

ORDINANCE NO. 2023-05

AN ORDINANCE OF THE CITY OF SEDONA, ARIZONA, ADOPTING AN AMENDMENT TO THE CITY CODE TITLE 12 (STREETS, SIDEWALKS, AND PUBLIC PLACES) BY AMENDING CHAPTER 12.05 (RIGHTS-OF-WAY); PROVIDING FOR PENALTIES, A SAVINGS CLAUSE, AND FOR REPEAL OF CONFLICTING ORDINANCES; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS pursuant to A.R.S. 9-240, the City is authorized to protect any street, avenue, alley, park, public place, sidewalk, easement, and rights-of-way from encroachment; and

WHEREAS the City deems it necessary to adopt certain regulations regarding the use of public right-of-way for the health, safety, and welfare of City residents.

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

Section 1. Amendment of Sedona City Code Title 12 (Streets, Sidewalks, and Public Places)

Title 12 (Streets, Sidewalks, and Public Places) of the City Code of the City of Sedona is hereby amended by amending Chapter 12.05 (Rights-of-Way) as follows:

**Chapter 12.05
RIGHTS-OF-WAY**

Sections:

- 12.05.010 Purpose.**
- 12.05.020 Scope.**
- 12.05.030 Adoption of permit application form.**
- 12.05.040 Definitions.**
- 12.05.050 Enforcement.**
- 12.05.060 Appeals.**
- 12.05.070 Permit requirements – Classes of permits.**
- 12.05.080 Life of the permit.**
- 12.05.090 Denial of permit.**
- 12.05.100 Fees.**
- 12.05.110 Amendment additions to sections of MAG Uniform Standard Specifications for Public Works Construction, and MAG Standard Details for Public Works Construction.**
- 12.05.120 Additional stipulations.**
- 12.05.130 Procedures for acceptance of existing private streets as public roads.**
- 12.05.140 Art in public right-of-way.**
- 12.05.150 Small wireless facility.**

12.05.160 Encroachment on public right-of-way prohibited.

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12.05.020 Scope.

This chapter sets forth rules to regulate and control all construction, **encroachment** and maintenance performed within a right-of-way which has been dedicated and declared by the city to be public. Public rights-of-way shall include, but not be limited to, streets, drainage ways, roads, alleys, ways, highways, sidewalks, bridges and public places. It establishes the administrative procedures for issuance of permits and provides for approval of plans and specifications and inspection of such construction. **It sets forth rules for enforcement and penalties for violations.** Such rules shall pertain to, but shall not be limited to, persons, organizations, public service utilities and franchise grantees. Such rules shall apply to **encroachment**, construction and maintenance upon, over, along, across and under present and future public rights-of-way. Such rules do not preclude the right of the city to require license, leases, or other such agreements containing whatever conditions the city deems appropriate in the case of the **encroachment**, construction, maintenance or any other activity within the right-of-way which are not deemed typical encroachments, such as, but not limited to, tables, sitting areas, statues, parades, performances, and art displays. [Code 2006 § 7-15-2. Ord. 2008-05, 6-10-2008].

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12.05.040 Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

“City-developed consent permit” means the permit to construct or maintain on or in city rights-of-way issued subject to permit term and terms of an agreement license or lease with the city.

“City engineer” means city engineer or his designee.

“Contracting agency” means the applicant.

“Contractor” means the applicant or contractor hired by the applicant.

“Encroachment” means construction activity or placement of any trash, debris, or personal property in the public right-of-way.

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12.05.050 Enforcement.

Except as to Section 12.05.160, the official charged with the enforcement of this chapter shall be the city engineer, pursuant to SCC 2.55.010. [Code 2006 § 7-15-5. Ord. 2008-05, 6-10-2008].

12.05.060 Appeals.

Except as to Section 12.05.160, Appeals from the decision of the city engineer in the interpretation of this chapter may be taken by filing an appeal with the city clerk within 10 days of the decision. A copy of the appeal shall be provided to the city engineer. The city council shall agendaize the appeal for the next regular or special meeting, hear arguments and decide the matter. The decision shall be final. [Code 2006 § 7-15-6. Ord. 2008-05, 6-10-2008].

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12.05.160 Encroachment on public right-of-way prohibited.

A. Unless authorized as permitted by this chapter, it shall be unlawful for any person to temporarily or permanently place, construct, maintain or install an encroachment in the public right-of-way.

B. Enforcement. Any person authorized to enforce the Code pursuant to SCC 1.15.010(D)(1) shall have the authority to enforce the regulations contained in this Section 12.05.160. Nothing in this chapter shall prevent obtaining voluntary compliance by way of warning, notice or education.

C. Any person found guilty of violating this Section shall be subject to penalties set forth in SCC Section 1.15.010.

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. Except as expressly amended herein, the provisions of the Chapter 12.05 shall be, and remain in full force and effect.

Section 4. Effective Date

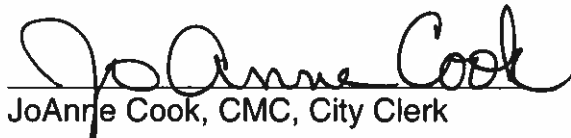
The effective date of this Ordinance shall be 30 days following adoption by the City Council.

PASSED AND ADOPTED by the Mayor and Council of the City of Sedona, Arizona, this 8th day of August, 2023.



Scott M. Jablow, Mayor

ATTEST:



JoAnne Cook, CMC, City Clerk

APPROVED AS TO FORM:



Kurt W. Christianson, City Attorney