

COMBINED WORK SESSION/SPECIAL MEETING AGENDA

AMENDED

COMBINED WORK SESSION/SPECIAL MEETING
TUESDAY
DECEMBER 13, 2022

COUNCIL CHAMBERS
211 WEST ASPEN AVENUE
3:00 P.M.

All City Council Meetings are live streamed on the city's website
(<https://www.flagstaff.az.gov/1461/Streaming-City-Council-Meetings>)

*****PUBLIC COMMENT*****

Verbal public comments may be given through a virtual public comment platform or in-person

If you want to provide a verbal comment during the Council Meeting, use the link below to join the virtual public comment room.

VIRTUAL PUBLIC COMMENT WAITING ROOM

Written comments may be submitted to publiccomment@flagstaffaz.gov. All comments submitted via email will be considered written comments and will be documented into the record as such.

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. **ROLL CALL**

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

MAYOR DEASY
VICE MAYOR SWEET
COUNCILMEMBER ASLAN
COUNCILMEMBER HOUSE

COUNCILMEMBER MCCARTHY
COUNCILMEMBER SALAS
COUNCILMEMBER SHIMONI

3. Pledge of Allegiance, Mission Statement, and Land Acknowledgement

MISSION STATEMENT

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

LAND ACKNOWLEDGEMENT

The Flagstaff City Council humbly acknowledges the ancestral homelands of this area's Indigenous nations and original stewards. These lands, still inhabited by Native descendants, border mountains sacred to Indigenous peoples. We honor them, their legacies, their traditions, and their continued contributions. We celebrate their past, present, and future generations who will forever know this place as home.

4. 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.

5. Farewell Presentation for Outgoing Councilmembers

6. City Manager Awards

7. Recess for Reception in Lobby

8. Reconvene Work Session

9. Review of Draft Agenda for the December 20, 2022 City Council Meeting

Citizens wishing to speak on agenda items not specifically called out by the City Council may submit a speaker card for their items of interest to the recording clerk.

10. Update regarding progress on recent Workforce Development efforts.

Council awareness of the collaborative process undertaken to create the scope of work and agreement to study the community's workforce development framework and identify potential actions to improve it.

11. Business One Stop Shop (BOSS) - Update

An update regarding progress for the Business One Stop Shop System (BOSS). This update will include progress related to a new website and internal processes that improves developer and business experience with the City of Flagstaff.

12. **Flagstaff Police Department Assessment Report**
Inform City Council about the findings and recommendations in the Flagstaff Police Department Assessment Report
13. **Public Participation**
14. **Informational Items To/From Mayor, Council, and City Manager; future agenda item requests**
15. **Adjournment**

SPECIAL MEETING

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. **Consideration and Adoption of Ordinance No. 2022-33:** an Ordinance of the City Council of the City of Flagstaff, amending the Flagstaff City Code Title 7, Health and Sanitation, Chapter 7-08, Extension and Reimbursement Agreements for the Construction of Water and Sewer Line, and Title 13, Engineering Design Standards and Specification for New Infrastructure, Chapter 13-09 Water, Sewer, and Other Underground Utilities, by amending the Reimbursement Agreement provisions to allow a longer maximum payback period; repeal of conflicting ordinances, severability, authority for clerical corrections, and establishing an effective date.

STAFF RECOMMENDED ACTION:

- 1) Read Ordinance No. 2022-33 by title only for the final time
- 2) City Clerk reads Ordinance No. 2022-33 by title only (if approved above)
- 3) Adopt Ordinance No. 2022-33

3. **Consideration and Adoption of Resolution No. 2022-60 and Ordinance No. 2022-34:** A Resolution of the Flagstaff City Council declaring as a public record that certain document filed with the City Clerk and entitled "Vehicle Noise Code Amendments" and an Ordinance of the City Council of the City of Flagstaff, amending the Flagstaff City Code, Title 6, Police Regulations, Chapter 8, Noise Control, by adopting by reference that certain document entitled "Vehicle Noise Code Amendments," providing for penalties, repeal of conflicting ordinances, severability, and establishing an effective date

STAFF RECOMMENDED ACTION:

- 1) Adopt Resolution No. 2022-60
- 2) Read Ordinance No. 2022-34 by title only for the final time
- 3) City Clerk reads Ordinance No. 2022-34 by title only (if approved above)
- 4) Adopt Ordinance No. 2022-34

4. 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 _____, 2022.

Stacy Saltzburg, MMC, City Clerk

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: John Saltonstall, Business Retention & Expansion Manager

Co-Submitter: David McIntire

Date: 11/07/2022

Meeting Date: 12/13/2022



TITLE:

Update regarding progress on recent Workforce Development efforts.

DESIRED OUTCOME:

Council awareness of the collaborative process undertaken to create the scope of work and agreement to study the community's workforce development framework and identify potential actions to improve it.

EXECUTIVE SUMMARY:

Council provided direction and funding to secure a consultant who will perform an analysis of the existing workforce development system to identify ways for the City of Flagstaff to create and fund a Robust Workforce Development System. The intention will be to expand and strengthen current workforce development efforts by the City.

City of Flagstaff Economic Development Offices is seeking to contract with a consultant to execute that direction and to identify present successes and gaps in delivery of workforce, and to chart paths of opportunity for the City to support meeting the gaps and delivering capable, adaptable, productive workforce into the future.

INFORMATION:

The exploration into Creating and Funding a Robust Workforce Development Program to expand and strengthen current workforce development efforts by the City began as a F.A.I.R. (Future Agenda Item Request) by Councilmember Salas which was then supported by the requisite number of other councilmembers to advance the item. Building off of that conversation, staff invited the new Executive Director of the ARIZONA@WORK Coconino County Workforce Development Board to participate in a presentation to Flagstaff City Council on the Workforce Innovation and Opportunity Act known as W.I.O.A. in March 2022 outlining the origins and overall framework of the existing workforce system. That presentation aided in the structure of the effort to develop this scope of work.

Staff convened a group of representative stakeholders to explore the language of the FAIR which is the following: A discussion for Council to bolster economic development by "Creating and Funding a Robust Workforce Development Program to expand and strengthen current workforce development efforts by the City". Participating stakeholders represented Northern Arizona University, Coconino Community College, the Economic Collaborative of Northern Arizona, the ARIZONA@WORK Coconino County Workforce

Development Board, and private industry.

The Scope of Work has three main sections. The first section focuses on a survey of the existing workforce development system and is intended to provide a broad understanding of the existing workforce system, programs that serve formal/specific career pathways and that deliver general skills. The second section focuses on future industry and related workforce needs and is intended to look into the future to understand how the workforce development system is positioned to maintain the Flagstaff community at expectedly high levels of services and to meet the needs of future industry whose operations generate a low environmental impact and provide high wages relative to Flagstaff. The third section focuses on pathways to workforce development and is intended to chart a path from the present to the next 1-5 years and the next 5-10 years which drives actions, policies, and investments that deliver the workforce required to keep a sustainable community running from the infrastructure in the ground to the innovations around the world.

Attachments: Workforce Analysis
 Draft Scope of Work

A Scope of Work to Create and Fund a Robust Workforce Development System

John Saltonstall, Business Retention and Expansion Manager



Overview

- Background: Why are we here?
- The Scope of Work Development:
 - What have we done?
 - What are we requesting?
 - What do we get?
- Questions: What do you think and where did we go wrong?
- Next steps: The Next Steps



Background

- A discussion to "Create and Fund a Robust Workforce Development Program to Expand and Strengthen Current Workforce Development Efforts by the City of Flagstaff" was requested by Councilmember Salas and undertaken by Council.
- Staff partnered with ARIZONA@WORK Coconino County Workforce Development Board Executive Director to provide an overview of the system.
- Staff developed a scope of work.



Scope of Work Development

- Confirm our understanding of the task.
- Convene stakeholders.
- Invite participation (additional funding).
- Compile and share ideas for review.
- Bring it to you.



The Scope of Work - Objectives

- To provide an overview and assessment of the existing workforce development system as they relate to current industry needs.
- To provide best practice recommendations for area workforce development service providers to adapt existing systems, trainings, and relationships to better serve workforce needs.
- To provide best practice recommendations for the City of Flagstaff to support the existing workforce development system in becoming an innovative leading community in upskilling residents.
- To create timelines and action items of achievable objectives to enhance workforce development over the next 2, 5, and 10 years. The consultant will also be requested to assist with the creation of measurable performance indicators to track success in workforce development.



Three Sections

- Survey the System
- Future Industry and Related Workforce Needs
- Pathways to Workforce Development



Deliverables

- Compiled cogent and insightful findings regarding the workforce development system .
- Possible options that the City of Flagstaff may choose to undertake to enhance the existing workforce development system.
- List of timelines and action items of achievable objectives to enhance workforce. development over the next 2, 5, and 10 years.
- Measurable performance indicators to track workforce development successes.



Next Steps



- Choose RSOQ or RFP
- Follow solicitation process
- Do the work
- Bring it back to you



Questions



Questions
or
Comments



Thank you



THANK YOU
THANK YOU

SCOPE OF WORK

I. GENERAL INFORMATION

The purpose of this City of Flagstaff (City) Request for Summary of Qualifications is to solicit SOQs from qualified professional consultants with demonstrated expertise and experience to provide proposals from qualified Consultants or reputable Consulting Firms to analyze the existing workforce development system, focusing on the current and future skills demands, and the workforce development system's ability to meet those needs.

The City is seeking to award a term contract to the Respondent that can best provide workforce development system analysis including strategies to modify and enhance the workforce development system in the next five to ten years in a way that provides the best overall value to the Flagstaff community.

The term of the contract will be for a one (1)-year period.

II. SCOPE OF WORK

A. Introduction

Comprehensive Survey and Analysis of the Existing Workforce Development System in Flagstaff and the Immediate Surroundings in order to Create and Fund a Robust Workforce Development Program to Expand and Strengthen Current Workforce Development Efforts by the City of Flagstaff

Introduction/ Background

Workforce development is critical to the viability of Flagstaff and the region. Flagstaff would appear positioned to meet the workforce needs of the present and future having an awarded school district for innovations in delivering education to a demographic across a broad geography, charter schools, and higher education facilities. Regional businesses however report challenges in finding people with the desired skills and behaviors to serve as stable workforce.

