

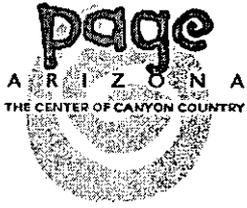
Section 3-5-5 Lease of City Property

The Council may lease any land or buildings now or hereafter owned by the City of Page on such terms and conditions, including an option to purchase, as the Council may prescribe by public auction, sealed bids or negotiation. All leases made pursuant to public auction or sealed bids shall be made to the highest responsible bidder at the highest rental bid, after notice thereof in accordance with Section 3-5-2(B) herein, stating explicitly the time and conditions of the proposed lease. The Council may, in its discretion, reject any and all bids.

All leases made pursuant to negotiation shall be approved by resolution of the Council. Prior to the approval and execution of such a lease, the Council shall publish in a paper of general circulation in the City of Page, a Notice of Intent to Lease City Property once each week for three (3) consecutive weeks if in a weekly paper, with not less than thirteen (13) days intervening between the first and last publication and if in a daily paper, six (6) consecutive times. The City Clerk shall also post a copy of the notice in at least three (3) public places in the City. The notice shall, at a minimum, contain the names of the parties to the proposed lease, a general and legal description of the property to be leased, the proposed use of the property, the term of the lease, and the rental amount of the proposed lease.

In the event the City receives a written objection to the award of a negotiated lease, within fifteen (15) days from the first date of the publication, the lease shall not be approved and may only be awarded after public auction or sealed bids. All notices of intent to lease shall contain the information regarding written objections and the manner therefore.

[Amended Ord. 183-87]



COMMUNITY DEVELOPMENT DEPARTMENT MEMORANDUM

MEETING DATE: September 23, 2015

TO: Mayor and City Council

FROM: Kimberly Johnson, Community Development Director

SUBJECT: Code Compliance Program

ATTACHMENTS: None

INTRODUCTION

At the July 8, 2015 work session, the City Council discussed a code compliance program for the City of Page. It was the consensus of the Council that the enforcement provisions of Chapter 9 of the Page Code of Ordinances are adequate, and that there is no need for staff to pursue the International Property Maintenance Code (IPMC). It was further the consensus of the Council that the City should establish a proactive approach to code enforcement, and that staff should move forward with staffing the program. There was no clear consensus regarding process for identifying violations or additional code provisions necessary to shore up existing nuisance items in code

The position of Community Enhancement Technician has recently been posted. Staff is reviewing software options for program management.

As noted in the July 8 work session memorandum, Chapters 9 and 10 are the Nuisance and Offenses sections of code that address the bulk of the issues related to the Code Enforcement program. In addition, the City of Page Zoning Ordinance addresses some related land use issues such as signage and parking.

The Community Development Department has worked with the Page Police Department to identify which nuisances and offences will be administered by which department. In general Chapter 9, Nuisances will be administered by Community Development and Chapter 10 Offenses will be administered by Police. Staff is recommending moving some items from one chapter to the other in this regard. It is the intent of both departments to work together to gain code compliance related to Nuisances and Offenses.

It should be noted that Chapter 9 has different Enforcement provisions than Chapter 10. Staff has included the **Chapter 9 enforcement provisions in this memorandum.**

Because this is a long memorandum with a lot of detailed information, Staff has highlighted recommendations and requests for direction in ***Bold and Italics*** for the Council's convenience.

CITY OF PAGE CURRENT CODE OF ORDINANCES

Staff has conducted a detailed review of the Page Code of Ordinances and has compared them to similar ordinances in other communities, such as Kanab, Sedona, and Flagstaff. The following issues have been identified:

General Nuisance Definition

This is a general, all encompassing statement found in most community's codes. The City of Page's definition is broad, but vague. **Staff recommends enhancing the definition as in the language in the Kanab and Sedona codes as follows:**

Any condition defined as or deemed to be a nuisance or hazard to the public health, safety, or welfare, or anything which is indecent or offensive to the senses, or which interferes with the comfortable enjoyment of life or property.

