, discarded, or no longer used for refrigeration and are in any place accessible to children, the attached doors, hinges, lids, latches, or other locking devices that may not be released from the inside shall be removed.
2. Hazardous excavations. All premises shall be kept free of abandoned or unsecured excavations, pits, wells, or other holes, or any excavation that creates a hazard to public safety or an attractive nuisance. An excavation made under permit and secured and maintained in a manner that complies with the applicable permit requirements is not considered a violation of this Section.

3. Hazardous pools. Swimming pools, hot tubs, spas, ponds, and architectural pools shall be maintained in a clean and sanitary condition and in good repair, so as not to create a safety hazard, harbor insect infestation, or create a visible deteriorated or blighted appearance. The bottom and sides of the pool, hot tub, spa or pond shall be maintained reasonably free of sediment, dirt, slime, and algae. Any swimming pool, hot tub, spa, pond or other contained body of water that contains water eighteen (18) inches or more in depth at any point and that is wider than four (4) feet at any point and is intended for swimming must be properly secured and maintained so as not to create a hazard to public safety, a health hazard or attractive nuisance, and shall be entirely enclosed by a wall, fence or other barrier that is adequate to prevent access by children in compliance with the Building Code.
4. Building materials. Building materials, lumber, scrap metal and other similar materials shall be piled in a clean and orderly condition so as not to create a safety hazard, harbor insect infestation, or create a visibly deteriorated or blighted appearance. *[This Subsection is new.]*

I. **Firewood.**

All firewood shall be stacked in a safe and orderly manner, and stored in compliance with applicable Sections of the Wildland-Urban Interface Code. *[This Subsection is new – cross reference to WUI only.]*

J. **Displaying vehicles for sale on property** *[Repeal 6-01-001-0021]*

1. No vehicle shall be parked for the purpose of sale or lease on improved, vacant, or unimproved private or public property, except where such sale or lease is permitted under the applicable provisions of City Code Title 10, Zoning Code.
2. For the purpose of the foregoing Subsection, it may be presumed that any vehicle posted with signs reading "For Sale" or any similar or analogous words parked within view of any public right of way ~~while said vehicle is posted with signs reading "For Sale" or any similar or analogous words~~ is being displayed for the purpose of advertising the vehicle ~~the same for sale~~.
3. This Section shall not apply to any person who causes or permits the parking of a ~~motor~~ vehicle owned by him upon property owned by any person licensed by the State and the City for the ~~purpose of carrying on the business of retail sale of~~ such vehicles.
4. This Section shall not be construed to prohibit the incidental parking of any ~~motor~~ vehicle, whether advertised or marked for sale or not, when the primary purpose for parking the said vehicle is some purpose other than that of advertising ~~the availability of~~ said vehicle for sale. It shall be presumed that parking a ~~motor~~ vehicle marked or advertised for sale with other ~~motor~~ vehicles marked or advertised for sale, except as provided in Subsection (3) above, is not incidental parking.

The Abatement of Dangerous Buildings Code as adopted by the City of Flagstaff (Refer to City Code Title 4, Building Regulations), and implemented and administered by the Building Official shall apply to all buildings or structures deemed by the Building Official to be a danger to life, limb, health, and morals. *[This Subsection is new - cross reference only.]*

A. Permitted storage

This Section shall not apply to any abandoned, junked, or unregistered vehicle stored on private property if the vehicle is:

1. On the premises of a business enterprise operated in a lawful place and manner and licensed and otherwise permitted by the City, and the storage of the vehicle is necessary to the operation of the business enterprise; or
2. Substantially complete with inflated tires under the roof area of any building;
3. Lawfully enclosed within:
  - a. An enclosed garage or other permanent building lawfully constructed of opaque materials without openings, holes or gaps other than doors and windows;
  - b. A carport, and an opaque car cover designed for that purpose (and not including tarpaulins, bed sheets, plastic sheeting, or similar materials) completely covers the body of the vehicle; or
  - c. Any fence, wall or barrier, not less than six (6) feet in height, constructed of opaque materials without openings, holes or gaps inclusive of gates or doors to completely enclose the vehicle, and equipped with self-latching gates or doors. Such fence, wall or barrier must comply with Section 7-01-002-0001.D (Fences, Screen Walls, and Retaining Walls)).
4. 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. 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 six (6) 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;
5. An operable off-road vehicle under the roof area of any building, or in a backyard area, screened by a substantially opaque fence at a minimum height of five (6) feet or the height of the vehicles, whichever is more, provided that any

fence constructed or modified pursuant to this Subsection shall comply with Division 10-50.50 (Fences and Screening) of the Flagstaff Zoning Code.

6. The unsheltered storage, parking, standing or placement of an abandoned or junked ~~motor~~-vehicle for a period of fifteen (15) days or more on any private property except where permitted by Title 10 of the City Code, Zoning Code, is hereby declared to be a nuisance and dangerous to the public safety.

**B. Prohibited storage**

1. No person owning or having custody of any junked or abandoned vehicle may store such vehicle on private property, or on any sidewalks, streets, public easements, or alleys, within the City, except as otherwise permitted under this Section;
2. No person owning, occupying or in control of any private property within the city may store any junked or abandoned vehicle on the owned or occupied property, or on any abutting sidewalks, streets or alleys, except as otherwise permitted under this Section.
3. No vehicle shall be used for the storage of goods, products and materials.

**7-01-002-0005            GRAFFITI PROHIBITED [This Section is new.]**

**A. Intent.**

1. The intent of this Section is to prohibit graffiti from walls, structures, or surfaces on public and private property in order to reduce blight and deterioration within the City, and to protect the public health and safety.

**B. Graffiti prohibited.**

An owner shall ensure that all sidewalks, walls, buildings, fences, signs, and other structures or surfaces except the ground shall be kept free from graffiti.

**DIVISION 7-01-003 ADMINISTRATION AND ENFORCEMENT**

**7-01-003-0001            Violations**

- A. It shall be unlawful for any person to cause, permit, facilitate, and/or abet any violation of this Chapter or who fails to perform any act or duty required pursuant to this Chapter. The owner and occupant of property in violation of this Chapter may be individually and jointly responsible for the violation, the prescribed civil or criminal sanctions, and for abating the violation.
- B. Each day any violation of any provision of this Chapter or the failure to perform any act or duty required by this Chapter continues shall constitute a separate offense.

**7-01-003-0002 Enforcement Authority**

*[It is unknown at this time if the PMO will be enforced through Community Development, Public Works, a combination of both Divisions, or some other organizational arrangement.]*

- A. The [Insert Division] Director shall have the power and responsibility to conduct inspections and enforce this Chapter. The [Insert Division] Director is hereby authorized to commence an enforcement action in compliance with this Chapter by issuing a citation for civil sanctions in the Flagstaff Municipal Court in compliance with City Code Title 1, Administration, Chapter 1-15, Municipal Court, Section 1-15-001-0011, Civil Enforcement Procedures. The [Insert Division] Director may also seek the issuance of a complaint by the Chief Prosecutor of the City of Flagstaff for criminal prosecution of habitual offenders as defined in this Division.
- B. The authority of the [Insert Division] Director 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 verbal or written warnings, or other informal devices to achieve compliance in the most efficient and effective manner.

**7-01-003-0003 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 the City or other entities under other laws, ordinances or rules.

**7-01-003-0004 Interference with Enforcement Personnel**

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.

**7-01-003-0005 Inspection**

An inspector may expand the scope of any investigation beyond the original complaint to include other violations noted during inspection of the subject property. All inspections shall be conducted in compliance with the constitutions of the United States and the State of Arizona.

**7-01-003-0006 Cooperation of Other Departments**

Upon request of the [Insert Division] Director, the Police Department, or any other Division of the City, has authority to assist and cooperate with the Director in the performance of their duties under this Chapter. The cooperation may include assistance in enforcement or abatement actions, including removal of persons from structures to be demolished pursuant to this Chapter.