The City is seeking the services of a consultant to analyze the current workforce development system and the capacity/capability of the system to deliver the required workforce for Flagstaff and regional businesses. The city is also seeking specific and actionable strategies to enhance the existing workforce development system to meet current and future workforce needs.

The workforce development system operates beyond the City of Flagstaff municipal boundary. While the focus will remain opportunities for the City of Flagstaff to seize to enhance the workforce needs, this effort should examine the immediate surroundings using the Flagstaff Metropolitan Planning Organization boundary.

Objectives

The primary objectives of this research are:

- To provide an overview and assessment of the existing workforce development system as they relate to current industry needs.
- To provide best practice recommendations for area workforce development service providers to adapt existing systems, trainings, and relationships to better serve workforce needs.
- To provide best practice recommendations for the City of Flagstaff to support the existing workforce development system in becoming an innovative leading community in upskilling residents.
- To create timelines and action items of achievable objectives to enhance workforce development over the next 2, 5, and 10 years. The consultant will also be requested to assist with the creation of measurable performance indicators to track success in workforce development.

Scope of Work

A. Survey of Existing System

This section of the study is intended to provide a broad understanding of the existing workforce system, programs that serve formal specific career pathways and that deliver general skills.

1. Conduct a location quotient analysis to understand the concentration of skills in Flagstaff and the surrounding area.
2. Total number of jobs by wage, type/classification, required skills and or certifications, and pathway to employment.
3. Number of jobs available at present by wage and trend of jobs available by month and wage.
4. Current unemployment rate, overall and youth, in Flagstaff.
5. Trend of unemployment rate, overall and youth, in Flagstaff over the last 10 years.
6. List of articulated career pathways in area including those in career development offices in schools and service provider offices.
7. Map employment entry and transition/exit points.
8. Identify workforce development resources by age group, target audience, and frequency of use.
9. Identify skills that industry wants in job seekers
10. Identify ways that area industries find or create the needed and desired workforce.
11. Quantify number of small to medium enterprises in Flagstaff by industry classification and their unmet or difficult to find employment needs.
12. Qualitative and quantitative data from Flagstaff's top 20 employers to determine needs and current challenges that businesses face today.

The Consultant may propose that other measurements and data be included if doing so would increase understanding of the impacts of Flagstaff's area workforce development system.

B. Future Industry and Related Workforce Needs

This section of the study is intended to look into the future to understand how the workforce development system is positioned to maintain the Flagstaff community at expectedly high levels of services and to meet

the needs of future industry whose operations generate a low environmental impact and provide high wages relative to Flagstaff.

1. Current growth industries and required skill sets.
2. Trends in existing regional industries.
3. The intersection of global, national, and state growth industries and regional industries.
4. Workforce development tools and services that may create the workforce that will earn high wages.

C. Pathways to Workforce Development

This section of the study is intended to chart a path from the present to the next 1-5 years and the next 5-10 years which drives actions, policies, and investments that deliver the workforce required to keep a sustainable community running from the infrastructure in the ground to the innovations around the world and beyond.

1. Best practices for municipalities to support local area workforce development efforts.
2. Strategic positioning of the City of Flagstaff to support workforce development.
3. New workforce development programs for implementation by K-Career continuum.

Deliverables

The consultant will develop a schedule with staff to complete key deliverables for the project as listed below.

- Regularly scheduled monthly meetings to coordinate efforts and to create a framework of accountability including other meetings as necessary to stay on schedule.
- Coordination of outreach including an ever-developing list of key contacts and organizations.
- The Consultant will present a draft of pathways during regularly occurring meetings.
- Draft report that demonstrates a clear understanding of the workforce continuum in Flagstaff and the immediate surroundings.
- A final report that includes the following:
 - Compiled and cogent findings regarding the workforce development system.
 - Possible options that the City of Flagstaff may choose to undertake to enhance the existing workforce development system.
 - List of timelines and action items of achievable objectives to enhance workforce development over the next 2, 5, and 10 years.
 - Measurable performance indicators to track workforce development successes.
- A presentation of the final report first to staff and then to City of Flagstaff City Council during a work session.

City staff will make available and provide any existing information, studies, and contact information currently held by staff in order to support the consultant in meeting the requirements of this scope of work in a timely manner. This may include current demographics, consumer behavior information, workforce development reports, or the like. All such data and reports will be made available via a dropbox dedicated to the project.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Jack Fitchett, Business Attraction Manager
Date: 12/06/2022
Meeting Date: 12/13/2022



TITLE:

Business One Stop Shop (BOSS) - Update

DESIRED OUTCOME:

An update regarding progress for the Business One Stop Shop System (BOSS). This update will include progress related to a new website and internal processes that improves developer and business experience with the City of Flagstaff.

EXECUTIVE SUMMARY:

Business One Stop Shop (BOSS):

Background: This agenda item is a progress update related to Councilmember Salas's FAIR item. The goal of implementing a BOSS system is to find efficiencies and streamline specific processes related to City provided development and business services. Additionally, an effective BOSS system easily allows developers and businesses to access a variety of information in one easily accessible location.

Staff has created a cross-divisional team tasked with tackling several facets related to the BOSS concept.

The City of Flagstaff is currently working with our main website provider, Civic Plus, to help design a new landing page for the BOSS system. The updated website will be a landing page for many city resources where developers and business owners will be able to easily find information and navigate our planning process. Additionally, licensing, permitting, and economic development information will also be easily accessible from this new webpage.

An updated contract is currently under review with our legal and procurement teams and once this contract is executed the timeline for completion of this website is estimated to be 12-14 weeks. The overall cost is estimated to be \$7,500 for the one-time implementation of the site with yearly operating costs estimated to be \$1,000.

In coordination with BOSS, the Citizen Access Portal is also a major aspect that also enhances business and developer efficiencies through our planning process.

Citizen Access Portal:

The Citizen Access (CA) portal was part of the original plan when we implemented the Innoprise permitting software in June 2015. At that time, the CA software was newly developed and had several

glitches, along with a lack of staff knowledge of the module on the Harris developer side of things, this was not ready to be an effective tool for the City. Fast forward to March of 2020, when COVID-19 shut down all in-person operations and all submittals for all applications were still being submitted via paper, which was not an efficient or effective process due to the staff time associated with processing these requests in a work from home setting. It quickly became apparent that we needed a different solution, one that did not rely on receiving an email (which were often getting pushed back due to size limitations) and playing phone tag. With the help of Becky Cardiff and Dave Millis, we were able to successfully implement CA and started taking permits in April of 2021 allowing staff to take advantage of this tool while also improving operations during COVID.

CA allows for all building permits including over the counter, roofing, manufactured homes, solar, minor improvements (fences, decks, sheds), signs, and Right of Way permits to be submitted electronically through the portal. This also allows for all permit fees to be paid via the portal and the issuance of permits along with receiving stamp approved plans via the portal. The online portal has streamlined the submittal and issuance process, has cut down on the amount of time an applicant spends coming into City Hall along with eliminating the amount of paper waste.

These items complete phase one of implementation of the BOSS concept. Starting in 2023 phase two will begin and will be headed by another cross divisional team. This team will focus on streamlining additional building safety permitting services that relate to minor improvements and finding additional functionality for services to the business community.

INFORMATION:

Attachments: [BOSS Presentation](#)

Business One Stop Shop Update

Becky Cardiff – Development Services Manager
Jack Fitchett – Business Attraction Manager







Business One Stop Shop (BOSS)


Phase 1 – Implementation

- Website Creation
 - Easily accessible information for business owners, prospective businesses and developers
 - Focus on planning/permitting process, licensing, and economic development resources
- Contract is with Civic Plus
 - Estimated \$7,500 implementation cost
 - Estimated \$1,000 per year maintenance fee
 - 12-14 week timeline to completion once contract has been executed.

Chandler Municipal Airport Doing Business with the City Economic Development 

Permits & Plan Reviews

Planning & Zoning

Tax & License 

Business

City of Chandler | **Business**

Whether you are an established Chandler business, looking to start a business here, or want to move your business to our community, these are some of the services we can provide to help you be successful.

[Economic Development](#)[Planning and Zoning](#)[Chandler Municipal Airport \(CHD\)](#)[Downtown Business Development](#)[Doing Business with the City](#)[Tax and License](#)[Building Permits and Plan Review](#)[Building Permit Status](#)[Utility Billing and Payments](#)[Recycling and Trash](#)



Business One Stop Shop (BOSS)

Phase 2 – Implementation

- Review of internal services specifically related to permitting and building safety.
- Analyze various city processes related to minor permit requests or improvements and to streamline review of these permit types. Will also review/add additional functionality updates to the new website.
- Will begin determining what processes fit this mold in Q1 of 2023.



Citizen Access Portal (CAP)

Moving the Dial

- Implemented in April 2021 out of necessity to enhance Covid-19 operations.
- CA allows for all building permits including over the counter, roofing, manufactured homes, solar, minor improvements (fences, decks, sheds), signs, and Right of Way permits to be submitted electronically through the portal.
- Via the portal, all permit fees can be paid, the issuance of permits can be sent, and stamp approval of plans can be issued.



Questions?

Thank you!



CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Shannon Anderson, Senior Deputy City Manager

Co-Submitter: Greg Clifton, City Manager and Dan Olsen and Jack Harris, LD Consulting

Date: 12/07/2022

Meeting Date: 12/13/2022



TITLE:

Flagstaff Police Department Assessment Report

DESIRED OUTCOME:

Inform City Council about the findings and recommendations in the Flagstaff Police Department Assessment Report

EXECUTIVE SUMMARY:

The City of Flagstaff hired LD Consulting to complete an assessment of the Flagstaff Police Department (FPD) vice crime related policies, procedures and practices, Memorandum of Understanding (MOU) and Task Force Agreements, and audio and video recording procedures. The goal was to evaluate and improve operations as well as promote organizational transparency to the Flagstaff community.

INFORMATION:

LD Consulting has submitted an assessment report including the following findings and recommendations.

