

WORK SESSION AGENDA

**CITY COUNCIL WORK SESSION
TUESDAY
FEBRUARY 28, 2017**

**COUNCIL CHAMBERS
211 WEST ASPEN AVENUE
6:00 P.M.**

1. Call to Order

NOTICE OF OPTION TO RECESS INTO EXECUTIVE SESSION

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that, at this work session, the City Council may vote to go into executive session, which will not be open to the public, for legal advice and discussion with the City's attorneys for legal advice on any item listed on the following agenda, pursuant to A.R.S. §38-431.03(A)(3).

2. Pledge of Allegiance and Mission Statement

MISSION STATEMENT

The mission of the City of Flagstaff is to protect and enhance the quality of life for all.

3. Roll Call

NOTE: One or more Councilmembers may be in attendance telephonically or by other technological means.

MAYOR EVANS
VICE MAYOR WHELAN
COUNCILMEMBER BAROTZ
COUNCILMEMBER MCCARTHY

COUNCILMEMBER ODEGAARD
COUNCILMEMBER OVERTON
COUNCILMEMBER PUTZOVA

4. Preliminary Review of Draft Agenda for the March 7, 2017, City Council Meeting.*

** Public comment on draft agenda items may be taken under "Review of Draft Agenda Items" later in the meeting, at the discretion of the Mayor. Citizens wishing to speak on agenda items not specifically called out by the City Council for discussion under the second Review section may submit a speaker card for their items of interest to the recording clerk.*

5. Public Participation

Public Participation enables the public to address the council about items that are not on the prepared agenda. Public Participation appears on the agenda twice, at the beginning and at the end of the work session. You may speak at one or the other, but not both. Anyone wishing to comment at the meeting is asked to fill out a speaker card and submit it to the recording clerk. When the item comes up on the agenda, your name will be called. You may address the Council up to three times throughout the meeting, including comments made during Public Participation. Please limit your remarks to three minutes per item to allow everyone to have an opportunity to speak. At the discretion of the Chair, ten or more persons present at the meeting and wishing to speak may appoint a representative who may have no more than fifteen minutes to speak.

6. **Discussion and Direction on Reclaimed Water Rates and the Use of Reclaimed Water for Non-recreational Purposes.**
7. **Consideration of Tiered Rates for Non-Residential Potable Water Customers.**
8. **Discussion of "Ban the Box" - Fair Chance for Workers With Records.**
9. **Discussion of Reaffirmation of City's resolutions speaking to Flagstaff's commitment to diversity, community, and fairness.**
10. **Discussion re Current Issues Before Arizona Legislature and Federal Issues.**
11. **Review of Draft Agenda Items for the March 7, 2017, City Council Meeting.***
** Public comment on draft agenda items will be taken at this time, at the discretion of the Mayor.*
12. **Public Participation**
13. **Informational Items To/From Mayor, Council, and City Manager; future agenda item requests.**
14. **Adjournment**

CERTIFICATE OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at Flagstaff City Hall on _____, at _____ a.m./p.m. in accordance with the statement filed by the City Council with the City Clerk.

Dated this _____ day of _____, 2017.

Elizabeth A. Burke, MMC, City Clerk

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Ryan Roberts, Utilities Engineering Manager
Co-Submitter: Brad Hill, Utilities Director
Date: 02/06/2017
Meeting Date: 02/28/2017



TITLE:

Discussion and Direction on Reclaimed Water Rates and the Use of Reclaimed Water for Non-recreational Purposes.

DESIRED OUTCOME:

Provide direction to Utilities staff on what objectives, informational outcomes and financial policies should be included in any proposed changes to reclaimed water rates. Provide direction to staff on the use of reclaimed water for non-recreational purposes.

EXECUTIVE SUMMARY:

The reclaimed water rate discussion was separated from the water, wastewater & stormwater rate approval process last year in order to better focus on this topic. Staff brought reclaimed water rates back for City Council's consideration on October 11, 2016. At that meeting, Council gave general direction that they would like to raise reclaimed water rates and at a different rate than the 3% annual increase recommended by the Water Commission. Staff would like to discuss options on how Council may raise reclaimed water rates (e.g., either via policy or cost of service study) and obtain direction on a path forward.

City Council would like to discuss non-recreational uses of reclaimed water. Utilities has not added any new summer-time reclaimed water customers since 2012 in order to focus on providing existing customers with a more reliable service. Once specific reclaimed water system capital projects are completed in 2018, Utilities is anticipating that there will be some additional reclaimed water available to allocate to new customers during the peak summer months. Staff will present the "waiting list" of new customers that have contacted the City for future service and obtain direction and feedback on how Council would like to proceed.

INFORMATION:

In the recent past, the City's reclaimed water rates have been set by policy rather than a cost of service study (e.g., a percentage of potable rates). In 2002, the reclaimed water rates were set to be 35% of the highest potable water rate customer in an effort to promote the use of reclaimed water with the exception of Off-Peak/High Volume Users which were set at a specific declining block rate. The policy of setting reclaimed water rates as a percentage of potable rates has been carried forward through today with the exception of Off-Peak/High Volume Users where the declining block rate was phased out from a 4-tiered rate structure to a 2-tiered rate structure between 2010 and 2015.

Council also requested more information on potential future reclaimed water capital improvement projects. Attached is a copy of the Reclaimed Water Enterprise Fund's existing 10-year capital

improvement program (CIP) and proposed new CIP projects.

Below are several policies for Council to consider;

1. Council may decide to increase the cost of reclaimed water by adopting a new policy for rates based on a higher percentage of potable water rates.
2. Council may decide to increase reclaimed water revenues by raising rates to include an additional portion of wastewater treatment expenses. This action will increase the cost to the reclaimed water enterprise fund by shifting costs normally borne by the wastewater customers to the existing reclaimed water customers. This action will require a cost of service study to be performed by an outside financial consultant.
3. If rates are increased, additional revenues may be used to complete additional CIP or implement other new reclaimed water programs, such as:
 - Extension of Reclaim Water pipelines to serve new customers.
 - Conduct an Advanced Water Treatment Feasibility Study for reclaimed water to determine the feasibility and costs associated with indirect (groundwater augmentation) or direct potable reuse. This would include developing water quality goals for reclaimed water beyond existing regulatory requirements, identifying treatment processes to achieve those water quality goals, developing a conceptual design and associated construction costs.
 - Looping the reclaimed water distribution system for improved system pressures and increased customer service reliability.
 - Provide financial incentives to potential expand to new customers.

Below are the Council goals that this item supports;

COUNCIL GOALS:

- 1) Ensure Flagstaff has a long-term water supply for current and future needs
- 3) Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics
- 8) Improve effectiveness of notification, communication, and engagement with residents, neighborhoods and businesses and about City services, programs, policies, projects and developments

The Flagstaff Regional Plan 2030 supports the update and adjustment to City utility rates with the following goals: Policies are only included where needed to clarify a goal.

Goal WR.2 Manage a coordinated system of water, wastewater and reclaimed water utility service facilities and resources at the City level and identify funding to pay for new resources.

Goal WR.4 logically enhance and extend the City's public water, wastewater and reclaimed water utility services including their treatment, distribution and collection systems in both urbanized and newly developed areas of the City to provide an efficient delivery of services.

Goal U.7 Provide for public services and infrastructure.

Goal LU.8 balance future growth with available water resources.