- A. Any occupant or owner that allows, permits, facilitates, suffers, aids or abets any violation of any provision of this Chapter or fails to perform any act or duty required by this Chapter shall be responsible for a civil violation unless otherwise specified.
- B. Any occupant or owner 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 fifty dollars (\$150.00) or more than one thousand five hundred dollars (\$1500.00). 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 two thousand five hundred dollars (\$2500.00). 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 two thousand five hundred dollars (\$2500.00).
- C. The thirty-six month provision of paragraph (A.) of this Subsection shall be calculated by the dates the violations were committed. The occupant or owner 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 occupant or owner was convicted or otherwise found responsible, irrespective of the order in which the violations occurred or whether the prior violation was civil or criminal.
- D. In addition to any monetary civil sanction imposed on an owner, the court shall order the owner to abate the infraction within a specified time period following the hearing, unless it has already been abated by the date of the hearing. Additionally, the court may order that, in the event the owner fails to abate the infraction within the allotted time, the City may abate the infraction and charge the owner for the actual cost of abatement, along with the actual costs of any additional inspections and other incidental connected costs, and any associated legal costs for abatement. Such costs shall be assessed on the property from which the infraction was abated.
- E. The City, in its sole discretion, may record a notice of civil sanction and abatement order with the Coconino County Recorder and thereby cause compliance by any person(s) or entity thereafter acquiring such property. When the property is brought into compliance by the owner, a satisfaction of notice of civil sanction and abatement order shall be filed at the request and expense of the owner. It is the property owner's responsibility to secure the satisfaction of notice of civil sanction and abatement order from the City. A civil sanction and abatement order shall run with the land, and shall be due and payable in accordance with Arizona Revised Statutes § 9-499(E). Civil sanctions and abatement orders that are past due shall accrue interest at the rate prescribed by A.R.S. § 44-1201.
- F. Every civil action or proceeding in compliance with this Chapter shall be commenced and prosecuted in compliance with City Code Title 1, Administration, Chapter 1-15, Municipal Court, Section 1-15-001-0011, Civil Enforcement Procedures.

7-01-003-0008      **Criminal Enforcement; Penalties**

- A. Any person found responsible by the Flagstaff Municipal Court for three or more civil violations of this Chapter within a 24-month period, whether by admission, by payment of the fine, by default, or by judgment after hearing shall be determined to be a habitual offender. For purposes of calculating the 24-month period in compliance with this paragraph, the dates of the offenses are the determining factor.
- B. A habitual offender who subsequently violates this Chapter shall be guilty of a class one misdemeanor.
- C. Every criminal action or proceeding in compliance with this Chapter shall be commenced and prosecuted in compliance with the laws of the State of Arizona relating to misdemeanors and the Arizona Rules of Criminal Procedure.

7-01-003-0009      **Emergency Abatement**

- A. If a situation presents an imminent hazard to life or public safety, the City may issue an order directing the owner, occupant and/or designated agent to take such action as is appropriate to correct or abate the emergency. In addition, the City may act to correct or abate the emergency.
- B. The City may recover the costs incurred in abating an imminent hazard the property owner may appeal the City's emergency abatement action under this Section or the City's statement of costs for an emergency abatement in the same manner as provided in Section 4-5.

**Draft History:**

- V1 - Developed December 13, 2011: Starting point for further staff review
- V2 - Created December 22, 2011: Includes more code from IPMC, Tucson and Phoenix
- V3 - Created December 27, 2011: Refined based on a review of Flagstaff's needs - presented for discussion/ review to PMO Staff Team on December 28, 2011
- V4 - Updated December 29, 2011 to January 6, 2012: Includes various existing City Code text and comments from staff based on December 28, 2011 staff meeting and follow-up meetings
- V5 - Updated February 2012 to March 9, 2012: Includes comments from staff based on V4 draft
- V6 - Updated March 9, 2012 from comments from staff at March 8<sup>th</sup> and March 13<sup>th</sup> staff meetings
- V6 - Clean - March 15, 2012: Final staff administrative draft for PMO Review Group.
- V6.1 - March 30, 2012: Amended staff administrative draft w/ amendments based on comments from PMO Review Group and staff discussion.