- **Metro Narcotics Policy Review:** Northern Arizona Street Crimes Task Force Metro Narcotics Policy is used for undercover operations as a supplemental to FPD policy manual. There are no references to vice enforcement operations or prostitution investigations in the policy. It was last revised in 2018 and policies are cross referenced to 2011 policies prior to the current Lexipol published policies. Recommendations include the addition of vice and prostitution investigation policies and procedures to conform with generally accepted practices as referenced in Section B of the report if the department will engage in such investigations or create Mutual Aid Agreement(s) with neighboring agencies if FPD will request others conduct such investigations and revise cross references with current applicable sections of the FPD policy manual.
- **Flagstaff Police Department Policy Manual Review:** A review of the FPD policy manual for 2019 and revised in 2022 found no policies regarding vice or prostitution investigations. Recommendations include a revision of the FPD policy manual for vice and prostitution investigations to conform to generally accepted practices. There are examples included in Section B of the report.
- **MOU and Task Force Agreements Review:** Reviewed 16 documents between the FPD and other agencies for relevance to an MOU or policy in effect in July 2019 regarding vice or prostitution investigations. There is no mention of human trafficking or prostitution in either agreement as both pertain to reimbursement. The MOU between FPD and FBI dated 2013 mentions human

trafficking, but the FBI was not involved in the investigation. There were no recommendations included on this item.

- **Video/Audio Policy Procedure Review:** A review of Metro Unit policy determined there were several references to audio and video recordings but there is no clear procedure for capturing or storing the audio or video for undercover operations. A review of FPD policy manual includes property and evidence and digital evidence recorded by officers. Evidence.com is referenced for Taser, Unmanned Aerial System, and Body Worn Cameras, but does not provide procedures for downloading undercover audio / video into the system. Recommendations include a revision of policies to include reference to evidence.com for undercover audio / video procedures into the Metro Unit policy and FPD policy manual.

Attachments: Report
 Presentation



Vice Crime Enforcement Policy Assessment

Prepared by:



December 12, 2022

City of Flagstaff Mission and Vision

To protect and enhance the quality of life for all.

The City of Flagstaff is a safe, diverse, just, vibrant and innovative community with a unique character and quality of life for all. The City fosters and supports economic, environmental, educational and cultural opportunities.



Flagstaff Police Department Vice Crime Enforcement Policy Review

Greg Clifton, City Manager
City of Flagstaff, AZ.

Dan Olson
LD Consulting LLC

December 12, 2022

At your request, LD Consulting performed a review / assessment of the Flagstaff Police Department (FPD) policies related to vice crime enforcement. FPD management is responsible for establishing and monitoring effective internal controls / policies regarding FPD operations. This assessment is part of an ongoing effort by the City of Flagstaff and the FPD to evaluate and improve operations as well as promote organizational transparency to the citizens of Flagstaff.

After consulting with City Management, the following items were identified as the major criteria for the assessment.

- FPD Policies
- FPD Procedures / Practices
- Memorandum of Understanding (MOU) / Task Force Agreements
- Audio and Video Recording Procedures

The assessment team would like to thank you as well as your dedicated staff for their cooperation during the engagement. They were professional and knowledgeable. Their assistance contributed significantly to the successful completion of this project.



Dan Olson, LD Consulting LLC

Flagstaff Police Department Vice Crime Enforcement Policy Review



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Flagstaff Police Department Vice Crime Enforcement Policy Review

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Attachments:

1. Contributing Project Consultants Information

Flagstaff Police Department Vice Crime Enforcement Policy Review

EXECUTIVE SUMMARY

In an ongoing effort by the City of Flagstaff to evaluate and improve operations as well as promote organizational transparency to the citizens of Flagstaff, LD Consulting performed an assessment of the Flagstaff Police Department (FPD) policies related to vice crime enforcement. FPD management is responsible for establishing and monitoring effective internal controls / policies regarding FPD operations. The following is a summary of the objectives and findings of the assessment.

Objectives: Review the following policies / documents regarding vice crimes / prostitution / human trafficking.

- FPD Policies
- FPD Procedures / Practices
- Memorandum of Understanding (MOU) / Task Force Agreements
- Audio and Video Recording Procedures

Enforcement of prostitution laws can be complicated and time consuming. Prostitution investigations can include street prostitution, in-call and out-call services, massage parlors and similar businesses used as a front for prostitution as well as the investigation of related crimes such as human trafficking and kidnaping.

The investigative skills needed to investigate prostitution, gambling and related crimes can be time consuming to learn and to maintain. Many agencies have a need for a vice enforcement unit to investigate such crimes due to the high volume of such crimes in their jurisdiction.

If FPD has a need to maintain a trained unit to conduct such investigations, then the department should develop related investigative policies and procedures (see below) needed to provide direction and guidance to those investigators tasked with those responsibilities.

Should the department make the decision not to engage in such investigations due to the lack of volume, then FPD should enter into a Mutual Aid Agreement with a neighboring agency that maintains such a unit and is willing to assist FPD.

FPD should develop and implement more extensive policies and procedures for undercover operations not related to vice enforcement (see below). FPD has an adequate Confidential Informant policy. More extensive policies regarding aspects of undercover operations are needed. Areas such as surveillance, legal issues and limitations are areas to be addressed.

Findings:

- ❖ **Metro Narcotics Policy Review:** Northern Arizona Street Crimes Task Force Metro Narcotics Policy does not make any reference to vice / prostitution criminal investigations. The policy is used for undercover operations as a supplement to FPD policy. It was last revised in 2018 and policies are cross referenced to 2011 policies prior to the current Lexipol published policies.
 - **Recommendations:** Three

Flagstaff Police Department Vice Crime Enforcement Policy Review

- ❖ **Flagstaff Police Department Policy Manual Review:** A review of the Flagstaff Police Department (FPD) policy manual for 2019 and revised in 2022 found no policies regarding vice or prostitution investigations. This is inconsistent with generally accepted practices.
 - **Recommendation:** One
- ❖ **Memorandum of Understanding / Agreements Review:** A review of Memorandums of Understanding between the Flagstaff Police Department and other agencies identified MOU's with Homeland Security and Alcohol Tobacco and Firearms (ATF) at the time of the prostitution investigation (2019). Both were for reimbursement expenses in joint operations with no reference to prostitution or human trafficking.
 - **Recommendation:** None
- ❖ **Video Policy Procedure Review:** The majority of policy in place during the 2019 investigation regarding video storage and duplication is in the FPD policy manual sections 804.61 and 814. The FPD has implemented the Evidence.com digital evidence storage system. Evidence.com procedures for undercover audio / video are not referenced in the current policy section 811 Digital Evidence Recorded by Officers.
 - **Recommendation:** One

Flagstaff Police Department Vice Crime Enforcement Policy Review

METHODOLOGY

The assessment team reviewed all applicable documentation, including the FPD policy manual, metro task force policy and memorandums of understanding related to vice or prostitution investigations. For best practices, the International Association of Chief of Police (IACP), the Commission on Accreditation of Law Enforcement (CALEA), the Arizona Law Enforcement Accreditation Program (ALEAP) were utilized as industry standards.

Between November 1st and 30th, 2022, the assessment team conducted a review of related policies and documents to evaluate current FPD policies, procedures and current practices related to vice criminal investigations for compliance with generally accepted practices. As part of the review the assessment team interviewed the Police Chief and Metro Sergeant.

Contributing Assessment Project Consultants

- Dan Olson, Law Enforcement Consultant, CLEA
- Jack Harris, Law Enforcement Consultant, Phoenix Police Chief (retired)

Additional information regarding the consultants can be found in the attachment section of this report.

Flagstaff Police Department Vice Crime Enforcement Policy Review

Terminology

VICE criminal investigations may involve prostitution, gambling, illegal use/sale of alcoholic beverages, and the distribution/sale of obscene and pornographic materials. Drug control focuses on the distribution/sale of illegal and controlled substances. Organized crime control should address unlawful activities by members of organized groups or associations engaged in or promoting extortion, theft, fencing, loan sharking, labor racketeering, or other offense for profit, or engaged in supplying illegal goods and services, prostitution, drugs, liquor, weapons-or other unlawful conduct that may include intimidation or corruption.¹ Some of these offenses may involve human trafficking.

Public Nuisance is another term used by some jurisdiction regarding prostitution, gambling, illegal narcotics, and related criminal activity.

[CALEA](#): Commission on Accreditation of Law Enforcement

[ALEAP](#): Arizona Law Enforcement Accreditation Program

Criminal Statutes and Ordinances:

Criminal statues for the State of Arizona can be found within the Arizona Revised Statutes Title 13. 13-3214 Prostitution states, "It is unlawful for a person to knowingly engage in prostitution." ARS 13-3211.5, defines prostitution as, "engaging in or agreeing or offering to engage in sexual conduct under a fee arrangement with any person for money or any other valuable consideration."

ARS 13-3214 B. "does not prohibit cities or towns from enacting and enforcing ordinances to suppress and prohibit prostitution that provide a punishment for misdemeanor violations that is at least as stringent as provided in this section." 13-3214 C. states, "For the purposes of sentencing under this section, a previous violation of any city or town ordinance that prohibits prostitution and that has the same or substantially similar elements as this section shall be deemed to be a previous violation of this section."

The City of Phoenix has Ordinance G6473 which designates prostitution a crime within Phoenix. That Ordinance is specific on defining what elements constitute a violation and what the resulting penalties shall be. A review of the City of Flagstaff Ordinances identified Ordinance 3-08-001-00001, regarding Adult Oriented Businesses. No specific Ordinance regarding prostitution was identified.

¹ CALEA Standard Chapter 43

Flagstaff Police Department Vice Crime Enforcement Policy Review

BACKGROUND

Flagstaff, Arizona is located at the intersection of I-17 and I-40 and is the largest city in Northern Arizona. The City of Flagstaff is comprised of just over 64 square miles with a population of approximately 77,000.² The City is also the regional center and county seat for Coconino County.

Flagstaff was incorporated as a City in 1928 and currently is a council-manager form of government, the council is the governing body of the city, elected by the public, and the manager is hired by the council to carry out the policies it establishes.

The Flagstaff Police Department (FPD) is comprised of roughly 118 sworn police officers and 57 non-sworn support staff positions. Dan Musselman has been the Chief of Police since December 2020. The Chief of Police reports to the Deputy City Manager. The department consist of two main sections, the Operations Section, and the Support Services Section.

Background: 2019 Investigation regarding massage businesses

During the month of July 2019, detectives assigned to the Flagstaff Police Department (FPD) Metro Unit initiated an investigation into information regarding prostitution and human trafficking occurring at numerous massage businesses located in Flagstaff.

Chief Musselman was not the Police Chief at the time of this criminal investigation but has been with the department for twenty-seven years. He advised that historically, it was very rare for the department to receive complaints related to prostitution, gambling, or human trafficking. During his tenure with FPD he could recall only one complaint several years ago regarding prostitution.

