



Planning and Development Services Memo

Proposed Property Maintenance Ordinance

March 15, 2012

TO: Property Maintenance Ordinance Review Group
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: Final Staff Administrative Draft of the Property Maintenance Ordinance

This memorandum provides the Property Maintenance Ordinance (PMO) Review Group (Review Group) with some background information to the proposed PMO for the City of Flagstaff in preparation for the Review Group's first meeting which has been scheduled for **Thursday, March 22, 2012 at 4:00 pm** in the **Staff Conference Room**, upstairs at City Hall. a copy of the final staff Administrative Draft of the PMO is attached, as well as a document that shows from where the contents of the proposed PMO were derived, i.e. existing City Code sections or new sections.

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.

- **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.
- **December 6, 2011** – Work session with the City Council on the PMO to confirm the approach to writing the ordinance and its contents. A summary of the general consensus reached by the Council on what the PMO should include follows:
 - Content of the PMO:
 - A PMO is important and 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 interiors
 - 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. Seek 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.
 - The Council supported the notion of a complaint-based enforcement approach with the PMO.
 - General support for a streamlined and coordinated enforcement approach of the PMO.

Final Staff Administrative Draft V6:

The attached draft of the proposed PMO (V6) reflects City staff's work to date to develop a PMO consistent with the City Council's previous direction. Note that the majority of the proposed PMO is derived from existing sections of the City Code, updated and revised as necessary. Notes have been inserted throughout the draft ordinance indicating the source of the PMO's provisions, or if they are new. Assuming that the PMO is approved and adopted, the existing City Code sections now included in the PMO will be repealed. A summary/analysis of the Table of Contents of the PMO is also attached.

Conclusion:

Staff looks forward to working with the PMO Review Group as you review and discuss the proposed PMO draft. All comments and suggestions from the PMO Review Group will be forwarded to the City Council with the final version of the PMO.

A work session on the proposed PMO has been scheduled with the City Council for **5:30 p.m. on Tuesday, April 10, 2012** in the City Council Chambers. At this work session staff will be seeking policy direction from the City Council on certain sections of the draft PMO, including Section 7-01-002-0002.C (Maintenance of ground covers and grasses abutting public sidewalks,

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streets, and alleys); Section 7-01-002-0002.D (Pruning, maintenance, removal, and replacement of vegetation in abutting public sidewalks, streets, and alleys); and Division 7-01-003 (Administration and Enforcement).

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:

- Final Staff Draft of the Proposed Property Maintenance Ordinance, V6
- Analysis of Table of Contents – PMO V6

PMO:
Draft Property Maintenance Ordinance – V6
(Final Staff Administrative Draft for PMO Review Group)

December 29, 2011
Updated: March 15, 2012

CHAPTER 7-01 PROPERTY MAINTENANCE

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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:
 - 1. Protect and promote the health, safety and welfare of the citizens of Flagstaff, Arizona; and
 - 2. 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 improved land.
- B. This Chapter shall be applied 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.
- C. 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.

7-01-001-0003 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.

7-01-001-0004 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.

7-01-001-0005 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.

7-01-001-0006 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.

7-01-001-0007 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.

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 may temporarily be secured by boarding up window and door openings in accordance with the Abatement of Dangerous Buildings Code, 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 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 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 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.
2. 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 shall replace 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).

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. 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. *[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 iceboxes, refrigerators, freezers, cabinets, or other similar containers. 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 visible 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 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 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 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.

7-01-002-0003 BUILDINGS AND STRUCTURES CONSTITUTING A DANGER

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.]*

7-01-002-0004 ABANDONED AND JUNKED VEHICLES *[Repeal Chapter 6-07]*

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.

7-01-003-0007 Civil Enforcement; Penalties

- 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 8th and March 13th staff meetings
- V6_Clean - March 15, 2012: Final staff administrative draft for PMO Review Group.

Notes regarding FINAL City Code format:

CHAPTER 7-01 PROPERTY MAINTENANCE

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

- A. Accumulation of vegetation prohibited
 - 1. lstje tkdgl dft kdfjgkg
 - a. er jlkdfig ih

PMO:

Analysis of Property Maintenance Ordinance V6 Table of Contents

March 1, 2012
Updated: March 15, 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 Applicability
- 7-01-001-0004 Permit Required
- 7-01-001-0005 Conflict of Ordinances
- 7-01-001-0006 Severability
- 7-01-001-0007 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 in 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 6-01-001-002I**
- 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