Goal CD.1 Improve the City and County financial systems to provide for needed infrastructure development and rehabilitation, including maintenance and enhancement of existing infrastructure.

Goal PF.2 Provide sustainable and equitable public facilities services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics.

Attachments: 10 year CIP Program
 Presentation

**Rate Study Funding
10-Year
Capital Improvement
Projects**

Table A-1: Existing Reclaimed Water Capital Improvement Program

ID #	Project		Total
1	Bushmaster Park RW Pump Station	\$	710,000
2	Reclaim System Improvement-Design	\$	100,000
3	Reclaim System Improvement-8" Bottleneck	\$	1,600,000
4	Juniper Point 1400 ft. of 12" diameter RW pipeline	\$	210,000
5	Juniper Point Loop 2nd Connection 2000 ft. 12" diameter RW pipeline	\$	310,000
6	Rate Study-Reclaimed Portion	\$	7,000
7	Master Plan-Reclaimed Portion	\$	50,000
8	Advanced Water Treatment Study	\$	100,000
Total Reclaimed Projects included in Existing Budget		\$	3,087,000

Table A-2: Possible Additional Reclaimed Water Capital Improvement Projects

ID #	Project		Total
1	Reclaim Storage Tank-2 MG	\$	2,600,000
2	Reclaim water Line Loop-Continental Phase 1	\$	1,700,000
3	Reclaim water Line Loop-Continental Phase 2	\$	2,400,000
4	Advanced Water Treatment Design and Construction		??
TOTAL		\$	6,700,000



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Reclaimed Water Rates Policy direction and Non-Recreational use of Reclaimed Water

City Council Work Session
February 28, 2017





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Quick Review

- February 2016, reclaimed water rate discussion was separated out to provide for more specific focus
- Fund separated from Wastewater in FY15 & FY16.
- Revenues & Expenses ~ **\$1.1 million/year**
- Current rates support CIP at ~\$443,000 per year in 5-Year Plan
- 5-Year average expenses for delivering ~2,100 AF/year (or 680 MG/year) is \$1.62 per 1000 gallons.





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Quick Review

- Since 1993, Reclaim water rates have been set by policy rather than a cost of service study (75%).
- 2002 Policy established Reclaim Water rates set to 35% of highest potable water rate customer.
- 2010 Council voted to increase reclaimed rates and modify Off-Peak High volume users (Golf Courses) to 2 tier rate structure and phased out declining block rate structure.





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Quick Review

- In October 2016 Council gave direction to staff that they did not want to keep the current rates
- Council also wanted to increase rates different than the water commission recommendation of 3%.





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Several Options for Council to Consider

Option #1: Increase Reclaimed Rates by adopting new policy based on higher percentage of potable (e.g. 40%,50%)

Option #2: Increase Reclaimed Rates to include additional portion of wastewater treatment expenses via a specific study





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Option 1 -Comparisons

Option #1: Reclaimed Rates increased by adopting new policy based on higher percentage of potable

Comparisons

- Phoenix 80%
- Tucson 55%
- Oro Valley 85%
- Flagstaff ~35%

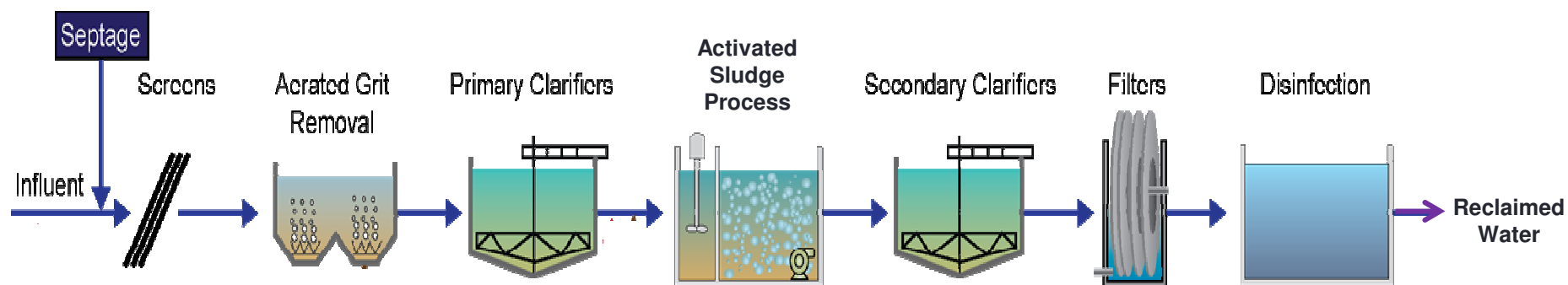




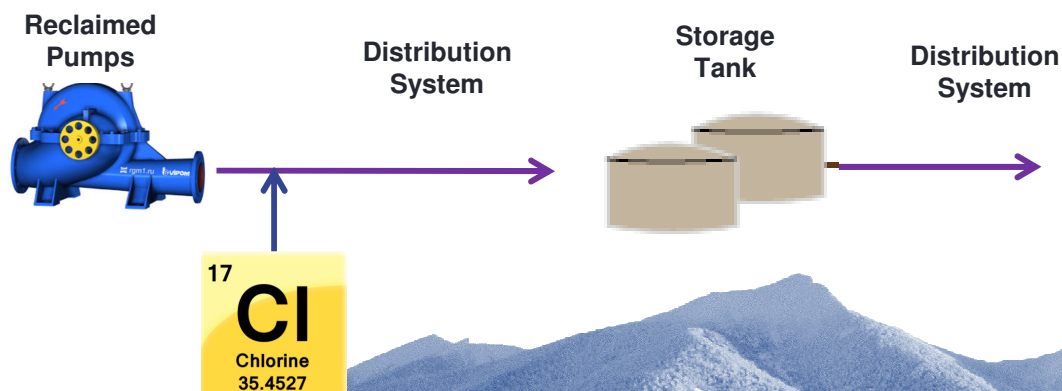
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Option 2 Treatment Process Expenses



Wastewater Customers
Reclaimed Customers





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Current budgeted 5-Year Capital Improvement Program

Wastewater CIP:	Actual	Budget	Estimate	Budget				
Reclaim CIP Section	2015-2016	2016-2017	2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022
Buffalo Tank Chlorination	33,389	105,720	4,407	-	-		-	-
Juniper Point 12" Reclaim Line Connection		-			-			
Rate Study- Reclaimed Portion		-			-		-	7,000
Sewer/Reclaim Master Plan		-			-		50,000	-
8" Bottleneck Reclaimed Line Replacement				100,000	300,000	400,000	250,000	300,000
Advanced Treatment Concept Design & Public Outreach				100,000				
Bushmater Park Reclaimed Pump Station		-		710,000	-	-	-	-
	33,389	105,720	4,407	910,000	300,000	400,000	300,000	307,000
Total Reclaim Water	33,389	105,720	4,407	910,000	300,000	400,000	300,000	307,000





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If Rates are increased Additional Capital Projects

Table A-2: Possible Additional Reclaimed Water Capital Improvement Projects

ID #	Project	Total
1	Reclaim Storage Tank-2 MG	\$ 2,600,000
2	Reclaim water Line Loop-Continental Phase 1	\$ 1,700,000
3	Reclaim water Line Loop-Continental Phase 2	\$ 2,400,000
4	Advanced Water Treatment Design and Construction*	??
TOTAL		\$ 6,700,000

- FY18 Proposed feasibility study of Advanced Treatment
- Additional CIP could be completed to provide existing customers with more reliable service
- Expansion of new customers