At the time of the investigation in 2019, Metro detectives from FPD conducted the operational on scene components of the investigation with some intelligence provided by Homeland Security Investigations (HSI). Alcohol Tobacco and Firearms (ATF) assisted with serving arrest warrants issued as a result of the investigation. The Coconino County Attorney was also consulted regarding the investigation.

Based on concerns regarding policies and procedures regarding the criminal investigation, the City of Flagstaff requested an assessment of FPD policies and procedures regarding vice / prostitution investigations.

² US Census 2021. Retrieved from <https://www.census.gov/quickfacts/flagstaffcityarizona>

Flagstaff Police Department Vice Crime Enforcement Policy Review

Section A: Metro Narcotics Policy Review

Authorities

Northern Arizona Street Crimes Task Force Metro Narcotics Policy
CALEA Standard Chapter 23

Observations

A review of the Northern Arizona Street Crimes Task Force Metro Narcotics Policy was conducted to identify policies related to vice / prostitution investigations. The policy is used for undercover operations as a supplement to the FPD policy manual.

There are no references to vice enforcement operations or prostitution investigations in the policy. The policy is divided into the following sections:

Section	Last Rev Date	Observations
4.0	10/5/2018	Confidential Informants
4.1	10/5/2018	Undercover Identification
4.2	10/5/2018	Undercover Activities Operations
4.3	10/5/2018	Reverse Undercover Operations
4.4	10/5/2018	Sting Operations
4.5		Blank
4.6	10/5/2018	Operational Planning
4.7		Blank
4.8	10/5/2018	Evidence Acquisition Funds
		No sections 4.9-4.10
4.11	10/5/2018	Property and Evidence Submission
4.12	10/5/2018	Use of Body Armor

Policies are cross referenced to 2011 policies prior to the current Lexipol published policies. Staff advised that the missing sections were provided for future policy expansion if needed.

Section 4.4 refers to sting operations as long-term covert investigations conducted from a fixed site, targeting repeat offenders engaged in specific criminal activity. This is in reference to store front operations used in some cases to purchase stolen property to identify burglary / theft suspects and are not applicable to the 2019 investigation.

Flagstaff Police Department Vice Crime Enforcement Policy Review

Conclusion

Northern Arizona Street Crimes Task Force Metro Narcotics Policy does not make any reference to vice / prostitution criminal investigations. The policy is used for undercover operations as a supplement to FPD policy. It was last revised in 2018 and policies are cross referenced to 2011 policies prior to the current Lexipol published policies.

Recommendations

- A.1 FPD Command staff should revise the Northern Arizona Street Crimes Task Force Metro Narcotics Policy with the addition of vice and prostitution investigations to conform with generally accepted practices as referenced in section B of this report.
- A.2 As part of the revision process the policy should be cross referenced with current applicable sections of the FPD Policy Manual.
- A.3 If the FPD has a need to maintain a trained unit to conduct vice related investigations, then the department should develop and implement related investigative policies and procedures needed to provide direction and guidance to those investigators tasked with those responsibilities. And should the department make the decision not to engage in such investigations due to the lack of volume, then FPD should enter into a Mutual Aid Agreement with a neighboring agency that maintains such a unit and is willing to assist FPD

Flagstaff Police Department Vice Crime Enforcement Policy Review

B: Flagstaff Police Department Policy Manual

Authorities

Flagstaff Police Department Policies 2019 and 2022
CALEA Standard Chapter 43.1.1

Observations

A review of Flagstaff Police Department (FPD) policy for 2019 and 2022 was conducted to identify policies related to vice / prostitution investigations. The 2019 policy was reviewed as it was in effect during the 2019 prostitution investigation conducted by FPD. The 2022 policy was reviewed to contrast and compare the policy to the 2019 version for any revisions regarding vice / prostitution related investigations.

A review of the 2019 and 2022 revised policies found no policies regarding vice or prostitution investigations. FPD policy 340.5.10 appears to be for personal relationships and not criminal investigations, the policy regarding employee relationships states:

Engaging in on-duty sexual activity including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact.

Confidential informants are addressed in section 800.

Although FPD is not a member of the Commission on Accreditation for Law Enforcement (CALEA) many CALEA policies are considered generally accepted practice. CALEA Chapter 43.1.1 recommends that an agency have the following policies regarding vice related investigations:

Complaint management: A written directive for investigating vice, drug, and organized crime activities, to include:

- a. specifying procedures for receiving and processing complaints.*
- b. maintaining a record of complaints received.*
- c. maintaining a record of information conveyed to and received from outside agencies; and*
- d. specifying procedures for advising the agency's CEO of activities.*

The agency should establish procedures ensuring that each complaint received is recorded and investigated to the fullest extent possible. The directive should include a listing of complaint forms used, information needed, and preliminary actions to be taken. The agency should establish procedures for conducting preliminary and follow-up investigations of vice, drug, and organized crime offenses. Every complaint received should be recorded and entered in a complaint filing system with provision for purging after a specified period of time. It is recognized that some agencies may not have functional responsibility for the investigation of vice, drug, or organized crime activities. Notwithstanding, the agency should have procedures for meeting the standard, even if only in the normal course of the agency's reporting mechanism.

Many agencies have a policy or an undercover procedures manual prohibiting sexual contact during criminal investigations particularly during vice related investigations. An example of such a policy is the Portland Police Department Policy 640.95.e listed below.

Flagstaff Police Department Vice Crime Enforcement Policy Review

An undercover member will not engage in sexual contact. A member will not expose his/her genitals or commit criminal offenses, to convince others that he/she is not associated with law enforcement. A sworn member in a decoy role will not expose his/her private body parts, which includes female breasts, or touch the private body parts, which includes female breasts, of a john/prostitute. A sworn member in a decoy role will document in his/her report any unsolicited touching of the member's private body parts by a john/prostitute. A sworn member will immediately disengage from any unsolicited touching by a john/prostitute and comment in his/her report how that was accomplished.

Conclusion

A review of the Flagstaff Police Department (FPD) policy manual for 2019 and revised in 2022 found no policies regarding vice or prostitution investigations. This is inconsistent with generally accepted practices.

Recommendations

- B.1 FPD Command staff should revise their Policy Manual with the addition of policies for vice and prostitution investigations that conform with generally accepted practices.

Flagstaff Police Department Vice Crime Enforcement Policy Review

C: Memorandum of Understanding Review

MOU's and Documents Reviewed

- Federal Bureau of Investigation (FBI) 2013, Arizona Safe Trails Task Force Memorandum of Understanding (MOU).
- FBI 2013, Safe Streets Task Force MOU.
- FBI 2014, Safe Streets Task Force MOU.
- Coconino County Attorney's Office (CCAO) 2018, Street Crimes Task Force MOU.
- Exhibit B Memorandum from the Board of Directors Northern Arizona Street Crimes Task Force, "Metro."
- Memorandum from CCAO William Ring to Requesting Law Enforcement Agency.
- Memorandum from Metro Board of Directors to CCA William Ring.
- Memorandum from CCA William Ring to Requesting Law Enforcement Agency (second memorandum).
- 2021, MOU between U.S. Immigration and Customs Enforcement (ICE) and Flagstaff Police Department (FPD).
- 2019, MOU between FPD and U.S. Department of Justice (DOJ) Alcohol, Tobacco, Firearms, and Explosives (ATF).
- 2021, Northern Arizona Metro Narcotics Operations Plan.
- FPD, State/Local Overtime (SLOT) Agreement for reimbursement of Expenses in Joint Operations.
- Northern Arizona Street Crimes Task Force Metro Narcotics Informant Report.
- Northern Arizona Informant Report Informant Status Verification/Change Form.
- Northern Arizona Informant Report File Review Form.
- Northern Arizona Informant Report Record and Payment Worksheet.

Observations

The FPD detectives conducted the 2019 local investigation with some intelligence assistance from other agencies. The documents listed above were reviewed for relevance to an MOU or policy in effect in July 2019 regarding vice or prostitution investigations. FPD had an MOU for the Metro Narcotics Task Force operations at that time with U.S. Homeland Security. This is an agreement signed in 2016 for "State/local Overtime (SLOT) Agreement for Reimbursement of Expenses in Joint Operations". ATF assisted with serving arrest warrants issued as a result of the investigation. FPD had an MOU with the ATF "Reimbursement of Overtime Salary Costs". There is no mention of human trafficking or prostitution in the either agreement as both pertain to overtime reimbursement.

An MOU between FPD and the FBI from 2013, mentions human trafficking. This MOU was not applicable to the local massage parlor investigation in 2019 as the FBI was not involved in the investigation.

Conclusion

A review of Memorandums of Understanding between the Flagstaff Police Department and other agencies identified MOU's with Homeland Security and Alcohol Tobacco and Firearms at the time of the prostitution investigation (2019). Both were for reimbursement expenses in joint operations with no reference to prostitution or human trafficking.

Recommendations:

None

Flagstaff Police Department Vice Crime Enforcement Policy Review

D: Video Policy Procedures

Authorities

Flagstaff Police Department Metro Narcotics Policy Section 4.2, 4.3 and 4.4 Revised 2018
Section 804.6.1 Flagstaff Police Department Policy Rev 7/3/2019
Section 814.5 Flagstaff Police Department Policy Rev 7/3/2019
Section 811 Flagstaff Police Department Policy Rev 7/3/2022

Observations

A review of the Metro Unit policy determined there were several references to audio and video recordings but there is no clear procedure for capturing or storing the audio or video. The Metro policy is intended primarily for narcotics operations.

A review was completed of the Lexipol policy revised on 7/3/2019 and in effect during the 2019 prostitution investigation which started on 7/15/2019. Property and Evidence Section 804.61 (j), states, "The duplication of video and/or audio recordings for the purpose of further investigation or for the County Attorney's use is the responsibility of the Detective assigned to the case."

Section 814.5 pertains to digital evidence recorded by officers. This section was moved to Section 811 in the 2022 Lexipol revision, with few if any revisions noted. This section provides policy for collection, submission, downloading, and preservation of digital evidence. Although evidence.com is referenced for the Taser (section 300), Unmanned Aerial System (UAS), and Body Worn Cameras (BWC) video this section (811) does not provide procedures for downloading undercover audio / video into the evidence.com system currently in use.

