

AGENDA



4:30 P.M.

CITY COUNCIL MEETING

REVISED

TUESDAY, JANUARY 26, 2021

NOTES:

- **Public Forum:**
There will be no Public Forum for this meeting.
- **Consent Items:**
Items listed under Consent Items have been distributed to Council Members in advance for study and will be enacted by one motion. Any member of the Council, staff or the public may remove an item from the Consent Items for discussion. Items removed from the Consent Items may be acted upon before proceeding to the next agenda item.
- Meeting room is wheelchair accessible. American Disabilities Act (ADA) accommodations are available upon request. Please phone 928-282-3113 at least two (2) business days in advance.
- City Council Meeting Agenda Packets are available on the City's website at:

www.SedonaAZ.gov

GUIDELINES FOR PUBLIC COMMENT

PURPOSE:

- To allow the public to provide input to the City Council on a particular subject scheduled on the agenda.
- This is not a question/answer session.

PROCEDURES:

- **There will be no live public input during the meeting due to the Zoom format. Anyone wishing to supply public input on the agenda items can send an email to the City Clerk at sirvine@sedonaaz.gov in advance of the 4:30 p.m. Call To Order.**

DUE TO ANTICIPATED INCLEMENT WEATHER, THIS MEETING WILL BE HELD VIA ZOOM. THOSE WISHING TO COMMENT ON SCHEDULED AGENDA ITEMS SHOULD SUBMIT COMMENTS IN ADVANCE OF THE 4:30 P.M. CALL TO ORDER BY SENDING AN EMAIL TO SIRVINE@SEDONAAZ.GOV. THESE COMMENTS WILL BE MADE PART OF THE OFFICIAL MEETING RECORD. BECAUSE OF LACK OF ACCESS TO EQUIPMENT, THE MEETING MAY NOT BE LIVESTREAMED ON THE CITY'S WEBSITE OR CABLE CHANNEL 4, BUT IT CAN BE VIEWED LIVE BY FOLLOWING THIS LINK:

<https://us02web.zoom.us/j/83791649074?pwd=ZW9VbTluNzltRzYxTXZlMlJpQ0l0dz09>.
PASSCODE IS 20210126.

1. CALL TO ORDER/PLEDGE OF ALLEGIANCE/MOMENT OF SILENCE/ROLL CALL

2. CITY'S VISION

3. CONSENT ITEMS - APPROVE

LINK TO DOCUMENT =

- a. Minutes - January 12, 2021 City Council Regular Meeting.
- b. Minutes - January 13, 2021 City Council Special Meeting.
- c. AB 2644 Approval of a lease agreement between the City of Sedona and Daniel Saunders for Saunders' use of the real property, owned by the City of Sedona, located at 430 Forest Road Sedona Arizona, APN 401-16-071.

4. APPOINTMENTS - None.

5. SUMMARY OF CURRENT EVENTS BY MAYOR/COUNCILORS/CITY MANAGER

7. PUBLIC FORUM - Due to the Zoom format and pursuant to A.R.S. § 38-431.01(H), there will NOT be a public forum for this meeting.

7. PROCLAMATIONS, RECOGNITIONS & AWARDS - None.

8. REGULAR BUSINESS

- a. AB 2642 **Discussion/possible action** regarding a Resolution and Ordinance amending the Sedona City Code Title 8 (Health and Safety) by adopting amendments to Chapter 8.05 (Methods of Garbage and Trash Removal) related to the proper storage, placement, and disposition of residential waste and waste containers.
- b. AB 2646 **Discussion/possible action** regarding proposed State legislation and its potential impact on the City of Sedona.
- c. AB 2571 **Discussion/possible direction** regarding issues surrounding the COVID-19 pandemic and the City's response.
- d. **Reports/discussion** regarding Council assignments.
- e. **Discussion/possible action** regarding future meeting/agenda items.

CITY COUNCIL CHAMBERS
102 ROADRUNNER DRIVE, SEDONA, AZ

The mission of the City of Sedona government is to provide exemplary municipal services that are consistent with our values, history, culture and unique beauty.



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9. EXECUTIVE SESSION

If an Executive Session is necessary, it will be held in the Vultee Conference Room at 106 Roadrunner Drive. Upon a public majority vote of the members constituting a quorum, the Council may hold an Executive Session that is not open to the public for the following purposes:

- a. To consult with legal counsel for advice on matters listed on this agenda per A.R.S. § 38-431.03(A)(3).
- b. Return to open session. Discussion/possible action on executive session items.

10. ADJOURNMENT

Posted: 01/25/2021

By: JC

Susan L. Irvine, CMC
City Clerk

Note: 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 the Council will hold the above open meeting. Members of the City Council will attend either in person or by telephone, video, or internet communications. The Council may vote to go into executive session on any agenda item, pursuant to A.R.S. § 38-431.03(A)(3) and (4) for discussion and consultation for legal advice with the City Attorney. Because various other commissions, committees and/or boards may speak at Council meetings, notice is also given that four or more members of these other City commissions, boards, or committees may be in attendance.

A copy of the packet with materials relating to the agenda items is typically available for review by the public in the Clerk's office after 1:00 p.m. the Thursday prior to the Council meeting and on the City's website at www.SedonaAZ.gov. The Council Chambers is accessible to people with disabilities, in compliance with the Federal 504 and ADA laws. Those with needs for special typeface print, may request these at the Clerk's Office. All requests should be made **forty-eight hours** prior to the meeting.

CITY COUNCIL CHAMBERS
102 ROADRUNNER DRIVE, SEDONA, AZ

The mission of the City of Sedona government is to provide exemplary municipal services that are consistent with our values, history, culture and unique beauty.

Action Minutes
Regular City Council Meeting
City Council Chambers, Sedona City Hall,
102 Roadrunner Drive, Sedona, Arizona
Tuesday, January 12, 2021, 4:30 p.m.

1. Call to Order/Pledge of Allegiance/Moment of Silence/Roll Call

Mayor Moriarty called the meeting to order at 4:30 p.m.