Attractive Nuisance

Current Code has no provisions related to Attractive Nuisance. **Staff recommends adding Attractive Nuisance this as a listed nuisance with language as follows:**

Any attractive nuisance, dangerous to children and other persons including, but not limited to, abandoned, broken, or neglected household appliances, equipment and machinery, abandoned foundations or excavations, or improperly maintained or secured pools.

Electric Fences

Staff recommends moving the provisions in this regard from Chapter 10 to Chapter 9, and adding language to the new zoning code when it is drafted.

Garbage/Trash/Litter

Prior to the 2012 Chapter 9 code amendment, the code addressed the following issues:

- Location of individual garbage container pick up-at the curb
- Storage of individual garbage containers-not closer than the front building line of the residence (the intent is that the containers would not be allowed in front of the principal structure)
- Timeframe allowed for containers to be curb-side-set out after 6:00 p.m. the night before scheduled pick up, and removed prior to 7:00 p.m. the day of pick up (as soon as practical)

Staff believes the lack of regulations related to refuse container storage and timeframe for curbside set out has lead to property owners leaving cans at the curb or near the sidewalk for extended durations, in some cases, permanently (corner of 4th Ave and Elm). **Staff recommends that language related to Garbage/Trash/Recycling be enhanced to include provisions related to storage of trash and recycling containers and timing of put out and take in of such containers.**

The current Zoning Code requires that trash handling areas for multi-family residential uses, Manufactured housing/RV Parks, and uses in the Central Business, General Commercial, and Business Park districts to be completely enclosed via a solid 6' tall wall and view obstructing gate, to be located on a concrete surface. There are no trash handling area provisions for the Service Commercial or Industrial Districts.

Staff recommends that at a minimum, the same trash handling area provisions be included for the Service Commercial district, and some level of provisions be added for the Industrial district.

Graffiti

Both Chapter 9 and 10 have language regarding Graffiti, with Chapter 9 just making mention of it as a nuisance. Based on state statutes related to Graffiti and the implications of extensive damage to property impacts, ***it is recommended that authority be left in the hands of Police in Chapter 10, and removed from Chapter 9.***

Outdoor Storage and Recreational Vehicles/Boats/Personal Watercraft/Trailers Storage and Parking

Current City Code requires screening of outdoor storage from adjacent properties and streets, which is good.

The language related to parking/storage of manufactured homes, recreation vehicles, utility trailers, boats, boat trailers, or personal watercraft is conflicting between the outdoor storage section and the parking section of code. In one section it says they may be stored in a front yard of a residence if on a paved or concrete surface. In another section it says they may not be stored or parked in a front yard. Further, it is not clear if such storage is exempt from screening.

Flagstaff and Sedona allow parking/storage only in the side or rear yard. Flagstaff also requires that the required minimum parking for the residential use be maintained, as would most codes.

Staff recommends that the code be amended to clarify where this type of parking/storage is allowed, and is seeking direction as to how the City Council would like to regulate it.

Refrigerators/Appliances

The language in current code is adequate to address abandoned appliances; however, it is located in both Chapter 9 and 10. ***Staff recommends deleting language in Chapter 10.***

Unsightly Premises

Sedona has broad language in this regard as follows:

Every person owning/managing/having charge, control or occupancy of a property shall not allow property visible from the street or adjoining premises to become so unsightly/untidy as to substantially detract from the appearance of the immediate neighborhood or threaten the safety and welfare of the immediate neighborhood.

Staff recommends this language be added to the Code.

Vegetation

City Code currently establishes a height of 8" for weeds or grass as a nuisance, and goes on to address dead, dormant, sticker, and dry/flammable plant growth or weeds. There is also some language regarding trees, shrubs, and plant growth in general that impacts public right of way or traffic control devices.