Conclusion

The majority of policy in place during the 2019 investigation regarding video storage and duplication is in the FPD policy manual sections 804.61 and 814. The FPD has implemented the Evidence.com digital evidence storage system. Evidence.com procedures for undercover audio / video are not referenced in the current policy section 811 Digital Evidence Recorded by Officers.

Recommendations

- D.1 Command staff should revise policy to include reference to the Evidence.com system for undercover audio / video procedures in the Metro Unit policy and the FPD policy section 811.

Flagstaff Police Department Vice Crime Enforcement Policy Review

Attachment 1 Project Consultants:

The specific group of consultants proposed for this project have worked on projects for a wide variety of law enforcement agencies from smaller municipal agencies to some of the larger tribal and municipal agencies in the country. The diversity in agency size has taught us many valuable lessons about how to properly calibrate our services to suit the unique dynamics of agencies large and small. Each engagement is unique, and the proposed project team is accustomed to adapting to the client's requirements. The listed consultants will be available to work on this engagement.

Project Manager: Dan Olson, President LD Consulting LLC, CLEA

Since founding LD Consulting in 2008 Dan has completed a number of consulting engagements with law enforcement agencies in the US as well as the US Virgin Islands. Dan retired after serving 34 years with the Phoenix Police Department. For 4 years Dan was a Professional Standards Bureau (PSB) Investigations Sergeant. During his tenure as a sergeant in PSB, he conducted over 30 use of force cases/police shootings, several of which were very high profile in the community. Dan has also completed numerous administrative personnel investigations to include a number of cases involving egregious conduct resulting in employee terminations. While assigned to PSB, Dan was promoted to lieutenant and continued to work in the bureau as an Investigations Lieutenant.

During his career, Dan has worked a number of assignments. While assigned to patrol, he was the shift commander in one of the largest precincts in the city with over 100,000 residents. In this role, he was responsible for all the field operations in the precinct.

Dan was assigned to supervise the PSB Inspections Unit where he worked for eleven years. As the Inspections Lieutenant, he was responsible for completing all internal police audits, acting as the liaison with the City Auditor for all city audits of the police department, operation of the Police Risk Management Unit, project manager for the creation and implementation of the department's Early Intervention System, operations of the Mayor's Security Detail and oversight for the PSB Administrative Staff.

During his tenure in the Inspections Unit, internal police audits were completed in accordance with the Commission on Accreditation for Law Enforcement (CALEA) schedule for police department audits. These standards require an audit of all major department components every three years, at the time the department had 28 major components. As a part of the CALEA audit schedule, Dan and his staff completed numerous audits of all major operations of the Phoenix Police Department. This included on going proactive inspections as well as annual audits of the property and evidence facility of the Phoenix Police Department, which contains over 1.5 million items.

Dan is a founding member of the International Law Enforcement Auditors Association (ILEAA) and served as the president of that organization for two years. He is a Certified Law Enforcement Auditor (CLEA). He is the founder and Director of the Law Enforcement Inspection and Audit Group (LEAIG.org) and has a Masters degree from Northern Arizona University.

Flagstaff Police Department Vice Crime Enforcement Policy Review

Consultant: Jack Harris, Phoenix Police Chief (retired)

Jack has thirty-nine years of law enforcement experience with the City of Phoenix Police Department in Phoenix, Arizona. During those thirty-nine years, he served as a Police Officer, Sergeant, Lieutenant, Commander, Assistant Police Chief, Police Chief, Public Safety Manager and Deputy City Manager. In those ranks he was assigned to at least seventeen different assignments that included, but are not limited to, patrol, undercover assignments in vice and narcotics, training, traffic, SWAT, internal affairs as well as a number of administrative assignments.

Throughout his career he conducted formal employee investigations involving employee conduct. While assigned to the Professional Standards Bureau he was responsible for approximately one thousand (1,000) of the most serious employee conduct and officer involved shooting investigations in the department. As Police Chief he had responsibility for imposing discipline for misconduct involving approximately five thousand employees. He conservatively estimates that he has personally investigated or reviewed over three thousand (3,000) personnel investigations.

He has taught various subjects for over ten (10) years at the police training academy and served for over two years as the Basic Training Sergeant. He also taught tactics at the local, state, national and international level. He has been intimately involved in the formation and implementation of police policy for police agencies at all levels of law enforcement for four decades. There exists a body of knowledge regarding best practices and standards of care for law enforcement officers throughout the nation. Through his vast law enforcement experience, professional memberships and training he is generally familiar with accepted policies, training, procedures, and standards of care that govern police officer conduct. He has been recognized as a police policy and procedures expert in United States Federal Court and Arizona State Court. He has conducted policy and procedures reviews for numerous police agencies at the request of the United States Department of Justice.

FPD Assessment Report

December 13, 2022





Introductions



LD Consulting, LLC

- Law enforcement audit and inspections training and consulting
- Project Manager, Dan Olsen, President LD Consulting LLC, CLEA
- Consultant, Jack Harris, Phoenix Police Chief (retired)

Background

- Effort to evaluate and improve operations
- Promote organizational transparency to community
- Review of information related to vice crime enforcement
 - Polices
 - Procedures and Practices
 - Memorandum of Understanding (MOU) and Task Force Agreements
 - Audio and Video Recording Procedures





Metro Narcotics Policy Review

- Used for undercover operations as a supplement to FPD policy manual
- No references to vice enforcement operations or prostitution investigations
- Last revised in 2018 and cross referenced to 2011 policies
- Recommendations:
 - Addition of vice and prostitution investigation policies and procedures if will engage in such investigations or create Mutual Aid Agreement with neighboring agencies
 - Revise cross references in FPD policy manual



FPD Policy Manual



- Reviewed manual from 2019 and revised copy from 2022
- No policies on vice or prostitution investigations
- Recommendation:
 - Addition of vice and prostitution investigation policies to conform with generally accepted practices as referenced in Section B



MOU and Task Force Agreements



- Reviewed 16 documents between FPD and other agencies for relevance to vice or prostitution investigations
- No mention of human trafficking or prostitution applicable to 2019 investigation
- No Recommendations



Audio/Video Procedures

- Several references to audio and video recordings
- No clear procedure for capturing or storing the audio or video for undercover operations
- Evidence.com included in FPD policy manual
- Recommendation:
 - Revision of policies to include reference to evidence.com for undercover audio/video procedures into Metro Unit and FPD policy manuals



Next Steps



- Address Human Trafficking through pursuit of City's Empowered Against Sexual Exploitation (CEASE) City designation
- Development of recommended policies and procedures for vice and prostitution investigations

Council Questions



CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Gary Miller, Water Services Engineering Section
Director

Co-Submitter: Anja Wendel

Date: 12/07/2022

Meeting Date: 12/13/2022



TITLE:

Consideration and Adoption of Ordinance No. 2022-33: an Ordinance of the City Council of the City of Flagstaff, amending the Flagstaff City Code Title 7, Health and Sanitation, Chapter 7-08, Extension and Reimbursement Agreements for the Construction of Water and Sewer Line, and Title 13, Engineering Design Standards and Specification for New Infrastructure, Chapter 13-09 Water, Sewer, and Other Underground Utilities, by amending the Reimbursement Agreement provisions to allow a longer maximum payback period; repeal of conflicting ordinances, severability, authority for clerical corrections, and establishing an effective date.

STAFF RECOMMENDED ACTION:

- 1) Read Ordinance No. 2022-33 by title only for the final time
- 2) City Clerk reads Ordinance No. 2022-33 by title only (if approved above)
- 3) Adopt Ordinance No. 2022-33

Executive Summary:

This ordinance, to revise city code, is proposed with the intent to improve the existing policies on reimbursement agreements, sometimes referred to as recapture agreements. Reimbursement agreements are a tool primarily utilized by developers to share the financial cost of extending water and sewer mains to areas of town that are not currently served by this infrastructure.

In 1994 the City adopted a recapture ordinance to provide a process whereby developer can recover a portion of the infrastructure costs from property owners or future developments that will benefit from the new infrastructure. Any property owner applying for a connection to a water or sewer main, who did not share in the original cost of installation, will be assessed a proportionate share of the cost, that will then be refunded to the developer who paid the initial capital cost. If adjacent landowners choose not to develop or connect to the utility line, they are not assessed a charge.

In 2007 a revision to this code was adopted simplifying the process by which reimbursement agreements processed and administered. Since this last revision very few, if any, reimbursement agreements have been done. The proposed revision would extend the maximum payback period from ten (10) years to twenty (20) years. This change may encourage investment in water and sewer infrastructure and development. Most cities in Arizona have recapture ordinances, some allow for a ten-year reimbursement period, and some allow for a twenty-year reimbursement period.

Financial Impact:

When a reimbursement agreement is established the beneficiary is responsible to pay an established fee, which is a percentage of the total reimbursement, not to exceed \$10,000. This fee is intended to cover the City's cost to administer the agreement. By extending the payback period the City's obligation to administer will also be extended. No direct budget impact is expected from this change.

Policy Impact:

The intended and expected policy impact would be in the support of development in areas of the City that are not currently served by water and sewer. Reimbursement agreements would be a better and more beneficial tool for developers when considering development in these areas.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:**Priority Based Budget Key Community Priorities and Objectives**

Sustainable, Innovative Infrastructure

- Deliver Outstanding services to residents through a healthy, well maintained infrastructure system
- Utilize existing long-range plan(s) that identify the community's future infrastructure needs and all associated costs

Livable Community

- Support the development of attainable and accessible housing

Carbon Neutrality Plan

CR-1: Ensure all mitigation actions improve Flagstaff's ability to adapt to the future.

Regional Plan

WR.2.2. Maintain and develop facilities to provide reliable, safe, and cost-effective water, wastewater, and reclaimed water services.

Has There Been Previous Council Decision on This:

In March of 2020 the City of Flagstaff entered into an agreement with Coconino County entitled "AMENDED AND RESTATED PERMANENT EASEMENT FOR WELLS, DRAINAGE, SEWER, AND WATER PIPELINES (Fort Tuthill)". Within this agreement the City agreed that "The City Council at a public meeting will consider amending the code to allow a recapture period of up to 20 years." The County has since completed the sewer main extension contemplated in this agreement and is currently working with staff to establish their reimbursement agreement. At this time Coconino County is intending to take advantage of the extended payback period proposed in this ordinance.