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Summary

Staff needs direction....Options & Policies to consider:

- Option #1:** Change % of Potable- increase in rates
- Option #2:** Change Expense Allocation- increase in rates
- Option #3:** Other direction from Council-CIP,specific study





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Non-Recreational Use of Reclaimed Water





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Customer class	Volume	PCT %
Golf Courses	945 AF	49%
Manufacturing	298 AF	16%
Snowbowl	237 AF	12%
Northern Arizona University	162 AF	8%
Municipal Parks, Schools	120 AF	6%
Commercial	108 AF	6%
Construction	49 AF	3%
Residential	2 AF	0.01%
Total RW Delivered	1921 AF	



+ 67% Recreational usage
(Not including NAU Fields)

Discharged to Rio de Flag Wash 4084 AF

5-10-2016 Annual report





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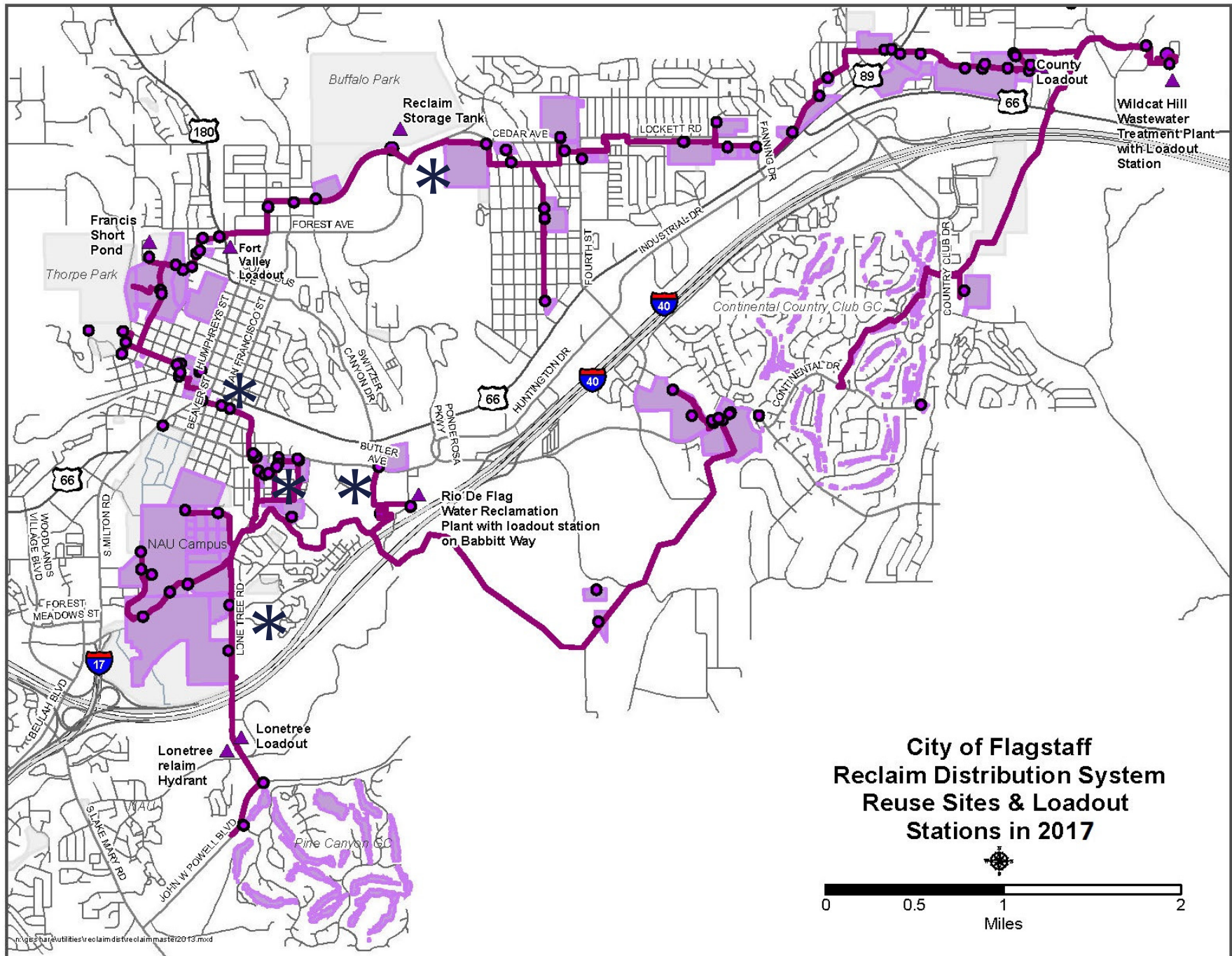


Customers requesting RW Service

1. Warner's Nursery – Irrigation
2. Super Express Car Wash- Commercial
3. Snow play area – Recreational
4. Little America – Landscape Irrigation + Recreational
5. USFS – Landscape Irrigation
6. Good Earth Power –Waste to energy opportunity
7. Campus Crest Townhomes – Lawn Meters
8. Colton Park - Recreational
9. REI Coop – Landscape Irrigation
10. Alon USA – Landscape Irrigation
11. Flagstaff LS Products-6500 Old Hwy 66 Irrigation
12. Resident – Greg & Janice Trumpp- Landscape Irrigation

- Additional CIP could be completed to provide expansion for new customers.







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Process to Increase Customers

- A. City pays to extend pipelines
- B. Customer pays to extend pipelines
- C. Cost Benefit analysis or rate of return on capital investment

Direction?





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QUESTIONS? *&* *DIRECTION*





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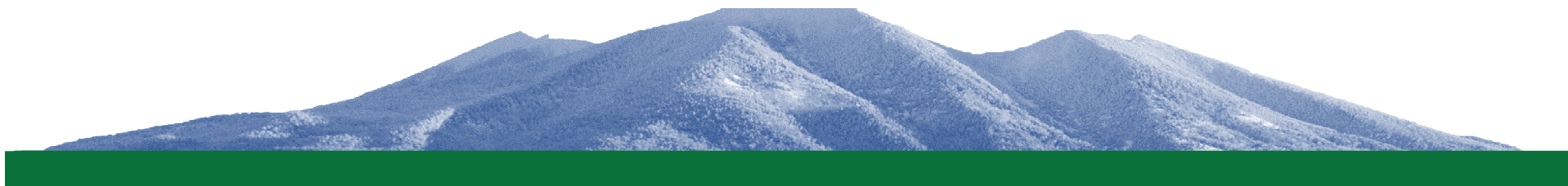


CITY OF FLAGSTAFF WATER & SEWER RATES

Effective January 1, 2017 (**Subject to Change**)

RECLAIMED WATER: (per 1,000 gallons)		Customer Class	Inside City Rate	Outside City Rate
Private Residential	Tier 1 (0 - 3,700 gallons)	R1	\$ 1.23	\$ 1.35
	Tier 2 (3,701 - 6,400 gallons)		1.52	1.67
	Tier 3 (6,401 - 11,700 gallons)		2.20	2.42
	Tier 4 (11,701+ gallons)		4.13	4.54
Commercial (no main Ext):		C	1.59	1.75
Commercial (w/ main Ext):		C	3.40	3.74
Manufacturing (no main Ext):		MN	1.57	1.73
Manufacturing (w/ main Ext):		MN	3.17	3.49
NAU (Sinclair Wash-Intramural Fields):		NA	1.48	N/A
NAU (all other):		NA	3.17	N/A
City Departmental		MU	1.59	N/A
Hydrant Meter		WR	3.55	N/A
Standpipe**		RS	3.87	N/A
Off Peak/Golf Course:	Tier 1 (0 - 150,000,000 gallons)	WR	1.38	1.52
	Tier 2 (150,000,001+ gallons)	WR	1.07	1.18
Untreated Surface Water			1.32	1.45

**Includes sales tax



CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Brad Hill, Utilities Director
Co-Submitter: Ryan Roberts, Engineering Manager
Date: 02/07/2017
Meeting Date: 02/28/2017



TITLE:

Consideration of Tiered Rates for Non-Residential Potable Water Customers.

DESIRED OUTCOME:

Provide direction to Utilities staff on what objectives, informational outcomes and financial policies should be included in any proposed changes to the rate structure for non-residential potable water customers (e.g., tiered rates).

EXECUTIVE SUMMARY:

City Council would like to consider implementing tiered rates for non-residential potable water customers. Should Council give direction to staff that rate structure for non-residential potable water customers should be changed, staff will take the direction and craft a scope of work for financial consulting services which would be brought back to Council for consideration and adoption at a future date. The goal of obtaining financial consulting services would be to develop defensible rates that are fair and equitable while still promoting community objectives.

INFORMATION:

The current Non-residential water rate structure was approved in April 2016. A new rate structure for non-residential customers will require a new cost of service study be performed by a financial consultant.

Below are the Council goals that this item supports;

COUNCIL GOALS:

- 1) Ensure Flagstaff has a long-term water supply for current and future needs
- 3) Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics

The Flagstaff Regional Plan 2030 supports the update and adjustment to City utility rates with the following goals: Policies are only included where needed to clarify a goal.

Goal WR.2 Manage a coordinated system of water, wastewater and reclaimed water utility service facilities and resources at the City level and identify funding to pay for new resources.

Goal LU.8 balance future growth with available water resources.

Attachments: [2017 Current Water Rates](#)
[Presentation](#)

CITY OF FLAGSTAFF WATER & SEWER RATES

Effective January 1, 2017 (**Subject to Change**)

MONTHLY FIXED CHARGE

Meter Size:	Customer Class	Inside City Rate	Outside City Rate
3/4"	All	\$ 14.63	\$ 16.09
1"	All	17.22	18.94
1 1/2"	All	23.71	26.08
2"	All	31.50	34.65
3"	All	49.67	54.64
4"	All	75.62	83.18
6"	All	140.50	154.55
8"	All	218.36	240.20
10"	All	309.19	340.11

WATER RATES

POTABLE WATER: (per 1,000 gallons)		Customer Class	Water Rate	Water Energy	Total Inside City	Outside City Rate
Single Family	Tier 1 (0 - 3,500 gallons)	R1 or R4	\$ 3.02	\$ 0.83	\$ 3.85	\$ 4.24
	Tier 2 (3,501 - 6,200 gallons)		3.91	0.83	4.74	5.21
	Tier 3 (6,201 - 11,500 gallons)		6.06	0.83	6.89	7.58
	Tier 4 (11,501+ gallons)		12.05	0.83	12.88	14.17
Multi-Family Units		R2 or R3	3.88	0.83	4.71	5.18
Commercial/Schools		C	4.12	0.83	4.95	5.45
Northern Arizona University		NA	3.78	0.83	4.61	N/A
Manufacturing		MN	4.07	0.83	4.90	5.39
Lawn Meters		LM	4.12	0.83	4.95	5.45
Hydrant Meter		HM	6.30	0.83	7.13	N/A
Standpipe*		SP	6.30	0.83	7.77	N/A

*Includes sales tax

RECLAIMED WATER: (per 1,000 gallons)		Customer Class	Inside City Rate	Outside City Rate
Private Residential	Tier 1 (0 - 3,700 gallons)	R1	\$ 1.23	\$ 1.35
	Tier 2 (3,701 - 6,400 gallons)		1.52	1.67
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	Tier 2 (150,000,001+ gallons)	WR	1.07	1.18
Untreated Surface Water			1.32	1.45

**Includes sales tax

SEWER RATES

SEWER: (per 1,000 gallons)	Customer Class	Inside City Rate	Outside City Rate
Residential			
Single- and Multi-Family	R1 - R4	\$ 4.36	\$ 4.80
Non-Residential			
Car Washes	CW	4.38	4.82
Laundromats	L	4.50	4.95
Commercial	C	4.62	5.08
Hotels & Motels	H	6.17	6.79
Restaurants	RF	7.41	8.15
Industrial Laundries	IL	6.81	7.49
Manufacturing	MN	4.96	5.46
Pet Food Manufacturers	PF	10.87	11.96
Soft Drink Bottling	SD	8.61	9.47
Ice Cream Cone Manufacturing	IC	13.44	14.78
NAU	NA	4.00	4.40

STORMWATER RATE

STORMWATER: (per ERU)	Customer Class	Inside City Rate	Outside City Rate
1 ERU	Residential	\$ 1.47	\$ 1.62

TRASH AND RECYCLING

RESIDENTIAL	Customer Class	Inside City Rate*	Outside City Rate*
One Trash and One Recycling Container (Each Container Serviced 1x per Week)	R1 - R4	\$ 17.73	19.50
Each Additional Container		8.87	9.76
COMMERCIAL	Customer Class	Inside City Rate*	Outside City Rate*
Container Size and Scheduled Pickup May Vary	Please call (928) 213-2110		

PRIVATE FIRE PROTECTION

CONNECTION SIZE	Customer Class	Inside City Rate	Outside City Rate
4"	KS	\$ 12.59	\$ 13.85
6"		36.58	40.24
8"		77.96	85.76



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Water Rates Tierred Rates for Non Residential Policy direction

City Council Work Session
February 28, 2017





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Quick Review

- Current Non-residential water rate structure approved 4-21-2016
- Water Rates were set by 2010 cost of service study~legally defensible.





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Prior Rate Consultant Advised COF:

Why aren't non-residential customers getting tiered rates?

- Non-residential use varies greatly depending on the size and type of business.
- Existing rates that have been approved for non-residential users will not unduly penalize large users yet still provide an incentive to conserve.
- Potential legal issues





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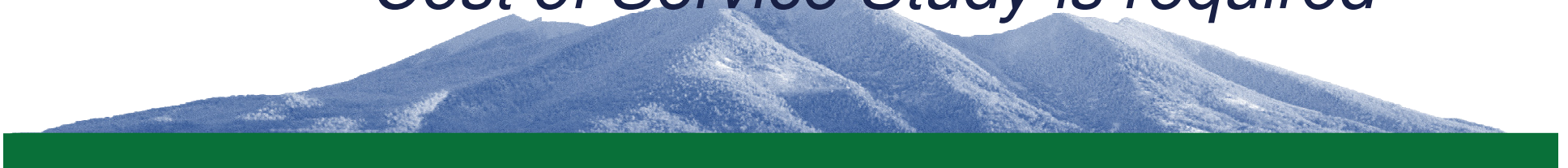
Moving Forward:

Summary

Staff needs direction....What Policies to consider
with a new consultant

**Tierred Water Rates to Non-Residential
customers = New Rate Structure:**

Cost of Service Study is required





CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Elizabeth A. Burke, City Clerk
Date: 02/23/2017
Meeting Date: 02/28/2017



TITLE

Discussion of "Ban the Box" - Fair Chance for Workers With Records.