Council Present: Mayor Sandy Moriarty, Vice Mayor Scott Jablow, Councilor Bill Chisholm, Councilor Kathy Kinsella, Councilor Tom Lamkin, Councilor Holli Ploog, Councilor Jessica Williamson.

Staff Present: City Manager Justin Clifton, Assistant City Manager/Director of Community Development Karen Osburn, City Attorney Kurt Christianson, Director of Public Works/City Engineer Andy Dickey, Associate Engineer Bob Welch, Associate Engineer David Peck, Sustainability Coordinator McKenzie Jones, City Clerk Susan Irvine.

2. City's Vision

The City's Vision was read by Mayor Moriarty.

3. Consent Items

- a. **Minutes - December 8, 2020 City Council Regular Meeting.**
- b. **Minutes - December 9, 2020 City Council Special Meeting.**
- c. **AB 2638 Approval of a recommendation regarding an application for a Series 12 Restaurant Liquor License for Shorebird located at 150 AZ-179, #1 & 2, Sedona, AZ (File# 127145).**
- d. **AB 2639 Approval of a recommendation regarding an application for a Series 6 Bar Liquor License for Residence Inn Sedona located at 4055 W State Route 89A, Sedona, AZ (File #127165).**
- e. **AB 2641 Approval of a public parking use and lease agreement with Sinagua Plaza 3, LLC (SP3) for the use of a portion of their parking garage for public parking.**
- f. **AB 2643 Approval of a Resolution delegating authority to the City Clerk to make recommendations, as allowed by the Arizona Department of Liquor, which include, but are not limited to, extensions of premises, liquor license acquisitions of control, special event liquor licenses, farm winery festival and/or fair licenses, and craft distillery fair licenses.**
- g. **AB 2645 Approval of a Resolution supporting Arizona's Get Outdoors Initiative.**

Item 3g was pulled at the request of Councilor Kinsella.

Motion: Councilor Lamkin moved to approve consent items 3a, 3b, 3c, 3d, 3e, and 3f. Seconded by Councilor Kinsella. Vote: Motion carried unanimously with seven (7) in favor (Moriarty, Jablow, Chisholm, Kinsella, Lamkin, Ploog, Williamson) and zero (0) opposed.

Pulled Consent Item:

3g - AB 2645 Approval of a Resolution supporting Arizona's Get Outdoors Initiative.

Questions and comments from Council.

Motion: Councilor Kinsella moved to approve consent item 3g with the words hunt and fish removed. Seconded by Councilor Chisholm. Vote: Motion failed with three (3) in favor (Chisholm, Kinsella, Ploog) and four (4) opposed (Moriarty, Jablow, Lamkin, Williamson).

Motion: Councilor Williamson moved to approve consent item 3g. Seconded by Councilor Lamkin. Vote: Motion carried with four (4) in favor (Moriarty, Jablow, Lamkin, Williamson) and three (3) opposed (Chisholm, Kinsella, Ploog).

4. Appointments – None.

5. Summary of Current Events by Mayor/Councilors/City Manager

Vice Mayor Jablow stated that the Parks & Recreation Department has a survey regarding the future design of Posse Grounds Park on their page of the City's website which can be accessed through January 24th. He also advised that the Friends of the Verde River will host a virtual Scenic Film Festival on January 30th at 6:00 p.m. They will also host a virtual Birding and Nature Festival April 22nd through the 25th. Councilor Chisholm stated that the flags at the Sedona Military Park are flying at half-staff by order of Governor Ducey to honor the Capitol Police Officers who died as a result of the storming of the United States Capitol on January 6th.

6. Public Forum

John Martinez, Sedona, spoke about workforce housing and encouraged the City Council to work to increase densities as he believes this is the only way this will succeed in Sedona.

7. Proclamations, Recognitions, and Awards – None.

8. Regular Business

a. AB 2634 Discussion/possible direction regarding potential contract changes to add sustainability components to the professional services contract with Gabor Lorant Architects for the design of the Uptown Parking Garage.

Presentation by Bob Welch, Andy Dickey, McKenzie Jones, and Justin Clifton.

Questions and comments from Council.

By majority consensus, Council directed staff to include the following in their discussions with the consultant all in relation to cost:

- 1. examine additional electric vehicle charging stations and/or electric vehicle ready infrastructure for future installation,**
- 2. evaluate solar with consideration to the impact on surrounding properties and views,**
- 3. include water refill stations,**
- 4. evaluate possible area for future bikeshare possibilities,**
- 5. examine possibilities for future adaptive reuse for the structure,**

6. look at possible onsite gray or rainwater systems, and
7. take a sustainable/green approach to building the structure with possible pursuit of certification.

Break at 6:33 p.m. Reconvened at 6:49 p.m.

- b. **AB 2647 Discussion/possible action regarding field adjustments to the Sanborn/Thunder Mountain Shared Use Path and the impacts to surrounding property owners.**

Presentation by Andy Dickey and Justin Clifton.

Questions from Council.

Opened to the public at 7:27 p.m.

The following spoke regarding this item: Peggy Chaikin, Sedona, Karen Keller, Sedona.

Brought back to Council at 7:38 p.m.

Additional questions and comments from Council.

By majority consensus, Council directed staff to work with Karen Keller and Ed Perry to restore removed vegetation onto their private property. They also encouraged staff to better communicate changes to affected property owners and to provide more clarity in lay terms to citizens when conducting outreach in the future.

- c. **AB 2633 Discussion/possible action regarding an Ordinance amending the Sedona City Code Article 8 (Health and Safety) by adopting Chapter 8.60 related to recreational marijuana, prohibiting retail marijuana establishments (except for Dual Licensees) and testing facilities within Sedona, adopting related regulations, and declaring an emergency.**

Presentation by Kurt Christianson.

Questions and comments from Council.

Opened to the public at 8:30 p.m.

The following spoke regarding this item: Edward Judice, Phoenix.

Brought back to Council at 8:31 p.m.

Questions and comments from Council.