Attachments: Ord. 2022-33
 Presentation

ORDINANCE NO. 2022-33

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AMENDING THE FLAGSTAFF CITY CODE, TITLE 7, HEALTH AND SANITATION, CHAPTER 7-08, EXTENSION AND REIMBURSEMENT AGREEMENTS FOR THE CONSTRUCTION OF WATER AND SEWER LINES, AND TITLE 13, ENGINEERING DESIGN STANDARDS AND SPECIFICATIONS FOR NEW INFRASTRUCTURE, CHAPTER 13-09 WATER, SEWER, AND OTHER UNDERGROUND UTILITIES, BY AMENDING THE REIMBURSEMENT AGREEMENT PROVISIONS TO ALLOW A LONGER MAXIMUM PAYBACK PERIOD; REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the City Council has determined allowing maximum payback periods for sewer and water line reimbursement agreements in excess of ten (10) years may be appropriate depending upon status of development in an area or the costs of a project.

ENACTMENTS:

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

SECTION 1. In General.

The Flagstaff City Code, Title 7, Health and Sanitation, Chapter 7-08, Extension and Reimbursement Agreements for the Construction of Water and Sewer Lines, Section 7-08-001-0005 is amended to read as follows (deletions are shown as stricken, and new text is shown as underlined capitalized text):

7-08-001-0005 REIMBURSEMENT AGREEMENTS

A. Within sixty (60) days after completion and final acceptance by the City of the extension of any water or sewer line to serve a subdivision, platted or unplatted property, the developer or owner desiring a reimbursement agreement with the City shall provide the following information to the City ~~Utilities~~ WATER SERVICES Division:

1. A copy of the "Letter of Acceptance" issued by the City ~~Community Development~~ ENGINEERING Division stating that the completed water or sewer line extension improvements conform to the approved plans and specifications;
2. A full-size mylar copy of the approved construction plans and a redlined print of the approved construction drawings indicating actual facilities installed;
3. Receipts identifying actual design and construction costs, and documentation showing that the developer or owner made payment; and

4. A map or diagram showing all properties which will be benefited by the installed water or sewer line.

B. Reimbursement agreements shall identify the developer or owner to whom reimbursement payments shall be made, and shall include a map and/or diagram indicating the properties benefited by the water or sewer line extension along with the specific line payback charges corresponding to each benefited property for collection purposes.

C. Reimbursement agreements shall state the maximum reimbursement amount potentially available to the developer or owner based on the cost of extending water or sewer lines from which others may be served. Construction and design costs shall be submitted to the City ~~Utilities~~ WATER SERVICES Division in writing by the developer or owner. The construction and design costs shall be reviewed and approved by the City ~~Utilities~~ WATER SERVICES Division and shall be used to determine the maximum reimbursement amount to be set forth in the reimbursement agreement. The developer or owner shall receive reimbursement from line payback charges collected by the City within the payback period only from those developers or owners who subsequently tie into, and receive a benefit from, the water or sewer line installed by the developer or owner.

D. Reimbursement agreements shall provide for a maximum payback period of ten (10) years after the effective date of the reimbursement agreement; PROVIDED, HOWEVER, THE CITY COUNCIL MAY EXTEND THE PAYBACK PERIOD FOR UP TO TWO (2) CONSECUTIVE FIVE-YEAR EXTENSIONS AND NOT TO EXCEED A TOTAL OF TWENTY (20) YEARS AFTER THE EFFECTIVE DATE OF THE REIMBURSEMENT AGREEMENT, UPON A CITY FINDING THAT: (1) DEVELOPMENT WITHIN THE ASSESSMENT BOUNDARY IS ONGOING OR IMMINENT; AND (2) THE PROPERTIES WITHIN THE ASSESSMENT BOUNDARY WILL BE BENEFITED OR SERVED BY THE IMPROVEMENTS FOR WHICH THEY WILL BE ASSESSED. Upon the expiration of the maximum payback period, all reimbursement rights held by the developer or owner under the reimbursement agreement shall terminate.

E. Upon the City's receipt of the administrative charge defined below in subsection (H) and the execution of the reimbursement agreement, the City shall record with the Coconino County Recorder's Office, as to each benefited property, a notice of line payback charge, setting forth the terms of the reimbursement agreement. When the line payback charge has been collected for any given benefited property, the City shall record with the Coconino County Recorder's Office a release of the original notice of line payback charge for that property.

F. The City shall establish a separate account for the collection of line payback charges and disbursement of reimbursement payments. All sums collected shall be paid in accordance with the reimbursement agreement, within ninety (90) days of receipt by the City. There shall be no interest charged or paid on such sums.

G. A developer or owner who constructs a water or sewer line under a reimbursement agreement shall have no right, title or claim to reimbursement after the expiration of the maximum payback period under the reimbursement agreement.

H. The City's costs of administration shall be paid to the City by the developer or owner prior to the execution of the reimbursement agreement. Such costs of administration shall be five (5) percent of the total construction costs incurred by the developer or owner for the portion of the water or sewer line which will serve the properties of subsequent developers or owners. Such

costs of administration shall not exceed ten thousand (\$10,000) dollars and shall not be reimbursable.

The Flagstaff City Code, Title 13, Engineering Design Standards and Specifications for New Infrastructure, Chapter 13-09 Water, Sewer, and Other Underground Utilities, Division 13-09-005 is amended to read as follows (deletions are shown as stricken, and new text is shown as underlined capitalized text):

Division 13-09-005
Recapture REIMBURSEMENT Agreement

Sections:

13-09-005-0001 Recapture REIMBURSEMENT Agreement

13-09-005-0001 Recapture REIMBURSEMENT Agreement

A.——If a ~~property owner or developer~~ OR OWNER extends a water or sewer main across undeveloped property to reach his ~~ITS~~ development or property, and wishes to be reimbursed for the cost of installing said extension by future customers THAT WILL BE BENEFITED OR SERVED BY THE NEW LINE EXTENSION along the length of the lines, ~~he~~ THE DEVELOPER OR OWNER may request a ~~recapture~~ REIMBURSEMENT agreement ~~be drawn up by the City,~~ PURSUANT TO THE FLAGSTAFF CITY CODE SECTION 7-08-001-0005 REIMBURSEMENT AGREEMENTS. ~~Developers may request a recapture agreement when a line is constructed across the frontage of parcels not currently receiving service from the City. When the owner of the designated parcel requests service, a prorated cost of the line is collected by the City and returned to the developer. Recapture agreements are set up through the Utilities Division. For questions or details on the procedure to initiate an agreement, contact the Utilities Division.~~

B.——~~The maximum period of time of the recapture agreement shall be ten (10) years.~~

SECTION 2: Repeal of Conflicting Ordinances.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. Severability.

That if any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the City Code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 4. Clerical Corrections

The City Clerk is hereby authorized to correct clerical and grammatical errors, if any, related to this ordinance, and to make formatting changes appropriate for purposes of clarity, form, or consistency with the Flagstaff City Code.

SECTION 5: Effective Date.

This ordinance shall become effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 13th day of December, 2022.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Reimbursement Agreements

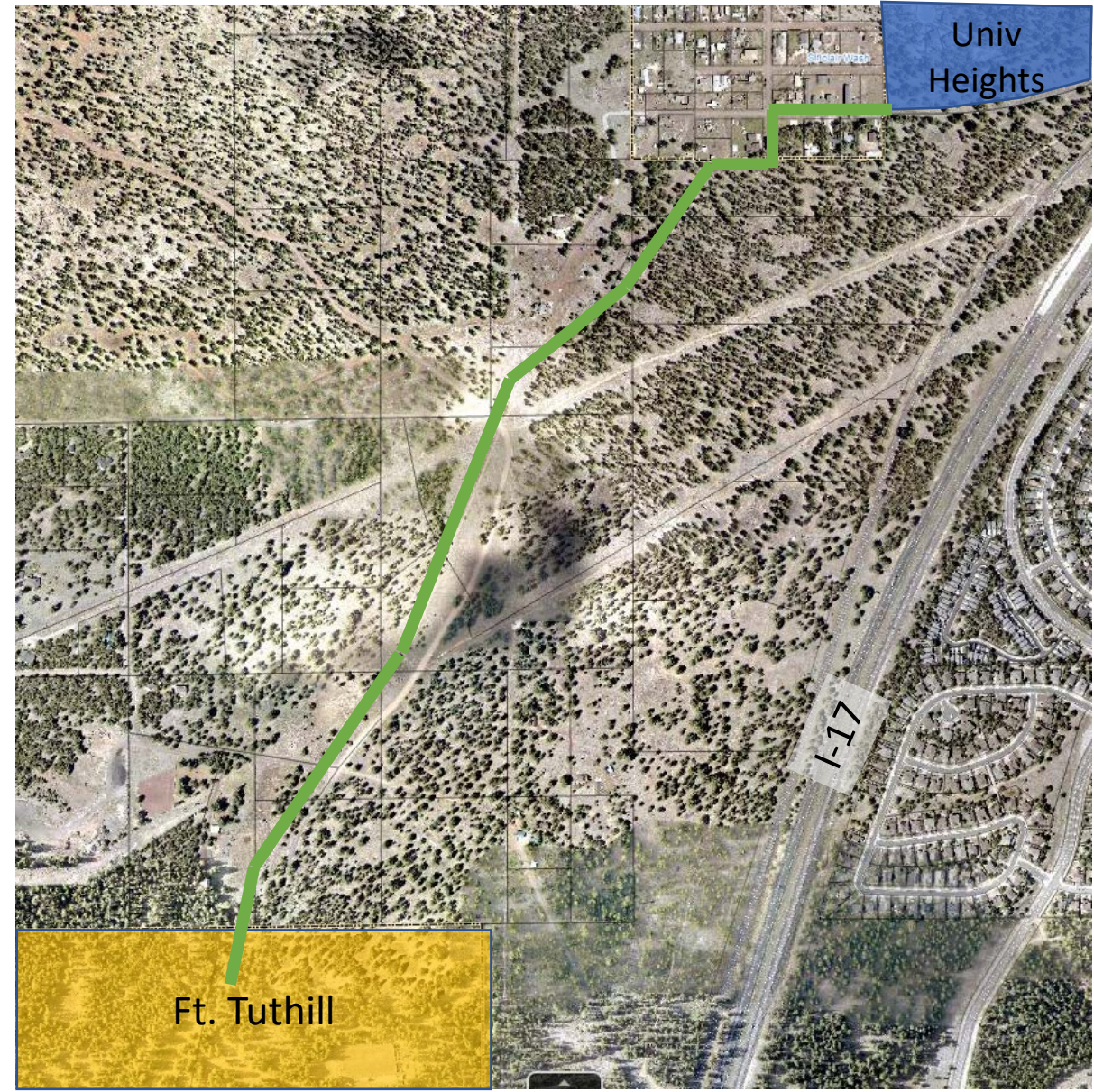
Ordinance 2022-33
December 6, 2022





What is a Reimbursement Agreement?