There is no language related to noxious weeds or vegetation that does or could harbor rats or other vermin, and no language exempting properly maintained compost bins. ***Staff recommends such language be added, as provide in Kanab and Sedona's codes.***

Vehicle Parking/Storage

City Zoning Codes prohibit parking on unimproved, vacant, or open land. Code also regulates the minimum number of parking stalls required for all land uses.

Standards that apply to one- and two-family residential properties are minimal and include that parking areas must be paved or concrete, and junk or inoperable vehicles cannot be located outside for more than 14 days unless it is not visible at the lot boundary (fence, building).

There are no provisions that regulate the maximum number of vehicles allowed on a residential property, and there are no provisions that regulate where on a one and two-family residential lot the parking can be located. Note there is conflicting language in code related to parking/storage of recreational vehicles, boats, etc. in a front yard.

It is common for communities to limit the number of passenger vehicles that can park or be stored outside on a residential property and to disallow parking or storage in the front or corner-side yard in front of the living space of the home. In the cities used for comparison, however, none regulated the number of passenger vehicles allowed on a property, except inoperable and recreational vehicles, both of which were typically limited to one each.

Staff recommends that parking in the front yard be limited to legal driveways with approved surfaces and that no parking stalls be allowed in front of the living space of a home. The one exception to this provision would be in a case where there is no garage and no car port on the property (in the case where a garage or carport has been converted to living space. In this case staff would recommend language to limit the extent to which parking can occur in front of the living area of the home.

Staff would like direction from the City Council regarding the recommended code changes above.

CODE ENFORCEMENT PROGRAM AND APPROACH

At the July work session, the consensus of the City Council was to establish a proactive program for Code Enforcement. The approach is more time, labor, and resource intense as it establishes a process for systematic inspection of all or targeted properties within the community to determine code violations and attain compliance. There are a variety of ways a proactive program can be set up to address community needs while working within staffing confines.

For a proactive program, ***staff recommends one of the following approaches be implemented:***

- Divide the community into sections and systematically inspecting each property and enforcing the codes section by section, taking one section over a specific time period, such as one section per year or season;
- Target specific property types/land uses and systematically inspect and enforce the codes on each property;

- Establishing a priority list of violation types and systematically inspecting all properties in the community and enforcing the applicable codes. This approach may need to involve dividing the community into manageable sections each of which is handled over a specific time period, as in the first approach above.

Staff would like direction from the City Council regarding the preferred proactive approach.

It should be noted that complaints would still be acted on regardless of the procedure implemented above.

CHAPTER 9, NUISANCE ENFORCEMENT PROCESS

Current City Code provides the following enforcement process for nuisance violations (Chapter 9):

Section 9-1-3 Enforcement Authority

- A. The City of Page Community Resource Officer, in coordination and cooperation with such other designated city officials, is hereby authorized and directed to enforce all provisions of this article.
- B. In enforcing this article, the City Community Resource Officer, peace officer, or other designated city official, may take one (1) or more of the following actions by first utilizing the least punitive action and progressing to more severe actions only as necessary for compliance.
 - 1. Informal intervention with the responsible party.
 - 2. Where the violation is on public property, such as noncompliant posting of signs in a public right-of-way, take summary action to remove the violation and, where possible, serve notice of the action or written warning, issue a Civil or Criminal Citation.
 - 3. Issue a Notice and Order to Abate to the responsible party in accordance with the procedures set forth in this article.
 - 4. Issue a Criminal or Civil Citation to the responsible party in accordance with the procedures set forth in this article.
 - 5. In the case of an imminent hazard or a building or structure which is unfit for human habitation, with the concurrence and approval of the City Manager, take emergency remedial action or issue an order to vacate the premises in accordance with the procedures set forth in this article.
- C. The authority of the City Community Resource Officer to enforce the provisions of this article is independent of and complementary to the authority of other designated city officials to enforce the provisions of any other statute, code or regulation. The remedies provided for in this article are cumulative and in addition to any other remedies established by law, and this article shall not be interpreted as limiting the penalties, actions or abatement procedures which may be taken by the City or other officials under other laws, ordinances, or rules. In addition to review and adoption of existing and new codes, the City Council has asked that a Code Enforcement program be established and implemented. A new program with the intent of actively enforcing