Motion: After 1st reading, Councilor Williamson moved to adopt Ordinance No. 2021-01, an ordinance of the City of Sedona, Arizona amending the Sedona City Code Article 8 by adopting Chapter 8.60 "Recreational Marijuana"; providing for a savings clause and repeal of any conflicting ordinances; and declaring an emergency. Seconded by Councilor Lamkin. Vote: Motion carried unanimously with seven (7) in favor (Moriarty, Jablow, Chisholm, Kinsella, Lamkin, Ploog, Williamson) and zero (0) opposed.

- d. **AB 2571 Discussion/possible direction regarding issues surrounding the COVID-19 pandemic and the City's response.**

Presentation by Justin Clifton.

Questions and comments from Council.

Presentation and discussion only.

e. Reports/discussion regarding Council assignments

Councilor Williamson advised that Library director retired in December, and the new director is Judy Poe.

f. Discussion/possible action regarding future meeting/agenda items

Councilor Ploog advised that there will a national memorial to lives lost on January 19th to honor those lost to COVID and to recognize healthcare workers at 5:30 p.m. Eastern time. She suggested a gathering at City Hall for a moment of silence and to light the buildings, and Council agreed to participate in this event. Mayor Moriarty advised that there is a work session tomorrow at 3:00 p.m.

9. Executive Session

Upon a public majority vote of the members constituting a quorum, the Council may hold an Executive Session that is not open to the public for the following purposes:

- a. To consult with legal counsel for advice on matters listed on this agenda per A.R.S. § 38-431.03(A)(3).**
- b. Return to open session. Discussion/possible action on executive session items.**

No Executive Session was held.

10. Adjournment

Mayor Moriarty adjourned the meeting at 9:28 p.m. without objection.

I certify that the above are the true and correct actions of the Regular City Council Meeting held on January 12, 2021.

Susan L. Irvine, CMC, City Clerk

Date

**Action Minutes
Special City Council Meeting
City Council Chambers, Sedona City Hall,
102 Roadrunner Drive, Sedona, Arizona
Wednesday, January 13, 2020, 3:00 p.m.**

1. Call to Order/Pledge of Allegiance/Moment of Silence

Mayor Moriarty called the meeting to order at 3:00 p.m.

2. Roll Call

Council Present: Mayor Sandy Moriarty, Vice Mayor Scott Jablow, Councilor Bill Chisholm, Councilor Kathy Kinsella, Councilor Tom Lamkin, Councilor Holli Ploog, Councilor Jessica Williamson.

Staff Present: City Manager Justin Clifton, City Attorney Kurt Christianson, Sustainability Coordinator McKenzie Jones, Deputy City Clerk Cherise Fullbright.

3. Special Business

a. AB 2598 Discussion/possible direction regarding development of Sedona's Climate Action Plan (CAP).

Presentation by McKenzie Jones and Justin Clifton.

Questions and comments from Council.

By majority consensus, Council agreed with the recommended target to reduce 50% of community emissions by 2030. Council also agreed that they would entertain increasing this percentage once an investment cost, including a decision package for potential staff additions, has been determined.

b. Discussion/possible action regarding future meetings/agenda items.

Councilor Ploog stated that the memorial taking place next week on January 19th will be at 5:30 p.m. local time.

4. Executive Session

Upon a public majority vote of the members constituting a quorum, the Council may hold an Executive Session that is not open to the public for the following purposes:

- a. To consult with legal counsel for advice on matters listed on this agenda per A.R.S. § 38-431.03(A)(3).**
- b. Return to open session. Discussion/possible action on executive session items.**

No Executive Session was held.

5. Adjournment

Mayor Moriarty adjourned the meeting at 5:17 p.m. without objection.

I certify that the above are the true and correct actions of the Special City Council Meeting held on December 9, 2020.

Cherise Fullbright, Deputy City Clerk

Date



**CITY COUNCIL
AGENDA BILL**

**AB 2644
January 26, 2021
Consent Items**

Agenda Item: 3c

Proposed Action & Subject: Approval of a lease agreement between the City of Sedona and Daniel Saunders for Saunders' use of the real property, owned by the City of Sedona, located at 430 Forest Road Sedona Arizona, APN 401-16-071.

Department	City Manager's Office
Time to Present	N/A
Total Time for Item	
Other Council Meetings	March 24, 2020
Exhibits	A. Draft lease agreement

City Attorney Approval	Reviewed 1/19/2021 KWC	Expenditure Required	
		\$	0
City Manager's Recommendation	Approve a lease agreement with Daniel Saunders.	Amount Budgeted	
		\$	0
		Account No. (Description)	N/A
		Finance Approval	<input checked="" type="checkbox"/>

SUMMARY STATEMENT

Staff is requesting City Council approval of a three-month lease between the City of Sedona (City) and Daniel Saunders for access to and use of the real property owned by the City of Sedona at 430 Forest Road, Sedona, AZ.

Background: The City of Sedona purchased the property located at 430 Forest Road, Coconino County Assessor's Parcel No. 401-16-071, in March 2020. A term of the sale was that Saunders would be entitled to remain on the Property under a short-term lease without payments for a period of not more than nine (9) months, through December 24, 2020. Saunders has since contacted staff and requested an extension to that lease due to the COVID pandemic and other personal circumstances that have impeded and delayed his ability to remove the entirety of his belongings from the site. Saunders is not residing at the property, but personal property and vehicles remain.

Staff has extended the current lease term administratively through January 31, 2021. Mr. Saunders has signed that extension, but is requesting a further extension, through April 30, 2021. The City Attorney has advised that: 1. only Council has the authority to approve that extension and 2. it would violate the Gift Clause to continue to provide access to the property without lease payments for the additional three months.

The proposed lease requires Mr. Saunders to compensate the City in the amount of \$1000 per month for the new lease term, February through April. Saunders shall be responsible for payment of any utilities during his occupancy. Utilities include but are not limited to water, sewer, refuse collection, electricity, gas or heating oil, telephone, cable TV, and Internet service. Saunders also agrees to continue to hold the City harmless from any and all loss resulting from active or passive negligence of Saunders, and to maintain renter insurance with minimum limits not less than \$1,000,000 for any one injury, per any one accident, and \$300,000 for property damage.