- **Financial Tool for Development**
- **Recoup expensive required infrastructure costs**
- **Example**





Reimbursement Agreement Changes

Why Revise the Payback Period?

- Consistency with other cities
- Rate of development
- Past commitment to Coconino County

Proposed Revision:

Reimbursement agreements shall provide for a maximum payback period of ten (10) years after the effective date of the reimbursement agreement; PROVIDED, HOWEVER, THE CITY COUNCIL MAY EXTEND THE PAYBACK PERIOD FOR UP TO TWO (2) CONSECUTIVE FIVEYEAR EXTENSIONS AND NOT TO EXCEED A TOTAL OF TWENTY (20) YEARS AFTER THE EFFECTIVE DATE OF THE REIMBURSEMENT AGREEMENT, UPON A CITY FINDING THAT: (1) DEVELOPMENT WITHIN THE ASSESSMENT BOUNDARY IS ONGOING OR IMMINENT; AND (2) THE PROPERTIES WITHIN THE ASSESSMENT BOUNDARY WILL BE BENEFITED OR SERVED BY THE IMPROVEMENTS FOR WHICH THEY WILL BE ASSESSED. Upon the expiration of the maximum payback period, all reimbursement rights held by the developer or owner under the reimbursement agreement shall terminate.

Water Services Division

December 6, 2022

Gary Miller



Thank You

Questions ?

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Paul Lasiewicki, Deputy Police Chief
Co-Submitter: Dan Musselman
Date: 12/07/2022
Meeting Date: 12/13/2022



TITLE:

Consideration and Adoption of Resolution No. 2022-60 and Ordinance No. 2022-34: A Resolution of the Flagstaff City Council declaring as a public record that certain document filed with the City Clerk and entitled "Vehicle Noise Code Amendments" and an Ordinance of the City Council of the City of Flagstaff, amending the Flagstaff City Code, Title 6, Police Regulations, Chapter 8, Noise Control, by adopting by reference that certain document entitled "Vehicle Noise Code Amendments;" providing for penalties, repeal of conflicting ordinances, severability, and establishing an effective date

STAFF RECOMMENDED ACTION:

- 1) Adopt Resolution No. 2022-60
- 2) Read Ordinance No. 2022-34 by title only for the final time
- 3) City Clerk reads Ordinance No. 2022-34 by title only (if approved above)
- 4) Adopt Ordinance No. 2022-34

Executive Summary:

In October of 2019, a Flagstaff resident emailed the Mayor and Council to express his concerns about unnecessary noise pollution. The resident specifically pointed out a concern about vehicles equipped with "intentionally loud automobile mufflers" and went on to say "I can't count the number of times that I have been assaulted by blasts of noise from cars spewing their deep and threatening engine vibrato. Their abuse can be heard, even felt, from blocks away".

This email was followed up by a petition to the Flagstaff City Council containing 29 signatures titled "Intentional Noise Pollution". This petition requested the City Council consider the effects of noise pollution on the quality of life in Flagstaff. It asks the Council to address the unnecessary noise created when drivers intentionally modify a vehicle for the sole purpose of increasing their noise footprint.

These concerns were presented to Council during the June 1, 2021, regular council meeting. After the presentation the Council voted to have an ordinance drafted to address nuisance noise.

An ordinance was presented to Council on September 21, 2021. At the conclusion of that discussion Council requested a work session to further discuss a possible ordinance.

On January 25 of this year, Police Department staff presented the proposed noise ordinance with different options for enforceable sound levels and qualities to Council for their consideration. At that time, Council directed the City to hire a consultant to conduct a sound study and provide recommendations for noise enforcement. On June 22 MD Acoustics, the hired consultant, provided Police Department staff

with a report detailing their findings and recommendations.

The Flagstaff Police Department has facilitated several community outreach efforts, including two Coffee with a Cop events at local coffee shops, a neighborhood meeting at the Murdoch Center, and a town hall meeting at City Hall in an effort to solicit input on the ordinance from Flagstaff citizens most impacted by the elements of the proposed ordinance.

On October 18 City Council provided guidance to create two separate Nuisance Noise Ordinances: one regulating vehicle noise and one regulating noise from fixed sources. Additional direction was given to staff on the Nuisance Vehicle Noise ordinance. We are here today for any further discussion on the attached Draft Nuisance Vehicle Noise ordinance.

Financial Impact:

If the Council approves City Code 6-08-001-0004, there will be a need to purchase the proper sound level meters necessary for enforcement. In addition, enforcement personnel will need to attend the necessary training to become certified in the meter's use. Certification and continued recertification in the use of a class 2 decibel meter would be necessary for the Police Officer or Code Enforcement Officer to testify in court.

Each person operating the sound level meter for enforcement would need to receive initial training/certification and continued recertification prior to its use. Currently, a five-day Community Noise Enforcement Certification Course is offered by Rutgers at the Rutgers Noise Technical Assistance Center (RNTAC). This training is offered in a Webex (online) format. The cost for attending the certification training is \$625. The recertification class, which is required every 24 months, is \$325.

Additional information can be found at: <https://envsci.rutgers.edu/rntac/schedule.html>.

The plan is to train one Patrol Lieutenants, all five Police Officers who are assigned to the traffic enforcement squad, and two Police Officers on each of the eight patrol squads for a total of 22 personnel out of the 118 authorized sworn officers. The training currently costs \$625 per person.

For the above planned 22 officers to attend the training, the training cost will be \$13,750.

We will need to purchase 22 sound level meter kits (containing a meter, wind screen and calibrator) at \$930 per unit for a material cost of \$20,460.

The officers are required to re-cert every 2 years at accost of \$325 per re-certification.

Due to officer attrition, we will be asking for line item to conduct re-certifications and additional certifications (for new officers) as we replace officers who leave. The best estimate is that this yearly cost will be \$5,000 - \$10,000.

These costs have been approved as a part of the COF FY2022-2023 budget.

Policy Impact:

This will provide a tool for officers to educate the public and take enforcement action on vehicles that are excessively loud.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Safe and Healthy Community
Foster a safe, secure, and healthy community

Provide public safety with the resources, staff and training to respond to community needs.

Has There Been Previous Council Decision on This:

No.

Options and Alternatives:

Council can choose to approve or to not approve the Nuisance Vehicle Noise Ordinance.

Community Involvement:

Several citizens have approached members of Council and expressed their support for a nuisance vehicle noise ordinance.

Attachments: Res. 2022-60
 Vehicle Noise Code Amendments
 Ord. 2022-34

RESOLUTION NO. 2022-60

**A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL DECLARING AS A
PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK
AND ENTITLED “*VEHICLE NOISE CODE AMENDMENTS*”**

RECITALS:

WHEREAS, pursuant to A.R.S. § 9-802 a municipality may enact or amend provisions of the City Code by reference to a public record, provided that the adopting ordinance is published in full; and

WHEREAS, the Mayor and City Council of the City of Flagstaff (“City”) wish to declare the “Vehicle Noise Code Amendments” to be a public record to be maintained by the City Clerk for the convenience of its citizens and to permit its adoption by reference into the City Code; and

WHEREAS, the City Council finds that one (1) paper copy and one (1) electronic copy of the “Vehicle Code Amendments” have been placed on file with the City Clerk as a public record available for inspection by the public until such time as the City Council shall adopt a later edition of the Nuisance Noise Ordinance.

ENACTMENTS:

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

SECTION 1. In General.

That certain document known as “*Vehicle Noise Code Amendments*” attached hereto as Exhibit A is hereby declared to be a public record, and one (1) paper copy and one (1) electronic copy shall remain on file with the City Clerk in compliance with A.R.S. § 44-7041, and said copies shall remain on file with the City Clerk.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 6th day of December, 2022.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Exhibits:

Vehicle Noise City Code Amendments

Vehicle Noise Code Amendments

6-08-001-0004 ENFORCEMENT PROCEDURE VEHICLE NOISE

~~Violations of this Chapter shall be prosecuted as civil violations of the Flagstaff City Code or in the same manner as other misdemeanor violations of the City's Code.~~

A. DEFINITIONS

THE FOLLOWING WORDS AND PHRASES, WHEN USED IN THIS SECTION SHALL HAVE THE FOLLOWING MEANINGS:

A-WEIGHTING: THE SOUND LEVEL OF NOISE AS MEASURED WITH A METER USING THE A-WEIGHTING NETWORK, THIS UNIT IS DB(A)

C-WEIGHTING: THE SOUND LEVEL OF NOISE AS MEASURED WITH A METER USING THE C-WEIGHTING NETWORK, THIS UNIT IS DB(C)

CLEARLY AUDIBLE: CAN BE PLAINLY HEARD BY A PERSON WITH NORMAL HEARING.

DECIBEL (DB): THE VALUE IS EQUAL TO 20 TIMES THE LOGARITHM TO THE BASE 10 OF THE RATIO OF THE MEASURED SOUND PRESSURE TO THE REFERENCE PRESSURE, WHERE THE REFERENCE PRESSURE IS TWO TIMES 10^{-5} NEWTON/METER².

FREQUENCY: THE FREQUENCY OF A SOUND IS THE NUMBER OF PRESSURE CYCLES OCCURRING IN A UNIT OF TIME. THE UNIT OF FREQUENCY IS HERTZ (HZ), I.E., CYCLES PER SECOND.

IMPULSE NOISE: MEANS A NOISE OF SHORT DURATION, USUALLY LESS THAN ONE (1) SECOND, WITH AN ABRUPT ONSET AND RAPID DECAY.

LMAX: (MAXIMUM LEVEL) MEANS THE LOUDEST SOUND LEVEL OVER A SAMPLE PERIOD. LMAX IS EXPRESSED IN DB(A) OR DB(C). LMAX IS FAST-WEIGHTED FOR IMPULSE NOISES AND SLOW-WEIGHTED FOR CONTINUOUS NOISE.