Notes regarding FINAL City Code format (Arial 11 font):

**CHAPTER 7-01 PROPERTY MAINTENANCE**

**Section 7-01-002-0003 Exterior Premises and Vacant Land**

- A. Accumulation of vegetation prohibited
  - 1. Istje tkdgl dft kdfjgk
    - a. er jlkdfg ih



**ATTACHMENT C: Analysis of Table of Contents – PMO V6.1 Showing the Source of the Regulations in this Draft**



# PMO:

## Analysis of Property Maintenance Ordinance V6.1 -- Table of Contents

March 1, 2012

Updated: March 31, 2012

This document analyzes the Table of Contents of V6 of the Draft PMO to show what sections are new and which have been brought forward and/or expanded from existing City Code provisions, in which case they will be repealed from the existing City Code when the PMO is adopted. Note that some sections have been added to cross-reference to existing City Code sections to ensure ease of use.

### CHAPTER 7-01 PROPERTY MAINTENANCE

**This chapter was formerly 7-01 Health and Sanitation (Repealed November, 2010) and currently unused**

### DIVISION 7-01-001 GENERAL PROVISIONS

**NEW – these are essential components of a new ordinance/City Code chapter**

7-01-001-0001	Title
7-01-001-0002	Purpose
7-01-001-0003	Intent
7-01-001-0004	Applicability
7-01-001-0005	Permit Required
7-01-001-0006	Conflict of Ordinances
7-01-001-0007	Severability
7-01-001-0008	Definitions

**Most come from ARS and existing City Code definitions**

### DIVISION 7-01-002 MAINTENANCE STANDARDS

#### 7-01-002-0001 Building and Structure Exteriors

**Most of this section is NEW to the PMO  
Repeal Chapter 6-04**

- A. Exterior surfaces
  - 1. Weather protection
  - 2. Protective treatment
  - 3. Boarded window or door openings
- B. Foundations, walls, roofs, and chimneys
- C. Doors, windows, and skylights
- D. Fences, screen walls, and retaining walls
- F. Exterior stair, railings, balconies, porches, and decks
- G. Address display

**Cross-references to existing Fire Code standards**

#### 7-01-002-0002 Exterior Premises and Vacant Land

**Most of this Section from City Code**

- A. Accumulation of vegetation prohibited **Repeal Chapter 8-04**
- B. Litter **Repeal 6-06-001-0001 (portion), -0002, -0003, -0004, and -0005**
- C. Maintenance of ground covers and grasses abutting public sidewalks, streets, and alleys **New**
- D. Pruning, maintenance, removal, and replacement of vegetation abutting public sidewalks, streets, and alleys **New**

- E. Drainage **Repeal 6-01-001-0017 and 7-01-02-0002.E**
- F. Exterior insect, rodent, and animal control **Repeal 7-01-002-0002.B & F**
- G. Offensive materials and substances **Repeal 7-01-002-0002.H**
- H. Exterior hazard or attractive nuisance **Repeal 7-01-002-0002.I**
  - 1. Abandoned refrigerators
  - 2. Hazardous excavations
  - 3. Hazardous pools
  - 4. Building Materials **New**
- I. Firewood **Cross-references to existing WUI Code**
- J. Displaying vehicles for sale on property **Repeal 6-01-001-0021**

7-01-002-0003 Buildings and Structures Constituting a Nuisance **Cross-references to existing City Code Title 4, Abatement of Dangerous Buildings**

7-01-002-0004 Abandoned and Junked Vehicles **Repeal Chapter 6-07, Abandoned Vehicles**