Other terms are outlined in the lease agreement included as Exhibit A.

Community Plan Consistent: Yes - No - Not Applicable

Board/Commission Recommendation: Applicable - Not Applicable

Alternative(s): N/A

MOTION

I move to: approve a lease agreement between the City of Sedona and Daniel Saunders for the rental of the real property located at 430 Forest Road Sedona Arizona, APN 401-16-071.

**CITY OF SEDONA
RESIDENTIAL LEASE AGREEMENT**

TENANT NAME: DANIEL SAUNDERS

ADDRESS: _____

Parties

1. This Residential Lease Agreement (Lease) is made by and between the City of Sedona (City) and Daniel Saunders (Tenant).
2. City leases to Tenant, and Tenant leases from the City the Premises upon the conditions herein provided.

For and in consideration of the covenant and obligations contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

AGREEMENT

1. **Premises.** This Lease will govern the rental of a residential property located at 430 Forest Road, Sedona, Arizona 86336 (the "Premises"). The Premises is to be occupied exclusively as a private residence by the Tenant and Tenant's household members.
2. **Term.** This Agreement shall continue as a lease for a fixed term. The term of this Lease shall commence on February 1, 2021, and the termination date shall be on midnight April 30, 2021. Upon termination date, Tenant shall vacate the Premises unless City and Tenant formally extend this Agreement in writing or create and execute a new, written, and signed agreement.

3. Rent.

3.1 Amount. Tenant shall pay to the City \$1,000 per month as Rent for the Term of this Agreement.

A. Rent will be paid in advance or promptly, on or before the first of each month and shall be considered advance payment for that month. Rent, late fees and damage charges can be mailed to or hand-delivered to the City of Sedona Financial Services Department office located at 102 Roadrunner Dr, Sedona, Arizona 86336. The rent amount is subject to change with written notice to Tenant.

B. Rent will be delinquent after 5:00 p.m. on the fifth business day of the month. A penalty of \$50.00 late fee will be charged on the sixth business day and is due and payable the first day of the next month.

C. All payments and credits will be applied in the following order: (1) due and collectible maintenance and other charges; (2) security deposits; and (3) rent. The oldest charge within each category will be paid first. If application of monies received in the order set forth causes delinquency in gross rental amounts due, Tenant will, pursuant to Part 2; Article 4; Section 2.1(a) of this Lease, be subject to Lease termination and eviction.

3.2 Payments for rent, fees, or other charges of \$10.00 or greater must be paid by cashier's check or money order. Personal checks will not be accepted and rent

payments must be paid by money order if a check has been returned to City for non-sufficient funds. Cash payments will be accepted for rent payments under \$10.00.

3.3 Charges for partial periods of initial occupancy will be computed on the basis of one-thirtieth (1/30) of the monthly rate for each day in such period. Tenant agrees to pay, when due, any charges arising from Tenant's failure to perform obligations under this Lease, and for any damages to the premises resulting from negligence or misuse by Tenant, Tenant's household members or guests.

4. Utilities. Saunders shall be responsible for payment of any utilities during his occupancy. Utilities include but are not limited to water, sewer, refuse collection, electricity, gas or heating oil, telephone, cable TV, or Internet service.

5. Use of Premises.

5.1 The Premises shall be used and occupied by Tenant and Tenant's household exclusively as a private single-family dwelling, and no part of the Premises shall be used at any time during the term of this Agreement by Tenant for the purpose of carrying on any business, profession, or trade of any kind, or for any purpose other than as a private single-family dwelling. Tenant shall not allow any other person, other than Tenant's immediate family or transient relatives and friends who are guests of Tenant, to use or occupy the Premises without first obtaining City's written consent to such use. Tenant shall comply with any and all laws, ordinances, rules and orders of any and all governmental or quasi-governmental authorities affecting the cleanliness, use, occupancy and preservation of the Premises.

5.2 Tenant stipulates, represents and warrants that Tenant has examined the Premises, and that they are at the time of this Lease in good order, repair, and in a safe, clean and tenantable condition.

5.3 Tenant shall not assign this Agreement or sublet or grant any license to use the Premises or any part thereof without the prior written consent of the City. An assignment, subletting or license without the prior written consent of the City shall be null and void and shall, at the City's option, terminate this Agreement.

5.4 Tenant shall make no alterations to the buildings or improvements on the Premises or construct any building or make any other changes on the Premises without the prior written consent of the City.

5.5 Tenant shall not keep on the Premises any item of a dangerous, flammable or explosive character that might unreasonably increase the danger of fire or explosion on the Premises or that might be considered hazardous by any responsible insurance company.

5.6 Utilities: Tenant shall be responsible for arranging for and paying for all utility services required on the Premises.

5.7 Tenant will, at its sole expense, keep and maintain the Premises and appurtenances in good and sanitary condition and repair during the term of this Agreement. Without limiting the foregoing, Tenant shall:

- A. Not obstruct the driveways, sidewalks, courts, or entry ways that shall be used for the purposes of ingress and egress only;
- B. Keep all windows, glass, window coverings, doors, locks and hardware in good, clean order and repair;
- C. Not obstruct or cover the windows or doors;

- D. Not leave windows or doors in an open position during any inclement weather;
- E. Keep all lavatories, sinks, toilets and all other water and plumbing apparatus in good order and repair and shall use the same only for the purposes for which they were constructed. Tenant shall not allow any sweepings, rubbish, sand, rags, ashes or other substances to be thrown or deposited therein. Any damage to any such apparatus and the cost of clearing stopped plumbing resulting from misuse shall be borne by Tenant;
- F. And Tenant's family and guests shall at all times maintain order in the Premises and at all places on the Premises and shall not make or permit any loud or improper noises, or otherwise disturb neighboring residents.
- G. Deposit all trash, garbage, rubbish, and refuse in a clean and safe manner in locations provided and shall not allow any trash, garbage, rubbish, or refuse to collect, be deposited, or permitted to stand on the Premises.