MOTOR VEHICLES: MEANS ANY SELF-PROPELLED VEHICLE OPERATED WITHIN THE CITY, INCLUDING BUT NOT LIMITED TO LICENSED OR UNLICENSED VEHICLES, AUTOMOBILES, MINIBIKES, GO-CARTS AND MOTORCYCLES.

NOISE: ANY SOUND, WHETHER NATURALLY OR ARTIFICIALLY PRODUCED.

PERIOD: OF A PERIODIC QUANTITY SHALL MEAN THE SMALLEST INCREMENT OF TIME FOR WHICH THE FUNCTION REPEATS ITSELF.

PERSON: ANY INDIVIDUAL, FIRM, PARTNERSHIP, JOINT VENTURE, ASSOCIATION, CORPORATION, MUNICIPAL CORPORATION, ESTATE, TRUST OR ANY OTHER GROUP OR COMBINATION ACTING AS A UNIT, AND THE PLURAL AS WELL AS THE SINGULAR NUMBER.

PUBLIC SAFETY WORK: WORK IMMEDIATELY NECESSARY TO RESTORE PROPERTY TO SAFE CONDITION, OR WORK REQUIRED TO PROTECT PERSONS OR PROPERTY FROM POTENTIAL DANGER OR DAMAGE, INCLUDING SNOWPLOWING OR WORK BY A PUBLIC OR PRIVATE UTILITY WHEN RESTORING UTILITY SERVICE.

PURE TONE NOISE: MEANS ANY NOISE THAT IS DISTINCTLY AUDIBLE AS A SINGLE PITCH (FREQUENCY) OR SET OF PITCHES AS DETERMINED BY THE ENFORCEMENT OFFICER.

SOUND AMPLIFICATION SYSTEM: ANY DEVICE, INSTRUMENT OR SYSTEM, WHETHER ELECTRICAL OR MECHANICAL OR OTHERWISE FOR AMPLIFYING SOUND OR FOR PRODUCING OR REPRODUCING SOUND, INCLUDING BUT NOT LIMITED TO ANY RADIO, STEREO, MUSICAL INSTRUMENT, COMPACT DISC, OR SOUND OR MUSICAL RECORDER OR PLAYER.

SOUND LEVEL OR NOISE LEVEL: IS THE SOUND INTENSITY MEASURED WITH A SOUND LEVEL METER SET TO A-WEIGHTING WITH THE UNIT OF MEASUREMENT DB(A), OR C-WEIGHTING WITH THE UNIT OF MEASUREMENT DB(C).

SOUND LEVEL METER: MEANS AN INSTRUMENT INCLUDING A MICROPHONE, AN AMPLIFIER, AN OUTPUT METER, AND FREQUENCY WEIGHTING NETWORKS FOR THE MEASUREMENT OF SOUND LEVELS WHICH SATISFIES THE PERTINENT REQUIREMENTS IN AMERICAN STANDARD SPECIFICATIONS FOR SOUND LEVEL METERS S1.4-1971 OR THE MOST RECENT REVISION THEREOF FOR TYPE I OR TYPE II EQUIPMENT.

B. VEHICLE NOISE LIMITS

THE FOLLOWING NOISE RESTRICTIONS ARE HEREBY ESTABLISHED FOR ANY AREA WITHIN THE CITY FOR VEHICLE NOISE:

NO PERSON SHALL OPERATE EITHER A MOTOR VEHICLE OR COMBINATION OF VEHICLES AT ANY TIME OR UNDER ANY CONDITION OF GRADE, LOAD, ACCELERATION OR DECELERATION IN SUCH A MANNER AS TO EXCEED THE FOLLOWING NOISE LIMIT OF THE CATEGORY OF MOTOR VEHICLE MEASURED FROM OUTSIDE OF THE TRAFFIC LANE OR AT A GREATER DISTANCE:

LOCATION OF VEHICLE	LEGAL SPEED LIMIT OF 35 MPH OR LESS	LEGAL SPEED LIMIT OF MORE THAN 35 MPH
(1) ANY MOTOR VEHICLE WITH A MANUFACTURER'S GROSS VEHICLE WEIGHT RATING OF 26,000 POUNDS OR MORE, ANY COMBINATION OF VEHICLES TOWED BY SUCH MOTOR VEHICLE, AND ANY MOTOR-CYCLE OTHER THAN AN ELECTRIC BICYCLE	88 DB(A)	92 DB(A)
(2) ANY OTHER MOTOR VEHICLE AND ANY COMBINATION OF VEHICLES TOWED BY SUCH MOTOR VEHICLES	82 DB(A)	86 DB(A)

C. MEASUREMENT CRITERIA

FOR THE PURPOSE OF ENFORCEMENT OF THE PROVISIONS OF THIS SECTION, NOISE LEVEL SHALL BE MEASURED ON THE A-WEIGHTED SCALE WITH A TYPE I OR TYPE II SOUND LEVEL METER. THE METER SHALL BE SET FOR SLOW RESPONSE SPEED, EXCEPT FOR IMPULSE NOISES OR RAPIDLY VARYING SOUND LEVELS, FAST RESPONSE SPEED MAY BE USED. PRIOR TO MEASUREMENT, THE METER SHALL BE CALIBRATED, AND ADJUSTED ACCORDING TO THE MANUFACTURER'S SPECIFICATIONS

D. CIVIL PENALTIES

THE CIVIL FEES FOR A RESPONSIBLE PERSON(S) ARE AS FOLLOWS:

1. FOR A FIRST VEHICLE NOISE VIOLATION A WARNING SHALL BE ISSUED.
2. FOR A SECOND VEHICLE NOISE VIOLATION WITHIN ONE HUNDRED TWENTY (120) DAYS OF THE FIRST VEHICLE NOISE VIOLATION THE FEE IS ONE HUNDRED AND FIFTY DOLLARS (\$150.00), INCLUSIVE OF ANY STATE OR CITY FINES, FEES, ASSESSMENTS, OR SURCHARGES.
3. FOR A THIRD OR SUBSEQUENT VEHICLE NOISE VIOLATION WITHIN ONE HUNDRED TWENTY (120) DAYS OF THE SECOND NUISANCE NOISE VIOLATION THE FEE IS TWO HUNDRED AND FIFTY DOLLARS (\$250.00), INCLUSIVE OF ANY STATE OR CITY FINES, FEES, ASSESSMENTS, OR SURCHARGES.
4. EACH DAY THAT A VIOLATION OF THIS ORDINANCE IS PERMITTED TO CONTINUE OR OCCUR BY THE DEFENDANT SHALL CONSTITUTE A SEPARATE OFFENSE SUBJECT TO SEPARATE CITATION PURSUANT TO THE PROVISIONS OF THIS ORDINANCE.

F. OTHER REMEDIES

NOTHING IN THIS ORDINANCE SHALL BE CONSTRUED AS AFFECTING THE ABILITY OF THE STATE TO INITIATE OR CONTINUE CONCURRENT OR SUBSEQUENT CRIMINAL PROSECUTION OF ANY PERSON FOR ANY VIOLATIONS OF THE PROVISIONS OF THE CITY CODE OR STATE LAW ARISING OUT OF THE CIRCUMSTANCES NECESSITATING THE APPLICATION OF THIS ORDINANCE.

G. HEARING PROCEDURES

1. A PERSON LIABLE FOR THE CIVIL FEE UNDER THIS SECTION MAY, WITHIN TEN (10) DAYS OF RECEIPT OF NOTICE OF THE VIOLATION, REQUEST A HEARING WITH A HEARING OFFICER DESIGNATED BY THE PRESIDING MAGISTRATE OF THE FLAGSTAFF MUNICIPAL COURT.
2. THE HEARING OFFICER SHALL SET A TIME AND PLACE FOR THE HEARING AS SOON AS PRACTICABLE.
3. THE HEARING SHALL BE CONDUCTED IN AN INFORMAL PROCESS TO DETERMINE WHETHER THERE IS A SUFFICIENT FACTUAL AND LEGAL BASIS

TO IMPOSE THE CIVIL FEE. THE RULES OF EVIDENCE SHALL NOT APPLY; PROVIDED, THAT THE DECISION OF THE HEARING OFFICER SHALL IN ALL CASES BE BASED UPON SUBSTANTIAL AND RELIABLE EVIDENCE. ALL PARTIES TO THE HEARING SHALL HAVE THE RIGHT TO PRESENT EVIDENCE. THE CITY SHALL HAVE THE BURDEN OF ESTABLISHING BY A PREPONDERANCE OF THE EVIDENCE THAT A VIOLATION HAS OCCURRED.

4. THE DECISION OF THE HEARING OFFICER IS FINAL. A FAILURE OF THE PERSON NOTIFIED OF THE VIOLATION TO TIMELY REQUEST A HEARING OR THE FAILURE TO APPEAR AT A SCHEDULED HEARING SHALL CONSTITUTE A WAIVER OF THE RIGHT TO A HEARING OR TO CHALLENGE THE VALIDITY OF THE NOTICE OR VIOLATION.

ORDINANCE NO. 2022-34

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AMENDING THE FLAGSTAFF CITY CODE, TITLE 6, POLICE REGULATIONS, CHAPTER 8, NOISE CONTROL, BY ADOPTING BY REFERENCE THAT CERTAIN DOCUMENT ENTITLED “*VEHICLE NOISE CODE AMENDMENTS*”; PROVIDING FOR PENALTIES, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, members of the community have expressed their concerns to the Mayor and the Flagstaff City Council regarding nuisance noise from vehicles; and

WHEREAS, the City Council finds that enacting the Vehicle Noise Code Amendments to address vehicle noise in Flagstaff protects the rights, interests, safety and welfare of City residents.

ENACTMENTS:

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

SECTION 1. That certain document known as “*Vehicle Noise Code Amendments*”, one(1) paper copy and (1) electronic copy of which are on file in the office of the City Clerk of the City of Flagstaff, Arizona, has been declared a public record by Resolution No. 2022-60 of the City of Flagstaff, Arizona, is hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

SECTION 2. Repeal of Conflicting Ordinances

All ordinances and parts of ordinances in conflict with the provisions of the code adopted herein are hereby repealed.

SECTION 3. Severability

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 4. Clerical Corrections

The City Clerk is hereby authorized to correct clerical and grammatical errors, if any, related to this ordinance, and to make formatting changes appropriate for purposes of clarity, form, or consistency with the Flagstaff City Code.

SECTION 5. Effective Date

This Ordinance shall be effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 13th day of December, 2022.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY