CITY OF FLAGSTAFF
STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: James B. Speed, Senior Assistant City Attorney
Date: March 2, 2012
Meeting Date: April 3, 2012: First Reading
April 17, 2012: Second Reading and Adoption

TITLE: Consideration of Ordinance No. 2012-04: An Ordinance Amending Title 6, Police Regulations, Chapter 6-01, General Offenses, by Repealing Section 6-01-001-0016, Search Lights Restricted.

RECOMMENDED ACTION:

April 3, 2012: Read Ordinance No. 2012-04 for the first time by title only.

April 17, 2012: Read Ordinance No. 2012-04 for the final time by title only.
Adopt the Ordinance.

ACTION SUMMARY:

Approving Ordinance No. 2012-04 will amend Title 6, Police Regulations, by repealing Chapter Section 6-01-001-0016, Search Lights Restricted, for the reason that the proscribed conduct is more clearly defined and succinctly stated in Section 10-50.70.070, Prohibited Outdoor Lighting, of the Flagstaff Zoning Code.

DISCUSSION:

Background/History:

At its April 15, 1958 Council Meeting, the Mayor and Common Council of Flagstaff adopted Ordinance No. 440, an ordinance prohibiting the use of "any incandescent and arc-type search light, beacon light or similar lighting device designed to and capable of projecting a beam of light into the sky for a distance of one half (1/2) mile." Remarkably, in the fifty-plus years of amendments, revisions and repeals the City Code has undergone, the currently codified version of this ordinance, Section 6-01-001-0016, Search Lights Restricted, is identical to that ordinance adopted in 1958.

At its November 1, 2011 Council Meeting, the Council of the City of Flagstaff adopted the "2011 Flagstaff Zoning Code". Among other provisions, the 2011 Zoning Code contains Division 10-50.70, Outdoor Lighting Standards, the purpose of which is to "minimize light pollution, glare and light trespass", 10-50.70.010(D)(1), and "curtail the degradation of the night time visual environment", 10-50.70.010(D)(3). In order to effectuate these purposes, Outdoor Lighting Standards contains a section enjoining certain outdoor lighting practices: Section 10-50.70.070, Prohibited Outdoor Lighting. It states
The following types of outdoor lighting are prohibited:

A. Outdoor floodlighting by flood light projection above the horizontal plane.
B. Search lights, flood lights, laser source lights, or any similar high intensity light, except in emergencies by police, fire, or medical personnel or at their direction; or for meteorological data gathering purposes.
C. Any lighting device located on the exterior of a building or on the inside of a window which is visible beyond the boundaries of the lot or parcel with intermittent fading, flashing, blinking, rotating or strobe light illumination.

As is readily apparent on comparing the two ordinances, the prohibitions contained in Prohibited Outdoor Lighting entirely encompass those found in Search Lights Restricted. But, as is also readily apparent, Prohibited Outdoor Lighting clarifies and strengthens the description of what conduct is prohibited. Such language assists the public and enforcement personnel in understanding exactly what conduct is prohibited and reduces the obstacles to prosecution. To take but one example, Search Lights Restricted requires that the search light in question be “designed and capable of projecting a beam of light into the sky for a distance of one half (1/2) mile.” It would be difficult for individuals seeking to remain in compliance, and police officers interested in making sure they do, to know whether their search lights are either designed or capable of projecting a beam one-half mile into the sky. In addition, as this provision is an element of the offense, City Prosecutors would need to prove to a City Magistrate the search light’s ability to project a beam one-half mile into the sky before a conviction could be obtained. In contrast, Prohibited Outdoor Lighting simply bans the use of “search lights, flood lights, laser source lights or any similar high intensity light.” Such language is more precise, easier to understand by both the public, enforcement personnel and Prosecutors, and, ultimately, more effective in addressing conduct this City Council has previously expressed a desire to prohibit.

Key Considerations:

A search of the Flagstaff Police Department’s database reveals that no citation for a violation of Section 6-01-001-0016, Search Lights Restricted, has been issued since the advent of their modern record keeping system.

The Police Department has reviewed this Ordinance and is in favor of repealing F.C.C. 6-01-001-0016.

The Zoning Code Administrator has reviewed this Ordinance and is in favor of repealing F.C.C. 6-01-001-0016.

This ordinance is put forward as part of an ongoing effort by the City Attorney’s Office to remove or update those archaic, obsolete and ineffective ordinances currently found within the Flagstaff City Code. To date, this effort has resulted in the repeal of forty-three obsolete ordinances.
Community Benefits and Considerations:

Removing superfluous sections from the Flagstaff City Code results in a clearer, more accessible code.

Community Involvement:

The proposed Ordinance and Staff Summary will be posted in accordance with law, and interested persons are invited to comment at the City Council meetings at which the Ordinance will be under consideration.

Financial Implications:

A first offense for violating Section 10-50.70.070 constitutes a civil offense with no maximum fine and a minimum $100.00 fine, plus surcharges and assessments, while individuals who violate F.C.C. 6-01-001-0016 are guilty of a class 1 misdemeanor. A class 1 misdemeanor’s maximum fine is $2500.00 plus surcharges and assessments. As City Magistrates are capable of imposing a sentence that can equal the fine for a class 1 misdemeanor, there is no financial implication to the City in adopting Ordinance No. 2012-04.

Options and Alternatives:

Do not adopt Ordinance No. 2012-04

Attachments/Exhibits:

Ordinance No. 2012-04

________________________

Department Head (Acknowledgment that all reviews have been completed and required approvals initialed below.)

<table>
<thead>
<tr>
<th>INITIALS</th>
<th>RESPONSIBILITY</th>
<th>DATE</th>
<th>INITIALS</th>
<th>RESPONSIBILITY</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>BIDS/PURCHASES</td>
<td></td>
<td></td>
<td>FINANCE/BUDGET</td>
<td></td>
</tr>
<tr>
<td></td>
<td>GRANTS</td>
<td></td>
<td></td>
<td>CONTRACTS</td>
<td></td>
</tr>
<tr>
<td></td>
<td>LEGAL</td>
<td></td>
<td></td>
<td>IGAS</td>
<td></td>
</tr>
</tbody>
</table>

DATE OF COUNCIL APPROVAL: ___________________________
ORDINANCE NO. 2012-04

AN ORDINANCE AMENDING TITLE 6, POLICE REGULATIONS, CHAPTER 6-01, GENERAL OFFENSES, BY REPEALING SECTION 6-01-001-0016, SEARCH LIGHTS RESTRICTED; AND RESERVING THE SAME FOR FUTURE USE.

WHEREAS, on April 15, 1958 the Mayor and Common Council of the City of Flagstaff adopted Ordinance No. 440, an ordinance prohibiting the use of incandescent and arc-type search lights within the City limits, currently codified as Flagstaff City Code Section 6-01-001-0016, Search Lights Restricted; and

WHEREAS, on November 1, 2011 the Council of the City of Flagstaff adopted the “2011 Flagstaff Zoning Code”, one element of which is Section 10-50.70.070, Prohibited Outdoor Lighting, which prohibits the use of searchlights, floodlights and laser source lights; and

WHEREAS, as Section 10-50.70.070, Prohibited Outdoor Lighting, provides a more effective and efficient means of prohibiting the use of searchlights within the City than Section 6-01-011-0016, Search Lights Restricted, appeal is appropriate;

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

SECTION 1. Section 6-01-001-0016, SEARCH LIGHTS RESTRICTED, is hereby repealed.

SECTION 2. Section 6-01-011-0016 is reserved for future use.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this ________ day of __________________________, 2012.

______________________________________
MAYOR

ATTEST:

______________________________________
CITY CLERK
APPROVED AS TO FORM:

CITY ATTORNEY