RECOMMENDED ACTION:

Council direction

EXECUTIVE SUMMARY:

On January 17, 2017, Mayor Evans placed an item under Future Agenda Item Requests (F.A.I.R.) to determine if others were interested in placing an item on a future agenda to discuss the "Ban the Box" efforts taking place around the country, which provides a Fair Chance for workers with records. Several others members of the City Council were interested in placing this item on an agenda.

INFORMATION:

The attached Fact Sheet has been included to provide some basic background on the efforts nationwide and provides links to additional information for those wishing to research it further.

Attachments: [Fact Sheet](#)

“Ban the Box” is a Fair Chance For Workers With Records

Removing conviction inquiries from job applications is a simple policy change that eases hiring barriers and creates a fair chance to compete for jobs. Known as “ban the box,” this change allows employers to judge applicants on their qualifications first, without the stigma of a record. The most effective policies don’t just remove the “box;” they advance job opportunities for people with records. Employers should make [individualized assessments](#) instead of blanket exclusions and [consider the age of the offense and its relevance to the job](#). Candidates should be given an opportunity to review background-check results and provide rehabilitation evidence.

The Problem: Employers Are Not Hiring People With Records

There are an estimated [70 million](#) U.S. adults with arrests or convictions, many of whom are turned away from jobs despite their skills and qualifications. The “box” on a job application is a barrier because it has a chilling effect that discourages people from applying. It also artificially narrows the applicant pool of qualified workers when employers toss out applications with the checked-box, regardless of the applicant’s merits or the relevancy of the conviction to the job. Both the employer and applicant lose out. Research affirms that a conviction record [reduces the likelihood of a job callback or offer by nearly 50%](#).

Removing Job Barriers Helps the Economy and is Good for Business

The reduced output of goods and services of people with felonies and prison records is estimated at [\\$78 to \\$87 billion in losses](#) to the nation’s economy in one year. Allowing people to work [increases their tax contributions](#), boosts sales tax, and saves money by keeping people out of the criminal justice system. Major employers such as [Starbucks](#), [Facebook](#), [Koch Industries](#), [Target](#) and [Walmart](#) removed the “box” because it made sense.

Employment Reduces Re-Offending

Employment has been found to be a [significant factor](#) in reducing re-offending. [One study](#) found that a 1 percent drop in the unemployment rate causes between a 1 to 2 percent decline in some offenses.

The Solution: Adopt Fair-Chance Policies

A fair-chance policy has a real impact. [Research](#) indicates that once an employer has had the chance to examine the qualifications of the applicant, the employer would be more willing to hire the applicant. It’s a tried and tested policy. In the United States, [25 states](#) have embraced ban-the-box, with nine extending it to private employers. At last count, over 150 cities and counties had adopted the policy. Now is the time for a fair-chance policy for all.

Frequently Asked Questions

Q. What is “ban the box”? What is a fair-chance policy?

- A. “Ban the box” was the rallying cry of All of Us or None organizers that refers to removing the conviction history check-box from a job application. All of Us or None is a grassroots, civil rights organization led by formerly incarcerated and convicted people. In addition to delaying conviction history inquiries until later in the hiring process, fair-chance policies include the following:
- Integrating the U.S. Equal Employment Opportunity Commission (EEOC) arrest and conviction record guidelines, which require employers to take into account time passed since the offense, whether the offense is related to the job position, and evidence of rehabilitation; and
 - Adopting strong standards of accuracy and transparency to maintain the integrity of background checks when they are required and to protect workers against arbitrary treatment in the hiring process.

Q. What doesn’t a fair-chance policy do?

- A. An employer is not required to hire an individual under a fair-chance policy. In other words, the employer retains the discretion to hire the most qualified candidate. Some policies seek to limit background check inquiries to only those positions deemed sensitive or to limit the availability of certain criminal record information to only recent convictions. Other policies have no limitations on background check screening except as to delay any inquiries until later in the hiring process. See NELP’s Best Practices and Model Policies, located in the [NELP Fair Chance Toolkit](#).

Q. Do fair-chance policies work?

- A. Yes. Fair-chance policies have been so successful that some cities and states have expanded their policies to include private employers. Because policies were adopted starting in the early 2000s, several jurisdictions have had years of experience and success. The locations that have collected data on the fair-chance policies show an increase in hiring people with records. This is consistent with research that indicates that personal contact with an applicant reduces the negative effect of a criminal record on the employment decision. See NELP’s Research Summary for more information, located in the [NELP Fair Chance Toolkit](#).

Q. Who supports fair-chance policies?

- A. Fair-chance policies are supported by policymakers and groups across the political spectrum. The [U.S. Equal Employment Opportunity Commission](#) also endorsed the policy and President Obama directed federal agencies to formally adopt it. For more, see NELP’s Voices in Support Factsheet, located in the [NELP Fair Chance Toolkit](#).

Q. Who has adopted fair-chance policies?

- A. Currently [25 states and over 150 cities and counties](#) around the country have adopted ban-the-box or fair-chance policies. Nine states and many local jurisdictions apply their policies to private employers and/or government contractors. [Target](#), [Walmart](#), Home Depot, [Koch Industries](#), [Starbucks](#), [Facebook](#), and Bed, Bath & Beyond have removed the question about convictions from their initial job applications. See NELP’s Voices in Support Factsheet, located in the [NELP Fair Chance Toolkit](#).

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Elizabeth A. Burke, City Clerk
Date: 02/23/2017
Meeting Date: 02/28/2017



TITLE

Discussion of Reaffirmation of City's resolutions speaking to Flagstaff's commitment to diversity, community, and fairness.

RECOMMENDED ACTION:

Council direction

EXECUTIVE SUMMARY:

On December 20, 2016, Mayor Evans placed an item under Future Agenda Item Requests (F.A.I.R.) to determine if others were interested in placing an item on a future agenda to discuss the reaffirmation of City's resolutions speaking to Flagstaff's commitment to diversity, community, and fairness. Several others members of the City Council were interested in placing this item on an agenda.

INFORMATION:

Resolutions that have been adopted in the past (attached) include:

2006-62 09/05/2006 Partnership with the National League of Cities in Working Towards Inclusive Communities and Affirming the City of Flagstaff's Commitment to Promoting Inclusion in Our Community.

2008-68	11/18/2008	Declaring Flagstaff to be a "Gold Rule City"
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Also attached is a copy of Chapter 14-02, Civil Rights, adopted by the City Council on March 5, 2013.

Attachments: Res. 2006-62
 Res. 2008-28
 Civil Rights Ord

RESOLUTION NO. 2006-62

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, REGARDING PARTNERSHIP WITH THE NATIONAL LEAGUE OF CITIES IN WORKING TOWARDS INCLUSIVE COMMUNITIES AND AFFIRMING THE CITY OF FLAGSTAFF'S COMMITMENT TO PROMOTING INCLUSION IN OUR COMMUNITY.

WHEREAS, the City of Flagstaff ("City") is committed to inclusion as a fundamental aspect of our community; and

WHEREAS, the Mayor and City Council can and should lead the way forward in making inclusiveness a priority in America's cities and towns; and

WHEREAS, the National League of Cities has designed the partnership for Working Toward Inclusive Communities to support cities and towns in their commitment to inclusion; and

WHEREAS, the National League of Cities and its members believe an inclusive community promotes equal opportunity and fairness; and

WHEREAS, the National League of Cities and its members believe an inclusive community promotes citizen participation and engagement; and

WHEREAS, National League of Cities President James C. Hunt, Councilmember, Clarksburg, West Virginia, has invited local officials to join the Partnership for Working Toward Inclusive Communities and to make a commitment to building more inclusive communities in their own cities and towns;

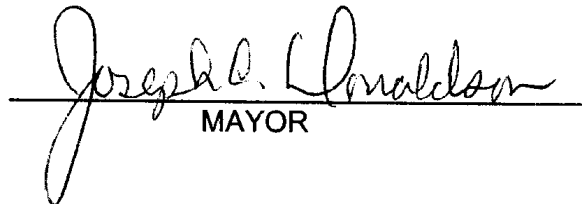
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. That the commitment to inclusion as a fundamental aspect of our community be hereby reaffirmed and that active efforts be made to seek to achieve the goal of inclusive communities.

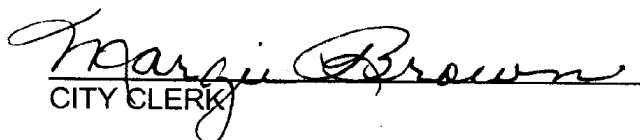
SECTION 2. That the City of Flagstaff hereby joins the Partnership for Working Toward Inclusive Communities.

SECTION 3. That Flagstaff's citizens be urged to join together to support this effort.

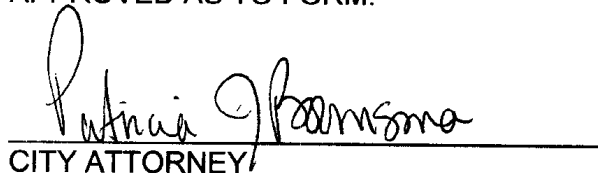
PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this 5th day of September, 2006.


MAYOR

ATTEST:


CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY

RESOLUTION NO. 2008-68

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF FLAGSTAFF
DECLARING FLAGSTAFF TO BE A "GOLDEN RULE CITY".**

WHEREAS, on May 13, 2003, Arizona became a "Golden Rule" state; and

WHEREAS, Flagstaff recognizes and appreciates the wonderful diversity of peoples, cultures, faiths, and languages and make up our community; and

WHEREAS, the "Golden Rule" is a moral principle that proclaims that we should treat others the way we would like to be treated; and

WHEREAS, variations of the Golden Rule are embraced by every belief system; and

WHEREAS, through application of the Golden Rule, we may be able to reduce, and even eliminate prejudice, hate, bigotry, and racial intolerance; and

WHEREAS, our schools, community organizations, leaders, parents, and children would benefit by recognizing, teaching, and practicing the Golden Rule as a tool for kindness and civility; and

WHEREAS, Golden Rule Flagstaff is an umbrella that looks to connect those in need with those who are willing to help and to transcend differences by uniting service agencies faith-based organizations, and service clubs; and

WHEREAS, living and practicing the Golden Rule will have a powerfully positive effect on each individual and the society in which we all live;

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

SECTION 1. That the City of Flagstaff be hereby declared to be a Golden Rule City.

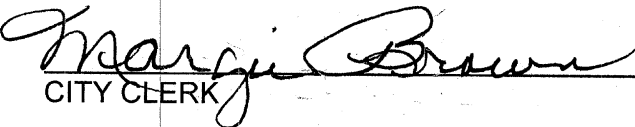
SECTION 2: That the commitment to the Golden Rule as a fundamental aspect of our community be hereby affirmed and that active efforts be made to seek to achieve the goals associated with a Golden Rule City.

SECTION 3. That Flagstaff's citizens be urged to join together to support this effort.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this 18th day of November, 2008.


MAYOR

ATTEST:


CITY CLERK

APPROVED AS TO FORM:

for: 
CITY ATTORNEY

CHAPTER 14-02 CIVIL RIGHTS

Sections:

- [14-02-001-0001](#) Policy Declaration
- [14-02-001-0002](#) Definitions
- [14-02-001-0003](#) Prohibited Acts
- [14-02-001-0004](#) Exclusion
- [14-02-001-0005](#) Violation a Civil Infraction; Procedure; Penalties
- [14-02-001-0006](#) Complaint Procedures
- [14-02-001-0007](#) No Private Right of Action; Effect of Federal and State Laws
- [14-02-001-0008](#) Severability
- [14-02-001-0009](#) Unlawful Intimidation, Retaliation, and Coercion
- [14-02-001-00010](#) Record-keeping; Posting Requirement; Powers

14-02-001-0001 Policy Declaration

It is the policy of the City of Flagstaff to eliminate prejudice and discrimination due to race, color, religion, sex, age, disability, veteran's status, national origin, sexual orientation, and gender identity or expression, in places of public accommodation and in employment. (Ord. 2013-08, Enacted, 03/05/2013)

14-02-001-0002 Definitions

In this chapter, unless the context otherwise requires:

- A. "Age" means at least eighteen (18) years of age except:
 - 1. Where state law provides for a greater minimum or maximum legal age.
 - 2. In Section 14-02-001-0003(B), which shall be deemed to protect any person who is at least forty (40) years of age.
- B. "Discriminate" or "discrimination" means to make, directly or indirectly, any distinction with respect to any person or persons based on race, color, religion, sex, age, disability, veteran's status, national origin, sexual orientation, or gender identity or expression.
- C. "Disability," with respect to an individual, means:
 - 1. A physical or mental impairment that substantially limits one or more of the major life activities of such individual;
 - 2. A record of such an impairment; or
 - 3. Being regarded as having such an impairment; but disability does not include the current illegal use of

or addiction to a controlled substance (as defined in the Controlled Substances Act, 21 U.S.C. § 801 et seq.) or the current use of alcohol that prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to the property or the safety of others.

Discrimination on the basis of disability shall be interpreted in a manner consistent with the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., the federal regulations promulgated thereunder, and judicial decisions construing them.

D. "Educational institution" means any private educational institution located or operating in the City of Flagstaff which provides educational services including an academy, college, university, elementary or secondary school, kindergarten, extension course, nursery school system, and a business, nursing, professional, secretarial, technical or vocational school.

E. "Employer," except as otherwise provided, means any person employing fifteen (15) or more employees in the City of Flagstaff for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year, and includes any agent of such person.

F. "Employment agency" means and includes both public and private employment agencies and any person having an office regularly undertaking, with or without compensation, to procure, recruit, refer or place employees.

G. "Gender expression" means the ways in which a person manifests masculinity or femininity or "expresses" external characteristics and behaviors associated with gender.

H. "Gender identity" means an individual's various attributes as they are understood to be masculine and/or feminine and shall be broadly interpreted to include pre- and post-operative transsexuals, as well as other persons who are, or are perceived to be, transgender.

I. "Investigator" means an individual selected by the City Manager whose role shall be to determine the facts relevant to a charge filed pursuant to this chapter. The investigator shall be selected by the City Manager, following established rules and procedures.

J. "Labor organization" means and includes any organization or labor union, craft union, or such organization, conducting a hiring hall which engages in the hiring of employees, or any voluntary unincorporated association designed to further the cause of the rights of union labor, which is constituted for the purpose in whole or in part of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment or apprenticeships or applications for apprenticeships, or for other mutual aid or protection in connection with employment, including apprentice jobs or application for apprenticeship.

K. "Mediator" means an individual selected by the City Manager whose role shall be to attempt to assist the complainant and respondent in reaching settlement of a charge filed under this chapter. The mediator shall be

selected by the City Manager, following established rules and procedures. The mediator shall not be an employee of the City of Flagstaff. The mediator may not be required to serve as a witness in any legal proceeding concerning matters related to the mediator's involvement in carrying out his or her functions pursuant to this chapter.

L. "Person" means and includes one (1) or more individuals, partnerships, associations or corporations, legal representatives, trustees, receivers, or other organized groups of persons.

M. "Place of public accommodation" means facilities, establishments, accommodations, services, commodities or use offered to or enjoyed by the general public, including but not limited to:

1. Hotels, motels, trailer courts and boardinghouses, which shall include any establishments offering lodging to transient guests for compensation.
2. Restaurants, which shall include lunch counters, coffee shops, lunchrooms, luncheonettes, cafes, cafeterias, tearooms, snack bars or stands, mobile food service facilities, grills, sandwich shops, supper clubs, soft drink fountains, ice cream parlors or stands, and other places which offer food, ice cream or soft drink beverages for purchase and consumption on or off the premises.
3. Taverns, which shall include bars, barrooms, saloons, roadhouses and like establishments, wherein spirituous or malt liquors or wines are offered for sale for consumption on or off the premises.
4. Theaters, which shall include places, whether indoors or out-of-doors, at which any theatrical performance, moving picture show, musical concert or recital, dramatic reading or monologue, circus, carnival or other like entertainment or amusement is offered.
5. Retail establishments, which shall include retail stores, garages, automobile and gasoline service stations, and other like establishments serving the public.
6. Places of public amusement and recreation, which shall include bowling alleys, billiard halls and poolrooms, dance halls, race courses, shooting galleries, sports arenas or fields, gymnasiums, exhibitions, skating rinks and other like establishments.
7. Educational facilities, which shall include institutions defined in subsection (D) of this section.
8. Public conveyances, which shall include all transportation facilities operated on land, air or water as well as the stations and terminals thereof.
9. Funeral parlors and places of burial, including any cemetery, mausoleum, crypt, or any establishment for the embalming, processing or interment of corpses.

N. "Protected class" means each classification for which discrimination is prohibited in this chapter: race, color, religion, sex, age, disability, veteran's status, national origin, sexual orientation, and gender identity or

expression.

O. "Religion" includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he/she is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

P. "Religious organization" means a religious corporation, association or society; or a school, college, university, or other educational institution or institution of learning if the institution is in whole or substantial part controlled, managed, owned, or supported by a religious corporation, association or society; or the curriculum of the institution is directed toward the propagation of a religion.

Q. "Sex" shall include, but is not limited to, discrimination because of or on the basis of pregnancy, childbirth or related medical conditions; and women affected by pregnancy, childbirth or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work.

R. "Sexual orientation" means an individual's heterosexuality, homosexuality, or bisexuality, whether the orientation is real or perceived.

S. "Veteran's status" means an individual who served in the armed forces of the United States, including the Army, Navy, Air Force, Marine Corps, and Coast Guard, and who was separated from the armed forces under honorable conditions. (Ord. 2013-08, Enacted, 03/05/2013)

14-02-001-0003 Prohibited Acts

It is a violation of this chapter:

A. For any owner, operator, lessee, manager, agent or employee of any place of public accommodation to discriminate against any person, or directly or indirectly display, circulate, publicize or mail any advertisement, notice or communication which states or implies that any facility or service shall be refused or restricted because of race, color, religion, sex, age, disability, veteran's status, national origin, sexual orientation, or gender identity or expression, or that any person, because of race, color, religion, sex, age, disability, veteran's status, national origin, sexual orientation, or gender identity or expression, would be unwelcome, objectionable, unacceptable, undesirable or not solicited.

B. For an employer, because of race, color, religion, sex, age, disability, veteran's status, national origin, sexual orientation, or gender identity or expression to refuse to hire or employ any person or to bar or to discharge from employment such person, or to discriminate against such person in compensation or in terms, conditions or privileges of employment.

C. For a labor organization, because of race, color, religion, sex, age, disability, veteran's status, national origin, sexual orientation, or gender identity or expression to exclude, expel, limit or restrict from its membership such person, or to provide only second class or segregated membership, or to discriminate in any manner

against any of its members or against any employer or any person employed by an employer.

D. For any employer or employment agency to print or circulate, or cause to be printed or circulated, any publication, or to use any form of application for employment, or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification or discrimination as to race, color, religion, sex, age, disability, veteran's status, national origin, sexual orientation, or gender identity or expression, or expresses any intent to make any such limitation, specification or discrimination.

E. For any employer, labor organization or employment agency to discharge, expel or otherwise discriminate against any person because he/she has opposed in a lawful manner any practices forbidden under this chapter, or because he/she has filed a complaint, testified or assisted in any proceeding under this chapter.

F. For any person to cause or attempt to cause an employer to discriminate against an individual in violation of this chapter.

G. For any person to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this chapter or to attempt to do so.

H. For any person to discriminate in places of public accommodation or employment against any person, because that person has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding or hearing under this chapter. (Ord. 2013-08, Enacted, 03/05/2013)

14-02-001-0004 Exclusion

A. This chapter shall not be applicable to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which preferential treatment is given to any individual because he/she is a Native American living on or near a reservation.

B. This chapter shall not be applicable to any establishment operated by a bona fide private club not conducted for the purpose of evading this chapter, when the accommodations, advantages, facilities and services are restricted to members of such club and their guests; nor to any bona fide social, fraternal, public educational, civic or religious organization or such private club when the profits of the accommodations, advantages, facilities and services, above reasonable and necessary expenses, are solely for the benefit of such organization or club.

C. This chapter shall not be applicable to an expressive association whose employment of a person protected by this chapter would significantly burden the association's rights of expressive association under *Boy Scouts of America v. Dale*, 530 U.S. 640 (2000).

D. This chapter shall not apply to the United States government, any of its departments or agencies, or any corporation wholly owned by it; an Indian tribe; or the state of Arizona or any of its departments, agencies, or political subdivisions.

- E. Any person under the influence of alcohol or other drugs, or who is guilty of boisterous conduct, or who violates any regulation of any place of public accommodation that applies to all persons, regardless of race, color, religion, sex, age, disability, veteran's status, national origin, sexual orientation, or gender identity or expression may be excluded without penalty under this chapter from any such place of public accommodation; and nothing in this chapter shall be considered to limit the right of such exclusion.
- F. Except as provided in subsection (G) of this section, this chapter shall not be applicable to a religious organization.
- G. This chapter shall apply to employment or an employment opportunity with a religious organization, wherein the duties of the position pertain solely to activities of the organization that generate unrelated business taxable income subject to taxation under Section 511(a) of the Internal Revenue Code of 1986.
- H. Notwithstanding Section 14-02-001-003, it shall not be a violation of this chapter:
1. For an employer, labor organization, or employment agency to prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees;
 2. For an employer, labor organization, or employment agency to require that employees shall not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace;
 3. For an employer, labor organization, or employment agency to require that employees behave in conformance with the requirements established under the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701 et seq.) or under the drug testing provisions of state law (A.R.S. § 23-493 et seq.);
 4. For an employer, labor organization, or employment agency to hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior that such entity holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of such employee;
 5. For a place of public accommodation to afford beneficial pricing or policies to senior citizens, students, or individuals with disabilities;
 6. For a place of public accommodation to operate solely as a male-only or a female-only fitness center/gymnasium, as long as the fitness center/gymnasium does not include any of the facilities other than gymnasium listed in Section [14-02-001-0002\(M\)](#), and does not discriminate against any other protected group identified in Section [14-02-001-0001](#);
 7. For an employer to establish a legitimate dress code that is applied uniformly to all employees within certain job categories and is reasonably related to the employer's business needs. (Ord. 2013-08, Enacted, 03/05/2013)

14-02-001-0005 Violation a Civil Infraction; Procedure; Penalties

-
- A. It is a civil infraction for any person to violate any of the provisions of this chapter. Complaints of violations of this chapter shall proceed as prescribed in Section [14-02-001-0006](#).
- B. The following penalties shall be imposed by the City Court for civil infractions under this chapter:
1. A person found responsible for a civil infraction for the first time shall be fined not more than five hundred dollars (\$500.00) per civil infraction. A person found responsible for the same civil infraction for a second time shall be fined not less than three hundred dollars (\$300.00) nor more than one thousand dollars (\$1,000.00). A person found responsible for the same civil infraction for a third or subsequent time shall be fined not less than nine hundred dollars (\$900.00) nor more than twenty-five hundred dollars (\$2,500.00). The imposition of a fine for a civil infraction under this section shall not be suspended.
 2. Failure of a respondent to comply with any order contained in a judgment for a civil infraction shall result in an additional fine as established by the Flagstaff Municipal Court. (Ord. 2013-08, Enacted, 03/05/2013)

14-02-001-0006 Complaint Procedures

- A. Any person claiming to be aggrieved by an alleged violation of this chapter (hereinafter the "complainant") may file with the City Manager's Office ("CMO") a verified charge, in writing, within ninety (90) calendar days after the alleged violation occurred. The charge shall set forth the facts upon which it is based, shall identify the person charged (hereinafter the "respondent"), and shall be signed by the complainant.
- B. The CMO shall furnish the respondent with a copy of the charge via first class United States mail. The respondent may file, not later than twenty (20) days following the CMO's mailing of the charge to the respondent, a written verified answer to the charge.
- C. Within forty-five (45) days following receipt of the charge from the complainant, the CMO shall conduct an initial screening of the charge to determine whether the City has jurisdiction over the charge, whether the charge was timely filed, and whether the allegations, if true, would constitute a violation of this chapter.
- D. If the CMO determines, based on a review of the charge, that the City does not have jurisdiction, that the charge is untimely, or that the allegations would be insufficient to show a violation of this chapter, the CMO shall dismiss the charge. The decision of the CMO to dismiss the charge, after conducting the initial screening, is final. The CMO shall provide the complainant, the respondent, and the City Attorney with written findings concerning the CMO's determination to dismiss the charge and the charge will be considered closed.
- E. If the CMO issues an initial determination that the City has jurisdiction over the charge, the charge was timely filed, and the allegations, if true, would constitute a violation of this chapter, the CMO shall refer the matter to a mediator.
- F. The mediator shall review the matter. The mediator may attempt to assist the complainant and respondent

in reaching settlement of the charge in a cooperative manner using mediation, conference, conciliation and persuasion. If the mediator deems that such an attempt is not practicable, the mediator shall refer the matter to an investigator. The investigator shall follow the process described in subsection (I) of this section.

G. If the mediation is successful, the mediator shall facilitate the drafting of an agreement with the complainant and the respondent for the purpose of eliminating the alleged discriminatory practice. The terms of the agreement may require the respondent to refrain in the future from committing discriminatory practices of the type stated in the agreement and to take such affirmative steps as the mediator may require to carry out the purposes of this chapter. If an agreement is entered into, the mediator shall furnish copies to the CMO, the City Attorney, the complainant, and the respondent. If an agreement is entered into, the charge will be considered closed.

H. To the extent permitted by law, except for the terms of the agreement, neither the mediator nor the City Manager, nor any employee thereof, shall make public, without the written consent of the complainant and respondent, information concerning efforts in a particular case to eliminate a discriminatory practice through mediation or by conference, conciliation, or persuasion, whether or not there is an agreement. In addition, as stated under Rule 408 of the Arizona Rules of Evidence, such information may not be used as evidence in any judicial proceeding.

I. If the mediator, the complainant, and the respondent cannot reach an agreement, the mediator shall refer the matter to an investigator, who shall attempt to determine the facts relevant to the charge filed under this chapter. The investigator shall conduct an investigation of the charge to determine whether the facts support a finding that a violation of this chapter has occurred. If the investigator determines that a violation of this chapter did not occur, the complainant's charge will be dismissed and the matter will be considered closed. If the investigator determines that a violation of this chapter did occur, the investigator shall request the City Attorney file a complaint against the respondent in the Flagstaff Municipal Court.

J. In situations involving repeat offenses, the CMO shall refer the matter to an investigator, who shall follow the process described in subsection (I) of this section. If, at the conclusion of the investigation process, the City Attorney does not file a complaint in court then the City Attorney may refer the charge back to the mediator. The mediator, in his or her discretion, may attempt to assist in resolution of the charge or may close the matter. (Ord. 2013-08, Enacted, 03/05/2013)

14-02-001-0007 No Private Right of Action; Effect of Federal and State Laws

This chapter does not create a private cause of action, nor does it create any right or remedy that is the same or substantially equivalent to the remedies provided under federal or state law. Nothing in this chapter shall supersede federal or Arizona law. (Ord. 2013-08, Enacted, 03/05/2013)

14-02-001-0008 Severability

If any section, sentence, paragraph, term, definition or provision of this chapter is for any reason determined to

be illegal, invalid, superseded by other authority or unconstitutional by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such portion shall be deemed a separate, distinct, and independent provision and such determination shall have no effect on the validity of any other section, sentence, paragraph, term, definition or provision of this chapter, all of which will remain in full force and effect. (Ord. 2013-08, Enacted, 03/05/2013)

14-02-001-0009 Unlawful Intimidation, Retaliation, and Coercion

It is unlawful for any person to discriminate against, harass, threaten, harm, damage, or otherwise penalize another person for opposing an unlawful practice, for filing a complaint, or for testifying, assisting, or participating in any manner in an investigation under this chapter. (Ord. 2013-08, Enacted, 03/05/2013)

14-02-001-00010 Record-keeping; Posting Requirement; Powers

- A. The investigator may request a respondent against whom a charge has been filed to file a statement or report in writing, as to all the facts and circumstances concerning the alleged act of discrimination set forth in the charge. Additionally, in connection with any investigation of a charge filed under this chapter, the investigator and the City Attorney (or designee) shall seek the voluntary cooperation of any person to obtain access to premises, records, documents, individuals, and any other possible source of information.
- B. Every employer, employment agency, and labor organization subject to this chapter shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of Section [14-02-001-0003](#), Prohibited Acts.
- C. No employee of the City of Flagstaff shall make public with respect to a particular person, without his/her consent, information obtained by them pursuant to their authority under this chapter, except as required by law or as necessary to the conduct of a proceeding under this chapter.
- D. Any person being investigated under this chapter shall have the right to be represented by counsel.
- E. The City Attorney is empowered to seek fines as described in Section [14-02-001-0005](#) for civil infractions arising under this chapter. (Ord. 2013-08, Enacted, 03/05/2013)