new and/or existing codes will require personnel to support and maintain that program. There are three primary approaches to code enforcement; proactive, reactive, and inactive. A proactive approach establishes a process for seeking out and correcting code violations, while a reactive approach establishes a complaint based system for identifying and correcting violations. An inactive approach provides for code enforcement on a low priority basis, as time allows, based on work load and other higher priorities. The system of code enforcement historically used in Page is the inactive approach.

Section 9-1-6 Penalties

Penalties for violations of this article shall be pursuant to the Page City Code Section 1-8. In addition and concurrently, the City may employ all other enforcement remedies, and impose all other sanctions, available to it under this article or as otherwise provided by law. Each day in which a violation of this article continues or the responsible party fails to perform any act or duty required by this article or by a Notice and Order to Abate shall constitute a separate criminal or civil offense.

Section 9-1-7 Withholding of Permits

From the date a Notice and Order to Abate expires without compliance by the responsible party until the nuisance is abated or the City's costs of abatement are reimbursed (whichever occurs later), the City may withhold or suspend any permit or approval of any alteration, repair, or construction of any existing or new structure or sign on the property, as well as any permit or approval pertaining to the use or development of the property; provided, however, that no permit or approval necessary to correct the nuisance conditions shall be withheld.

Section 9-1-8 Enforcement

After appropriate or necessary investigation, documentation and inspection, the City Community Resource Officer, a Peace Officer, or other designated city official may take, in compliance with Section

9-1-3(B), one (1) or more of the following actions:

- A. Informal verbal or written notice to abate
- B. Informal mediation or intervention with the responsible party.
- C. Summary action to remove the violation, followed by appropriate notice, warning or enforcement action.
- D. Issue a Formal Notice and Order to Abate.
- E. Issue a Criminal or Civil Citation with notice to appear
- F. Take emergency action for abatement or vacation of premises.

Subsection 9-1-8.1 Informal Mediation or Intervention and Summary Action

- A. Informal mediation or intervention. Whenever in the judgment of the City Community Resource Officer, or other designated official, action short of formal citation or Notice and Order to Abate is likely to achieve satisfactory and timely compliance, informal intervention, including written and verbal communication providing up to fourteen (14) days in which to remedy the violation(s), may be used.
- B. Summary action. Where obvious and elemental violations occur and entry onto private property is not necessary to enforcement, e.g., in the case of illegal posting of advertising in public rights-of-way, the City Community Resource Officer, or other designated official, may remove or summarily abate the violation. In such cases, evidence of the violation shall be forwarded to the

City Code Enforcement Officer, or other appropriate official for identification of the responsible party and follow-up enforcement.