- 6. **Inspections.** City and City's agents shall have the right at all reasonable times during the term of this Agreement to enter the Premises for the purpose of inspecting the Premises and all buildings and improvements thereon. And for the purposes of making any repairs, additions or alterations as may be deemed appropriate by City for the preservation of the Premises or the building.
- 7. **Surrender of Premises.** Upon the expiration of the term hereof, Tenant shall surrender the Premises in as good a state and condition as they were at the commencement of this Agreement, reasonable use and wear and tear thereof and damages by the elements excepted, and shall mail or hand deliver keys to the residence to Community Development Department, 102 Roadrunner Drive Sedona.
- 8. **Personal Property Disposition.** Immediately upon vacating the Premises for any reason Tenant will be required to remove all personal effects and property from the Premises. The City will in no event be responsible for any personal effects or property of Tenant after Tenant has vacated the Premises. Personal property left for thirty (30) days, after the vacate date will be sold or disposed of by the City, in accordance with the Arizona Landlord Tenant Act, § 33 A.R.S. 1368(E) and/or § 33 A.R.S. 1370(E). Costs for storage and disposal will be assessed against the Tenant. No benefit, monetary or otherwise, will inure to the City because of such disposition.
- 9. **Insurance.** Saunders agrees to defend and hold the City harmless from any and all loss resulting from active or passive negligence of Saunders, and maintain owner, tenant or renter insurance with minimum limits not less than \$1,000,000 for any one injury, per any one accident, and \$300,000 for property damage
- 10. **Indemnification.** City shall not be liable for any damage or injury of or to the Tenant, Tenant's family, guests, invites, agents or employees or to any person entering the Premises or any building, structure or equipment on the Premises, and Tenant hereby agrees to indemnify and hold the City harmless from any and all claims or assertions of every kind and nature.
- 11. **Termination by the City**
 - 11.1 The City will not terminate the Lease other than for violations of material terms of the Lease which include, but are not limited to, the following:
 - A. Failure to make rent or other payments due under the Lease;
 - B. Failure to fulfill the Tenant obligations set forth in the Lease;

C. Failure to keep utilities turned on to the Premises;

D. Criminal/Drug-Related Activity - Tenant, his/her guest/visitor, or household member conducts criminal activity on or originating from the Premises, including, but not limited to, drug-related criminal activity whether on or off the premises; For purposes of this Lease, the term drug-related criminal activity means the use or possession of drug paraphernalia, or the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute or use of a controlled substance [as defined in Section 102 of the Controlled Substances Act (21 U.S.C. § 802)].

E. Tenant, household members, or tenant's guests/visitors engage in behavior that is threatening, abusive, or violent toward any person on the Premises;

F. Tenant, household members, or tenant's guests/visitors engage in verbal as well as physical abuse, or violence, use of racial slurs or other language, written or verbal that is used to attempt to intimidate;

G. Tenant, household members, or tenant's guests/visitors engage in verbal or written threats or physical gestures that communicate the intent to abuse, intimidate, or commit violence, or disrespectful behavior towards City staff, contractors, or vendors.

11.2 The City will give notice of termination as follows:

A. Notice of Immediate Termination –The City will seek immediate evictions for:

(1) Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the Premises of other resident or employees of the City;

(2) Any violent or drug-related criminal activity on or off the premises; or

(3) Any criminal activity that resulted in felony conviction of a household member.

B. 7-Day Notice - A seven (7) day written notice of termination of the Lease in the case of failure to pay rent, fees, or other charges and in all other cases.

12. Non-waiver. Failure of the City to insist, in any one or more instances, upon strict observance of any of the terms of this Lease will not be considered a waiver or relinquishment of the right to future performance of such terms, but the same will continue in full force and effect.

13. Remedies. The rights and remedies given to the City under these terms are distinct, separate and cumulative, and no one of them, whether exercised or not, will be deemed to be in exclusion of any of the others.

14. Entire Agreement. All terms and conditions appearing herein are specifically an enforceable part of this Lease. This Lease evidences the entire agreement between the City and Tenant. The City may, after notice of not less than 30 days, modify this Lease to take into account revised provisions of law or governmental regulations.

Dated this 1st day of February, 2021.

TENANT: DANIEL SAUNDERS

CITY OF SEDONA

By: _____

By: _____



**CITY COUNCIL
AGENDA BILL**

**AB 2642
January 26, 2021
Regular Business**

Agenda Item: 8a

Proposed Action & Subject: Discussion/possible action regarding a Resolution and Ordinance amending the Sedona City Code Title 8 (Health and Safety) by adopting amendments to Chapter 8.05 (Methods of Garbage and Trash Removal) related to the proper storage, placement, and disposition of residential waste and waste containers.

Department City Manager's Office

Time to Present 10 minutes

Total Time for Item 60 minutes

Other Council Meetings March 12, 2019

Exhibits A. Draft Resolution
B. Draft Ordinance

City Attorney Approval	Reviewed 1/19/2021 KWC	Expenditure Required	
		\$	0
City Manager's Recommendation	Approve a resolution and ordinance amending the City Code relating to trash removal.	Amount Budgeted	
		\$	0
		Account No. (Description)	N/A
		Finance Approval	<input checked="" type="checkbox"/>

SUMMARY STATEMENT

Background: On March 12, 2019, the City Council discussed the issue of residential trash receptacles being left at the curb for extended periods of time, prior to and/or after regularly scheduled pickups, and the implications of that for neighborhoods. At that time, it was not deemed a significant enough problem to require new regulation, and Council directed staff to take no further action at that time. Staff committed to monitor the situation and bring the item back to Council with recommendations for possible changes to the City Code should the issues proliferate or become more severe.

Since that time, staff believes two issue areas have become serious enough to warrant additional regulation. They include: 1. leaving waste containers at the curb for extended periods of time and 2. waste ending up strewn about on both private property and in City right of ways due to overfilling of cans and/or animals getting in the trash or knocking cans over.

Impact of short-term vacation rentals (STVRs)

The recent issues with the storage, placement, and disposition of residential waste and waste containers appears to be tied to the proliferation of short-term rentals. Depending on the

timing of guests leaving a location and the container being brought to the road, it is often days before the scheduled pickup. Containers are also being left out after pick-up until the cleaning service or the property manager comes again. Additionally, when loaded cans are left out for an extended time, it is leading to javelina or coyote foraging and spreading garbage throughout the neighborhood.