- A. Permitted storage
- B. Prohibited storage

7-01-002-0005 Graffiti Prohibited **NEW – requested by Police Dept.**

- A. Graffiti prohibited
- B. Graffiti prohibited

**DIVISION 7-01-003 ADMINISTRATION AND ENFORCEMENT** **NEW – this is an essential component of a new ordinance/City Code chapter. This Division is based on existing procedures from the Zoning Code, City Code, and the Magistrate’s Court**

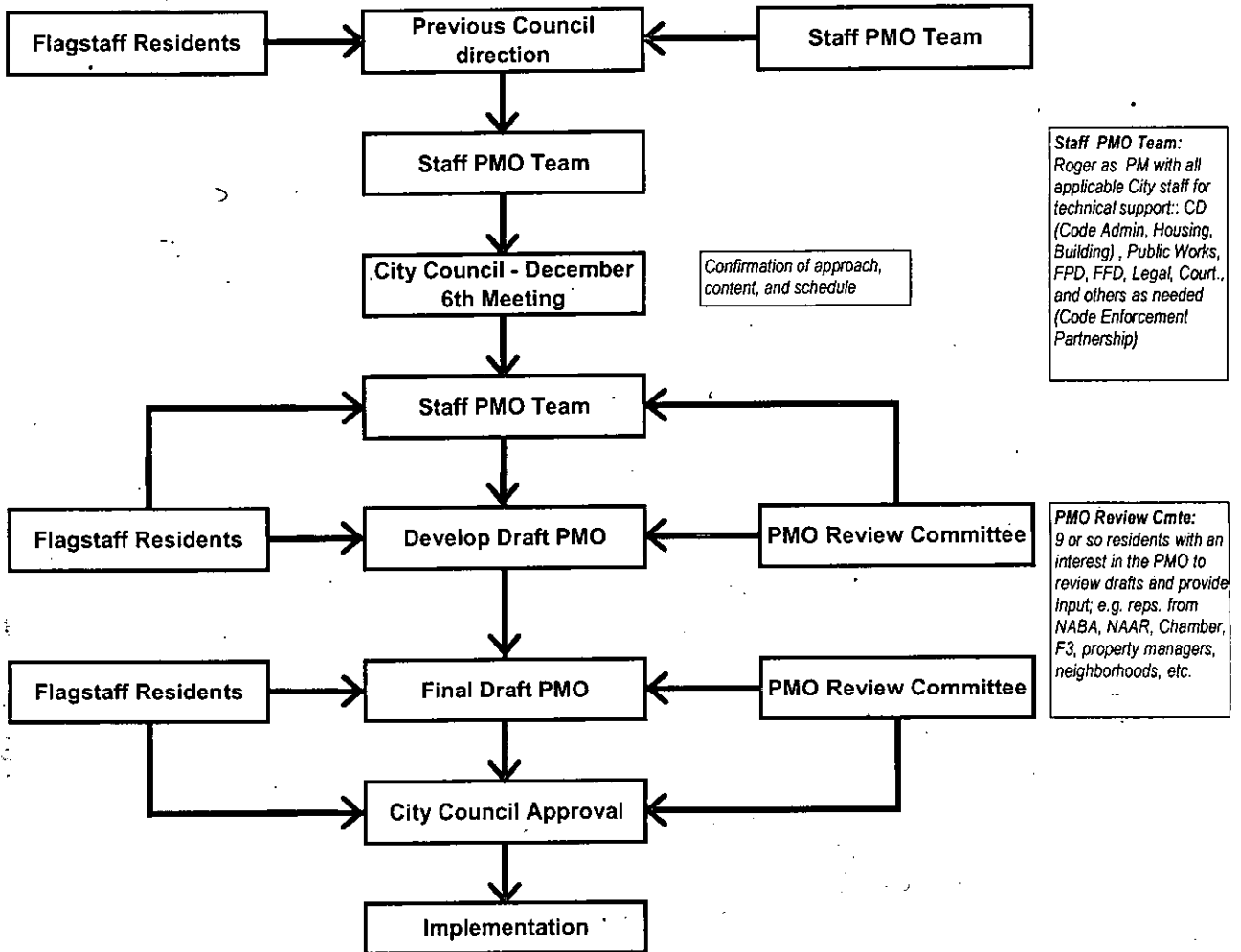
- 7-01-003-0001 Violations
- 7-01-003-0002 Enforcement Authority
- 7-01-003-0003 Remedies Not Exclusive
- 7-01-003-0004 Interference with Enforcement Personnel
- 7-01-003-0005 Inspection
- 7-01-003-0006 Cooperation of Other Departments
- 7-01-003-0007 Civil Enforcement; Penalties
- 7-01-003-0008 Criminal Enforcement; Penalties
- 7-01-003-0009 Emergency Abatement

**ATTACHMENT D: PMO Process Flow Diagram, December 13, 2011**



# PMO - PROCESS DIAGRAM

Created: December 8, 2011  
 Updated: December 13, 2011





**ATTACHMENT E: Copies of Written Comments from Flagstaff Residents on the Proposed PMO**



# A League of Neighborhoods

Plaza Vieja - Pine Knoll - Southside - Sunnyside

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June 10, 2009

Sara Presler, Mayor &  
Members of the Flagstaff City Council  
City of Flagstaff  
211 West Aspen Avenue  
Flagstaff, Arizona 86001

## RE: City of Flagstaff Property Maintenance Ordinance

Dear Honorable Mayor Presler,

In March 2009 A League of Neighborhoods (ALN) submitted a CD containing pictures of blighted conditions within the four targeted neighborhoods that we represent. We expect that you have had ample time to review the CD that was given to you.

ALN feels that many of the problems that were represented in the pictures that you saw in the CD can be addressed through a City-wide property maintenance ordinance (POM).

It is our understanding that the City of Flagstaff will be having a work session on this topic in Fall 2009. At this time we would like to submit to you a list of items that we believe should be considered in the development of a POM (see attachment enclosed)

For more information regarding this issue and/or a city-wide POM please contact any of the members of the ALN listed below. Thank you!

Sincerely,

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Joe C Ray  
Weed & Seed Chair  
928.699.0298

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Jonathan Day  
SSCA Chair  
928.853.3503

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Jean Griego  
SNA Chair  
928.606.5289

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Jesse Dominquez  
PVNA Chair  
928.853.3063

# A League of Neighborhoods

Plaza Vieja - Pine Knoll - Southside - Sunnyside

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## Property Maintenance Ordinance (PMO) Concept Paper As submitted by A League of Neighborhoods

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 wellbeing 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 limited 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 believe that a city-wide PMO should at a very minimum address the following concerns:

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

## Roger Eastman

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**From:** Kevin Burke  
**Sent:** Monday, August 03, 2009 6:47 AM  
**To:** Mark Landsiedel; Jim Cronk; Roger Eastman  
**Subject:** FW: PMO Proposal

FYI

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**From:** Council [<mailto:Council@flagstaffaz.gov>]  
**Sent:** Monday, July 27, 2009 11:34 AM  
**To:** Al White; Coral Evans; Joseph Haughey; Karen Caravona; Karla Brewster; Kevin Burke; Rick Swanson; Sara Presler; Scott Overton  
**Subject:** FW: PMO Proposal

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**From:** Arne Hassing[SMTP:FLAG73@GMAIL.COM]  
**Sent:** Monday, July 27, 2009 11:33:21 AM  
**To:** Council  
**Subject:** PMO Proposal  
**Auto forwarded by a Rule**

Dear City Council Members,

We are writing in support of the Property Maintenance Ordinance on the basis of New York Chancellor James Kent's original principle that "an individual's will must become subservient to the will of the community." As citizens we accept this principle readily in the case of criminal activity, and we should also accept it when individual property owners allow their properties to decay to the point of affecting the entire neighborhood and the property values of their neighbors. The PMO should allow the city to work reasonably and compassionately with low income people to improve their properties, but it should have all have sharp enough teeth to compel compliance by exploitive and negligent (immoral) rental property owners.

We used to live at 1707 N. Kutch Drive in Coconino Estates, across the street and two houses south of the house once owned by Dr. and Mrs. Leenhouts - originally an exceptional house and the only one in the neighborhood with a full basement. That house and the property has been neglected year in and year out for two decades, to the point where it should now be condemned. We moved, but others have not, and the property values of those who remained must be negatively affected by that decrepit structure. In fact, driving through there recently we were appalled at the deterioration of a once appealing neighborhood, perhaps due to an increase in rentals as well. Why should negligent owners be allowed to inflict visual pollution and financial loss on other property owners?

Please pass the proposed PMO and act vigorously to enforce it.

Sincerely,

Arne and Ruthanne Hassing  
5030 E. Chestnut Way  
Flagstaff, AZ 86004

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# Proposed City of Flagstaff Property Maintenance Ordinance

## Comment Form

Comments, ideas, and suggestions on the City of Flagstaff's proposed Property Maintenance Ordinance (PMO) are welcomed and encouraged.

Please return this form to Roger E. Eastman, AICP, Zoning Code Administrator at Flagstaff City Hall, 211 West Aspen Avenue, Flagstaff, AZ 86001, or contact him via e-mail at [reastman@flagstaffaz.gov](mailto:reastman@flagstaffaz.gov).

Printed Property Rights must be FIRST maintained  
2nd - no access without verbal or written permission of landowner.  
3rd - Excessive regulation of local, county or City officials leads to distrust of authority and re-call of elected officials.  
Unfair Regulations to extreme!  
\* A2 Statutes allow property owners to sell 5 vehicles on their real estate annually.  
line 12 - No Public Property Owner can maintain City Property without just compensation.  
# 13 - Smoke - no individual can control amount of smoke - winter cold - excess wood burning - will City pay for heat of low income families?  
Bldg Permit not needed to Paint - City, County  
What about "Fire Area like Shultz Pass,"  
Major Nature did it - Who is responsible - Forest land  
I have more serious concerns on issues not covered @ Mtg today

If you would like a response to your comments, or would like to be added to our E-mail list to receive periodic updates on the PMO, please include your name and contact information below.

Name: Gail Dent Phone: 928-607-0712  
Address: PO Box 500 Flagstaff AZ 86001  
E-mail: mom2858@yahoo.com

## Roger Eastman

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From: LEORAOH@aol.com  
Sent: Monday, March 26, 2012 11:50 AM  
To: Roger Eastman  
Subject: PMO

thoughts on what the staff has come up with.

701003005

this smacks of communism...This is private property and the inspector MAY MOT expand the scope beyond the original complaint. This is a violation of Amend.4 of the US Constitution.

The PMO code should be FLAGSTAFF not phx north.

CDBG funding should not be used for upgrading pvt residences. The upgrading is the prop. owners expense not tax payers.

once again this should be complaint driven ..that is specifix complaint only...

there is no blight in Flagstaff, I was shot down 2 years ago when I brought it up...staff says there is none so please rephrase your statements or notify staff there is blight and i would like an apology.

701001003B..who will check that a bldg is a hazard if it is on pvt prop. and staff has not been invited on to itHow will a property that is in a trust be addressed?

Attractive nuisances...that will be playgrounds also.

Reasonableness....means different things to different people...this also means future council people/staff can change at will since their interperatation will be different than what is set out now.

What criteria or higher education does staff have that that qualifies thym to determine "reasonable".

Drainage..the city needs to keep the cities property drainage clean before making any rules for others.

Noxious will soon become fireplace smoke, cigarettes, woodburning stoves and cars that produce fumes.

Graffiti prohibited...good luck with that one...you might as well hang a sign that says.."no gangs or taggers allowed"

Lee Harsh

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