Subsection 9-1-8.2 Abatement

A. Administrative Abatement.

1. Abatement commenced pursuant to A.R.S. Section 9-499 (as amended) shall be known as an Administrative Abatement. The purpose of an Administrative Abatement is to compel the person or responsible party of the property, to remove rubbish, trash, weeds or other accumulation of filth, debris or dilapidated structures which constitute a hazard to public health and safety from buildings, grounds, lots, contiguous sidewalks, streets and alleys of the City. Notice of Abatement shall be given in accordance with the procedures set forth in this chapter and only after informal mediation or intervention has failed to remedy the violation.
2. Notice to Abate. If the City Community Resource Officer, or other designated official, determines that a violation of this article has occurred, he or she shall advise the responsible party by written notice and order to comply that the violation must be corrected and removed from the property. The notice shall be given to the responsible party not less than thirty (30) days before the date set for compliance if the violation is to be abated by administrative procedure pursuant to A.R.S. Section 9-499 (as amended). If the property owner is not the defendant or responsible party named in the action, notice shall also be given to the owner in accordance with the procedures set forth in this chapter. The notice shall include:
 - a. A legal description of the premises, street address, tax parcel number, and a summary of violations known to exist together with the code section references.
 - b. A detailed description of the condition(s) constituting the violation(s) along with legal citation(s) of applicable code, statutory or regulatory provision(s).
 - c. Re-inspection date, if any.
 - d. The estimated cost of abatement together with costs of additional inspections and other incidental connected costs.
 - e. A Description of the Appeal Process. Pursuant to A.R.S. Section 9-499 (as amended), the responsible party may appeal both the notice and the assessments by requesting a hearing before the City Council within the time set for compliance. If no timely appeal is made, or the City Council affirms the abatement, the City may remove, abate, enjoin or cause the removal of the violation after the compliance time has elapsed.
 - f. Name, business address, and business phone number of the City Community Resource Officer and/or other city official who issued the notice.
3. The costs for abatement, plus associated legal costs, shall be recorded as an assessment on the property and collected as provided in A.R.S. Section 9-499 (as amended), including commencing a sale of the property and judgment of foreclosure in Superior Court. A prior assessment under the statute shall not be a bar to subsequent assessments, and any number of assessments on the same lot or tract of land may be enforced in the same action.
4. Service of the Notice to Abate shall be deemed complete on the date it is hand delivered or mailed certified mail, return receipt requested, addressed to the property owner or responsible party. If personal service or mailed service is not practicable, service of notice also shall be deemed effective upon notification through a one-time public notice published

in a newspaper of general circulation within the City and by posting a duplicate notice on the property for a period of thirty (30) days. Nothing herein shall preclude the City from giving additional verbal or written notice at its discretion.

5. Notice pursuant to Subsection 9-1-8.1(A) shall occur prior to commencement of other enforcement proceedings, including civil or criminal proceedings. Abatement will not preclude also seeking civil or criminal enforcement actions.
6. Statement of account. When the City has undertaken action to abate the nuisance, the City Community Resource Officer, or other authorized official, shall prepare a verified statement of the actual costs of abatement, including an administration charge of five (5) percent and serve said statement in accordance with the procedures as set forth within this chapter.
7. Recording of violation and/or lien of assessment. The Notice to Abate and statement of account and any assessment lien recorded by the City shall run with the land. The City, at its sole discretion, may record a Notice and Order to Abate or a statement of account with the Coconino County Recorder and thereby cause compliance by an entity thereafter acquiring such property. When the property is brought into compliance, a Satisfaction of Notice to Abate shall be recorded with the Coconino County Recorder. When an assessment lien is paid off, a satisfaction of the lien shall be recorded.

B. Court Ordered Abatement.

1. In addition to any other abatement procedure provided in this chapter, in accordance with A.R.S. Section 9-500.21 the City Manager or designee, or the City Attorney's office, may apply to the Municipal Court for an order permitting the City to abate any condition that constitutes a violation of this Public Nuisance Code.
2. After notice to the owner and any responsible party, the Judge or court hearing officer shall conduct a hearing. The hearing shall be informal and open to the public. Evidence may be taken from any interested party and considered in determining whether a condition in violation of the public nuisance ordinance exists and what, if any, abatement action should be permitted. Any person who fails to appear after notice of the hearing may be deemed to have waived any right to introduce evidence. The court's determination shall be based on the preponderance of evidence.
3. If the City seeks court-ordered abatement as a remedy in addition to any sanction, penalty, incarceration, restitution, or fine, it shall assess the abatement costs as set forth in this chapter and/or those established in the judgment and sentence. The court may allow an appropriate time for compliance and abatement by the responsible party, but compliance will not preclude the City from requesting criminal penalties depending on how the violators were charged. Failure by the defendant or responsible party to comply with abatement will result in the filing of an assessment lien on the property, as described in A.R.S. Section 9-499 (as amended), and may also subject the party to additional criminal citations for interference with judicial proceedings under A.R.S. Section 13-2810 (as amended).
4. Appeal of Court Decision. Any party may appeal the judgment of the court to the Superior Court. Appeals from civil proceedings shall be in accordance with the Superior Court Rule of Appellate Procedure – Civil. Execution of any judgment shall be stayed pending appeal.

Subsection 9-1-8.3 Civil and Criminal Enforcement

- A. Authority to issue Civil and Criminal Citations. The City Community Resource Officer, any peace officer and any other city official authorized by the City Manager may issue a citation pursuant to this article.
- B. Civil or criminal enforcement in the Page Magistrate Court may be commenced by the issuance and filing with the court a Uniform Arizona Traffic Ticket Complaint form.
- C. Long form complaint. Any prosecutor, City Community Resource Officer, peace officer and any other city official authorized by the City Manager may file a long form complaint with the Page Magistrate Court in accordance with the Arizona Rules of Criminal Procedure.

Subsection 9-1-8.4 Emergency Abatement; Vacation of Premises

- A. Imminent hazard. If a situation presents an imminent hazard to life or public safety or immediate likelihood of physical harm, the City Manager may approve an Emergency Notice and Order to Take Immediate Action as is appropriate to correct or abate the condition. In addition, or instead, the City Manager may approve immediate action on the part of city officials to summarily and unilaterally correct or abate the condition or authorize the commencement of an action in Superior Court to enjoin the responsible party to abate the imminent hazard. The inability of city officials to find or contact the responsible party, despite reasonable efforts to do so, in no way affects the City's right or obligation under this section to summarily and unilaterally correct or abate the condition.
- B. Costs of emergency abatement. The City may recover its costs incurred in abating an imminent hazard under this section in the same manner and with the same procedures provided for in section 9-4-8.2 of this article.
- C. Notice and appeal. The notice and appeal provisions of this section do not apply to emergency abatement, except that the owner or occupant or other responsible party shall be served with and have the right to appeal any statement of account for costs of abatement as set forth in section 9-4-8.2 of this article.
- D. Vacation of Premises.
 - 1. Unfit for human habitation; declaration and Order to Vacate. In the case where a building or structure which is determined to be unfit for human habitation as defined by applicable building, health and safety codes, statutes or regulations as defined in this article or any other applicable code, statute or regulation, the City Manager is authorized to approve the issuance of a Declaration and Order to Vacate the Premises. The declaration and order shall be in essentially the same form as a Notice and Order to Abate.
 - 2. Notice. Service of the declaration shall be complete upon delivery to the occupant, posting in an obvious and conspicuous place on the premises and upon mailing by certified mail, return receipt requested to the owner at his or her last known address. The Order to Vacate shall not take effect until the time for appeal under this section has lapsed.
 - 3. Appeal and stay. The occupant or owner of the property may appeal the Declaration and Order to Vacate to the Page Magistrate Court by delivering to the court clerk a written statement of appeal within five (5) days after service is complete. Timely delivery of a written statement of appeal operates as a stay on the Order to Vacate until the appeal can be heard. The appeal shall be heard and a determination made by the City Magistrate or hearing officer within five (5) days.

4. Violation; removal of posting. Once a building or structure has been declared unfit for human habitation, it shall be a violation of this article to remove the posted notice unless and until it has been determined by the City that the conditions warranting the posting have been abated or the City Magistrate or hearing officer has ruled in favor of the responsible party on appeal.
5. Reoccupancy. Once a building has become unoccupied as the result of a notice and order to vacate under this section, it shall remain unoccupied until reinspected and approved for occupancy by the City. The City shall reinspect within two (2) business days of the receipt of a written request by the owner or responsible party.

REQUESTED COUNCIL DIRECTION

Staff would like to hear from the Council its primary concerns and issues related to code enforcement as well as have a discussion of the type of proactive code enforcement approach that would be best for the City of Page and its citizens.