Since the short-term rental hotline launched in September 2020, through end of calendar year 2020:

- 154 issues have been submitted. Of those, 64 (approximately 42%) were related to trash.
- Trash complaints related to 35 unique properties. 12 properties had more than one complaint.
- Seven of the complaints received were not related to a property identified as short-term rental, and these complaints were all related to trash bins being left out too long before or after pickup.
- Of the remaining 57 trash complaints related to short-term rentals, the trash complaints related specifically to the following:
 - 38 instances of trash being strewn about yards, streets and neighborhoods
 - 15 instances of trash bins being left out too early or late
 - 4 instances of trash bins being overfilled.

Proposed Regulatory Language

Chapter 8.05 of the City Code, currently Methods of Garbage and Trash Removal, covers only hauling and dumping refuse. It does not address any of the concerns cited above, such as how long waste receptacles may be left at the curb; requirements for waste containers; how waste must be prepared for collection; who is responsible when violations occur; and what the penalties may be for noncompliance.

Staff is therefore recommending additional City Code provisions to address these issues. The full language is included in Exhibit A.

Some of the highlights of the proposed regulations include:

- Material must be bagged and securely tied.
- All material must be fully contained within the waste receptacle with the lids fully closed and secure except when being loaded or emptied. Containers may not be overfilled.
- Containers may not be placed at the street prior to 6 p.m. the evening preceding the collection and must be retrieved by 11 p.m. on collection day.
- Outside of those set days/times, containers must be stored out of sight of the street.
- A first violation of the ordinance shall result in a \$100 fine, second violation \$200, and subsequent violations a minimum of \$250 and maximum of \$2500.
- The property owner(s), occupant, or someone with control of the premises could all be considered the responsible party for violations of these regulations.

Community Plan Consistent: Yes - No - Not Applicable

Board/Commission Recommendation: Applicable - Not Applicable

Alternative(s): Take no action and impose no further regulations.

MOTION

I move to: adopt Resolution No. 2021-__ a Resolution of the Mayor and Council of the City of Sedona, Arizona establishing as a public record that document titled “2021 Amendments to Article 8 (Health and Safety), adding Chapter 8.05, Article II. Garbage and Solid Waste Containment”.

(After First Reading)

I move to: adopt Ordinance No. 2021-__ an ordinance of the Mayor and Council of the City of Sedona, Arizona adopting amendments to the Sedona City Code Title 8 (Health and Safety) by adopting amendments to Chapter 8.05 (Garbage and Solid Waste Removal and Containment) related to the proper storage, placement, and disposition of residential waste and waste containers.

RESOLUTION NO. 2021-__

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SEDONA, ARIZONA, ESTABLISHING AS A PUBLIC RECORD AMENDMENTS TO ARTICLE 8 (HEALTH AND SAFETY) BY ADDING CHAPTER 8.05, ARTICLE II. GARBAGE AND SOLID WASTE CONTAINMENT.

WHEREAS, it is the City's responsibility to promote the health and welfare of the community; and

WHEREAS, the proper storage of solid waste and recyclable materials can help promote the sanitary condition of private and public premises within the City and minimize conflicts between wildlife and citizens; and

WHEREAS, since the City's short-term rental hotline, launched in September 2020 through end of calendar year 2020, 154 complaints have been submitted and, of those, 64 (approximately 42%) were related to the failure to properly contain trash and store waste containers.

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SEDONA, ARIZONA, as follows:

Section 1. That the document attached hereto and incorporated by this reference as "Exhibit A" and titled "2021 Amendments to Article 8 (Health and Safety), adding Chapter 8.05, Article II. Garbage and Solid Waste Containment" shall constitute a public record to be incorporated by reference in Ordinance 2021-__.

Section 2. At least one (1) paper copy and one (1) electronic copy of this public record shall be kept in the office of the City Clerk for public use and inspection.

PASSED AND ADOPTED by the Mayor and Council of the City of Sedona, Arizona, this 26th day of January, 2021.

Sandra J. Moriarty, Mayor

ATTEST:

Susan L. Irvine, CMC, City Clerk

APPROVED AS TO FORM:

Kurt W. Christianson, City Attorney

Chapter 8.05

~~METHODS OF GARBAGE AND TRASH~~ SOLID WASTE REMOVAL AND CONTAINMENT

Sections:

- 8.05.010 **Hauling refuse.**
- 8.05.020 **Vehicles and receptacles to be spill proof.**
- 8.05.030 **Spilled refuse.**
- 8.05.040 **Dumping refuse.**
- 8.05.050 **Definitions.**
- 8.05.060 **Purpose and responsibility for solid waste and recyclables.**
- 8.05.070 **Containers – General requirements.**
- 8.05.080 **Preparation for collection.**
- 8.05.090 **Responsibility for streets and sidewalks.**
- 8.05.100 **Violations and abatement.**

Article I. Garbage and Solid Waste Removal

8.05.010 Hauling refuse.

It is unlawful for any person to haul or cause to be hauled any refuse on or along any public street, avenue or alley in the city in violation of any of the provisions in this title. [Code 2006 § 9-1-1].

8.05.020 Vehicles and receptacles to be spill proof.

It is unlawful for any person to haul or cause to be hauled on or along any public street in the city any garbage, unless such garbage is contained in strong, watertight vehicles or vehicles with watertight receptacles, constructed to prevent any garbage from falling, leaking or spilling and any odor from escaping. [Code 2006 § 9-1-2].

8.05.030 Spilled refuse.

Any person hauling any refuse along the streets of the city shall immediately replace in the conveyance used for such hauling any refuse which may fall upon any street. [Code 2006 § 9-1-3].

8.05.040 Dumping refuse.

It is unlawful for any person to place or cause to be placed any refuse, trash, filth, rubbish or debris upon any public or private property within the city except as specifically permitted in this title and, in addition to any fine which may be imposed for a violation of any provision of this section, shall be liable for all costs which may be assessed pursuant to this chapter for the removal of the refuse, trash, filth, rubbish or debris. [Code 2006 § 9-1-4].

Article II. Garbage and Solid Waste Containment

8.05.050 Definitions.

For the purposes of this chapter, the following definitions shall apply:

"Private service providers/service provider" means any entity or person who provides for the collection, storage, treatment, transportation, processing, and disposal within the city of any solid waste of another person or entity including recyclable materials, hazardous materials, or any other types of waste, for disposal, salvage, recycling or any other purpose.

"Residential solid waste" means household trash, solid waste and recyclables produced by city residents on or in their private premises within the city.

"Responsible party" means an owner, occupant or other person or entity having control over a structure, private premises or parcel of land. The owner of the structure, private premises or parcel of land means the person(s) or entity shown in the records of the county recorder. If there is more than one owner, the owners are jointly and severally presumed to be a responsible party.

"Solid waste" means all waste, including garbage, rubbish, refuse, ashes, street cleanings, dead animals, containable rubbish, filth, construction and demolition waste, brush, bulk waste, metal goods or prohibited substances when these terms are not specifically noted in this chapter.

Authorized private receptacle, Garbage, Litter, Private premises, Refuse, Rubbish, and Street shall have the same meaning as provided in S.C.C. 8.10.010

8.05.060 Purpose and responsibility for solid waste and recyclables.

A. All solid waste and recycling, regardless of location within the city, shall be secured or stored in containers in such a manner as to prevent wildlife from accessing the contents of such containers. It is the intent of this chapter to encourage the proper storage of solid waste and recyclable materials for purposes of minimizing conflicts between wildlife and citizens of the city.

B. The responsible party of any private premises or business establishment shall be responsible for their solid waste or recyclables until the solid waste or recyclables are collected by the private service provider. The owner of the private premises or business establishment, as shown in the records of the county recorder, at which a violation of this chapter exists, shall be presumed to be a person having lawful control over any building, structure or parcel of land. If more than one person shall be shown as the owner of the property, said persons are jointly and severally presumed to be persons having lawful control over the building, structure or parcel of land.

C. The responsible party of any private premises or business establishment shall be responsible for the sanitary condition of said private premises or business establishment and for the proper storage, containment, and placement for collection of all solid waste and recyclables pursuant to this chapter. Except as provided in this chapter, no person shall bury, dump, dispose, transport, release, or allow to be released upon any street, alley, right-of-way or public land, any solid waste or recyclables, including construction and demolition waste and tires.

D. Each responsible party shall be responsible for compliance with the terms of this chapter and jointly liable for any violation thereof.

8.05.070 Containers – General Requirements

A. Every responsible party, person or commercial or residential solid waste generator shall place, or cause to be placed, all solid waste and recycling accumulating on the private premises or business establishment in containers provided by their service provider.

B. All materials and solid waste prepared for collection shall be stored in a container provided by the service provider until removed by that service provider, unless those materials are properly prepared for a bulk waste collection service.

C. Any user of a solid waste and recycling container provided by a service provider shall be required to use and maintain the container as follows:

1. Cleaning. All containers shall be used, maintained and stored in a clean and sanitary condition.

2. The user shall bag and securely tie all putrescible material in solid waste containers, thereby maintaining the container free of intense odors, evidence of flies in any stage of development, and any other nuisance or threat to public health or safety.

3. Lids or Covers. The lids or covers of any container(s) shall at all times be kept fully closed and secure in such a manner to prevent intrusion of moisture, infestation of insects, and scattering of solid waste or recyclable materials. Covers or lids shall be kept closed except when containers are being loaded or emptied.

D. It is the responsible party's obligation to properly contain solid waste or recyclable materials generated on their private premises or business establishment and to keep the area around the container continuously clear and free of all debris.

E. It shall be a violation of this chapter to overload or overfill a container. Solid waste and recycling containers shall at all times be kept in such a manner as to preclude the scattering of solid waste and recyclable materials from a container assigned to or associated with that property, private premises or business establishment. If such spilling or scattering of solid waste does occur, it shall be the immediate responsibility of the responsible party to remove and properly dispose of such spillage. For the purposes of this section, the term "property" includes adjacent private or public property or right-of-way if the solid waste has been scattered to such locations from a container assigned to or associated with the subject property.

F. Solid waste containers shall be placed out for collection at the edge of the right-of-way or street.

G. No person other than a responsible party for where the container is located or the service provider where the container is located shall remove any material or solid waste from the container, place any material or

solid waste within the container, or tamper with the container.

8.05.080 Preparation for collection.

A. All residential solid waste for collection shall be prepared for collection as follows:

1. Residential solid waste and recycling containers may be placed at edge of the street, right-of-way or collection point after 6:00 p.m. on the day preceding collection. All containers must be placed so as not to interfere with pedestrian or vehicular traffic. Containers must be removed from the street, right-of-way, or collection point prior to 11:00 p.m. on the day of collection. No container shall be permanently stored in the public right-of-way without approval from the city manager or designee.

2. All solid waste and recycling containers shall be stored, between collection days, on the private premises or business establishment in a manner that minimizes the container's visibility. This could be inside a garage, behind a fence, vegetation or other screening in a side yard, or otherwise obscured from view from a public street. The designated collection days shall be determined by the service provider.

3. Lids must be closed except when containers are being loaded or emptied. All solid waste and recycling must fit securely into the container with the lid closed for collection. The lids of containers set out or used for residential solid waste or recycling collection must be entirely closed. No solid waste or recycling may be set or stored around the perimeter of the container.

B. The responsible party must provide sufficient containers at the private premises or business establishment to accommodate the amount of solid waste generated by the private premises or business establishment to comply with this chapter. It shall be unlawful, and no responsible party shall permit or allow the accumulation of solid waste upon any property within the city except in containers provided for the disposal of such solid waste.

8.05.090 Responsibility for streets and sidewalks.

A. Each responsible party in control of any land abutting a sidewalk or street must maintain the sidewalk, or street free from:

1. The accumulation of solid waste;

2. Trees, shrubs, or brush impeding pedestrian or vehicular traffic; and

3. Other conditions that present a health, fire, or safety hazard.

B. Pursuant to this section, the responsible party is required to maintain any portion of a street, that has been opened for public use, between the curb line and the abutting property line including sidewalks.

8.05.100 Violations and abatement.

A. It is unlawful and a civil infraction for any person to violate any provision of this chapter. A first violation shall result in the imposition of a civil penalty of \$100.00. A second violation on the same private premises or business establishment within 180 days of the first violation shall result in the imposition of a civil penalty of \$200.00. Any subsequent violations on the same private premises or business establishment shall result in a civil penalty not less than \$250.00 nor more than \$2,500.00 per violation under SCC 1.15.010. In addition to any fine imposed pursuant to this section, upon request by the city, the court may enjoin the alleged violation of any provision of this chapter and a person in violation of this chapter must make restitution to the city for all cleanup and disposal costs incurred by the city.

B. Failure to correct the initial violation of this chapter within a reasonable time, not to exceed twenty-four (24) hours, constitutes a continuing violation and shall be grounds for the issuance of a subsequent citation for a violation of this chapter and a separate violation shall be deemed committed on each day a violation occurs or continues.

C. If in the determination of the city manager or designee the condition constitutes an incipient hazard, or an imminent health or safety hazard, the Director or designee may immediately abate the hazard without notice. Such abatement of an imminent health or safety hazard shall be limited to the minimum work necessary to remove the hazard and the responsible party shall be charged for the cost of the abatement.

ORDINANCE NO. 2021-__

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF SEDONA, ARIZONA, ADOPTING AMENDMENTS TO THE SEDONA CITY CODE CHAPTER 8.05 RELATING TO THE REGULATION OF THE PROPER STORAGE, PLACEMENT, AND DISPOSITION OF RESIDENTIAL WASTE AND WASTE CONTAINERS; PROVIDING FOR A SAVINGS CLAUSE; AND PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES.

BE IT ORDAINED BY THE MAYOR AND THE COUNCIL OF THE CITY OF SEDONA, ARIZONA, as follows:

Section 1: Amendment of Article 8 (Health and Safety) by adding Chapter 8.05, Article II. Garbage and Solid Waste Containment

Article 8 (Health and Safety) of the City Code of the City of Sedona is amended by incorporating by reference those changes set forth in that public record entitled “2021 Amendments to Article 8 (Health and Safety), adding Chapter 8.05, Article II. Garbage and Solid Waste Containment” and established as a public record by Resolution No. 2021-__ as though said provisions are fully set forth herein.

Section 2. Savings Clause

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance 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 remainder of this Ordinance.

Section 3. Repeal

All other code provisions, ordinances, or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict as of the effective date hereof.

PASSED AND ADOPTED by the Mayor and Council of the City of Sedona, Arizona, this 26th day of January, 2021.

Sandra J. Moriarty, Mayor

ATTEST:

Susan L. Irvine, CMC, City Clerk

APPROVED AS TO FORM:

Kurt W. Christianson, City Attorney



**CITY COUNCIL
AGENDA BILL**

**AB 2646
January 26, 2021
Regular Business**

Agenda Item: 8b
Proposed Action & Subject: Discussion/possible action regarding proposed State legislation and its potential impact on the City of Sedona.

Department	Legal
Time to Present	15 Minutes
Total Time for Item	30 Minutes
Other Council Meetings	N/A
Exhibits	None

City Attorney Approval	Reviewed 1/19/2021 KWC	Expenditure Required	
		\$	0
City Manager's Recommendation	None.	Amount Budgeted	
		\$	0
		Account No. (Description)	N/A
		Finance Approval	<input checked="" type="checkbox"/>

SUMMARY STATEMENT

Background: During the course of the State Legislative Session, many bills are introduced that have a potential impact on the City of Sedona. The League of Arizona Cities and Towns and City staff routinely monitor bills of interest as they progress through the legislative process.

This item is scheduled to provide a summary update on relevant bills, to answer questions that the City Council may have regarding any individual bill, and to consider the need for the City Council to take a formal position in support or opposition of any particular bill.

Community Plan Consistent: Yes - No - Not Applicable

Board/Commission Recommendation: Applicable - Not Applicable

Alternative(s):

MOTION

I move to: for informational purposes only, unless there is a preference to take a position on a particular issue.



**CITY COUNCIL
AGENDA BILL**

**AB 2571
January 26, 2021
Regular Business**

Agenda Item: 8c
Proposed Action & Subject: Discussion/possible direction regarding issues surrounding the COVID-19 pandemic and the City's response.

Department	City Manager
Time to Present	15 minutes
Total Time for Item	30 minutes
Other Council Meetings	March 24, 2020, April 14, 2020, April 28, 2020, May 12, 2020, May 26, 2020, June 9, 2020, June 23, 2020, July 14, 2020, July 28, 2020, August 11, 2020, September 8, 2020, September 22, 2020, October 13, 2020, October 27, 2020, November 10, 2020, November 24, 2020, December 9, 2020, January 12, 2021
Exhibits	None

City Attorney Approval	Reviewed 1/19/2021 KWC	Expenditure Required	
		\$	0
City Manager's Recommendation	For discussion and possible direction only.	Amount Budgeted	
		\$	0
		Account No. (Description)	N/A
		Finance Approval	<input checked="" type="checkbox"/>

SUMMARY STATEMENT

Background: This item was added to ensure opportunity to discuss the latest updates with the COVID-19 pandemic and the City's response.

The City continues regular communication with state and county health departments, hospitals, other healthcare providers, emergency responders, emergency managers, and policy experts.

City staff continues to evaluate how the economic slowdown will impact City finances. Staff will be prepared to discuss the latest revenue data and forecasts.

During the meeting staff will present up to date information on COVID-19 related data, regulatory changes and news on city finances.

Community Plan Consistent: Yes - No - Not Applicable

Board/Commission Recommendation: Applicable - Not Applicable

Alternative(s): N/A

MOTION

I move to: for discussion and possible direction only.