

ORDINANCE NO. 2024-07

AN ORDINANCE OF THE CITY OF SEDONA, ARIZONA, DECLARING THE DOCUMENT TITLED “OCTOBER 2024 AMENDMENTS TO SEDONA CITY CODE SECTION 10.15.040 SPEED LIMITS” AS A PUBLIC RECORD, ADOPTING THE SAME BY REFERENCE, AND AMENDING THE SEDONA CITY CODE AS SET FORTH THEREIN; PROVIDING FOR PENALTIES, SEVERABILITY, AND REPEAL OF CONFLICTING ORDINANCES; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, adhering to Federal and State speed and safety regulations related to motor vehicles reduces the chances of serious injury and death; and

WHEREAS, Utility Terrain Vehicles (“UTV”), All-Terrain Vehicles (“ATV”), Off-Highway Vehicles (“OHV”), collectively called “OHVs,” are designed, tested, and manufactured solely for off-road use on non-paved surfaces partly because OHVs are equipped with high centers of gravity and tires that have large ridges on them, making them ill-suited for turning and traction on asphalt surfaces; and

WHEREAS, the Consumer Product Safety Commission recommends persons never ride OHVs on public or paved roads; and

WHEREAS, the National Highway Traffic Safety Administration (“NHTSA”) has said, “The use on public roads of off-road vehicles and tires that do not meet the Federal Motor Vehicle Safety Standards (“FMVSS”) places occupants and other road users at a greater risk of harm”; and

WHEREAS, the United States Department of Transportation (“DOT”) has said, “We share [the City of Sedona’s] concern about the operation of off-road vehicles on public roads. NHTSA has developed various FMVSS over the years through research and testing to establish minimum safety standards for vehicles and equipment intended for use on public roads. The use of off-road vehicles and tires on public roads, which do not meet those minimum safety standards, places the occupants and other road users at a greater risk of crashes and injury or death in a crash”; and

WHEREAS, all manufacturers of OHVs are sponsors and members of the Recreational Off-Highway Vehicle Association (“ROHVA”) and the Specialty Vehicle Institute of America (“SVIA”), and both ROHVA and SVIA urge that on-highway use of OHVs be prohibited and that law enforcement efforts be strengthened to eliminate the dangerous practice of on road use and sponsor model legislation that prohibits OHV use on any public street, road, or highway and as recently as March 2023 ROHVA and SVIA lobbied the Oregon legislature in opposition to making OHVs street legal; and

WHEREAS, all manufacturers of OHVs state that OHVs should not be driven and/or that OHVs are unsafe to be driven on paved and/or public roads; and

WHEREAS, the ADOT MVD Off-Highway Vehicle Decal Application requires owners of OHVs to certify under penalty of perjury that the OHV “has been modified to meet all applicable safety and equipment requirements of Arizona Revised Statutes Title 28,

Chapter 3, Article 16, *as well as all...other federal requirements*" (emphasis added); and further includes the applicant's acknowledgement that "I understand that I may receive traffic tickets and court fines if local ordinances prohibit operation of this vehicle"; and

WHEREAS, OHVs lack numerous standard FMVSS required for on road motor vehicle use including: airbags, stability control, crumple zones, rear bumpers, and DOT approved tires; and

WHEREAS, every year tire failure causes approximately 11,000 vehicle crashes and 200 deaths nationwide and adhering to DOT tire regulations reduces the chance of tire failure, and according to NHTSA, in 2020 there were 664 traffic fatalities in tire-related crashes; and

WHEREAS, only DOT approved tires are safe to be used in highway service; and

WHEREAS, NHTSA Interpretation 1985-04.16 explains and FMVSS Standard 109 requires that all motor vehicles manufactured after 1948 have DOT approved tires for on road use; and

WHEREAS, OHVs are equipped with Not for Highway Service (NHS) tires and no OHV tires are currently DOT approved for highway or on street use (see NHTSA June 3, 2022 letter re: Improper Certification of UTV/ATV Tires to FMVSS; U.S. Tire Manufacturers Tire Information Service Bulletin TISB 07); and

WHEREAS, visitors to the City rent OHVs to be driven on paved public roads largely unaware of the foregoing safety concerns; and

WHEREAS, statewide, several OHV rental companies have gone out of business because their rental OHVs were wrecked faster than the OHVs could be repaired (Arizona Off-Highway Vehicle Study Committee Meeting July 21, 2023); and

WHEREAS, Sedona has experienced 710 motor vehicle accidents between 2017 and 2021, resulting in 150 injuries and 5 fatalities; and

WHEREAS, in the past three years, there have been four rollover OHV accidents within City limits and in 2021, statewide there were 187 OHVs involved in accidents with 16 fatalities in 2021 resulting in a 8.55% fatality rate; and

WHEREAS, OHVs are the third leading cause of injury in children in Arizona (Arizona Off-Highway Vehicle Study Committee Meeting July 21, 2023); and

WHEREAS, plaintiffs routinely make claims against the City of Sedona for allowing or maintaining unsafe highway or road conditions; and

WHEREAS, traffic accidents and traffic congestion are a serious concern in the City and the City spends millions of dollars annually to improve traffic safety and congestion and requiring safe motor vehicles on paved public roads will further improve safety; and

WHEREAS, A.R.S. §28-626(B)(3) delegates motor vehicle safety enforcement to municipalities stating that municipalities “*shall* adopt ordinances or regulations relating to the control and movement of traffic...” (emphasis added); and

WHEREAS, the City finds that driving OHVs on paved or public roads in contravention to their design and the manufacturer recommendation constitutes reckless disregard for the safety of persons and property pursuant to A.R.S. §28-1174(A)(1); and

WHEREAS, there has been an increase in motorized tourism in the City of Sedona which has resulted in an increase in noise impacts to City residents and visitors; and

WHEREAS, several popular OHV trails are accessed through residential neighborhoods in the City which increases the noise impacts on residents and visitors; and

WHEREAS, numerous studies have found noise pollution increases stress, anxiety, depression, high blood pressure, and heart disease and disturbs sleep which is essential to good health; and

WHEREAS, World Health Organization’s (WHO) guidelines for community noise recommend less than 30 decibels in bedrooms at night for good quality sleep and in the state of Arizona OHVs are permitted to operate at 96 decibels; and

WHEREAS, a reduction in speed limit makes the streets quieter and safer per numerous studies; and

WHEREAS, other federal, state, and local government entities have adopted reduced OHV speed limits for the health and safety of the public; and

WHEREAS, the Sedona City Council adopts all of the foregoing as part of its engineering and traffic investigation; and

WHEREAS, the City deems it necessary to adopt certain OHV speed limits to protect the health, safety, and welfare of the City residents and travelling public.

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

Section 1. The recitals above are hereby incorporated as if fully set forth herein.

Section 2. That certain document titled the “October 2024 Amendments to Sedona City Code Section 10.15.040 Speed Limits” (“Speed Limit Amendment”), of which one paper copy and one electronic copy are maintained, in compliance with A.R.S. § 44-701, on file in the office of the City Clerk as required by A.R.S. § 9-802, and available for public use and inspection during normal business hours, is hereby declared to be a public record and said copies thereof are hereby ordered to remain on file with the City Clerk.

Section 3. Sedona City Code Section 10.15.040 is hereby amended as set forth in the Speed Limit Amendment, which is hereby referred to, adopted, and made a part hereof as if fully set forth herein.

Section 4. If any section, subsection, sentence, clause, phrase, or portion of this ordinance or any part of the Speed Limit Amendment adopted herein is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 5. The Mayor, the City Manager, the City Clerk, and the City Attorney are hereby authorized and directed to take all steps necessary to carry out the purpose and intent of this ordinance.

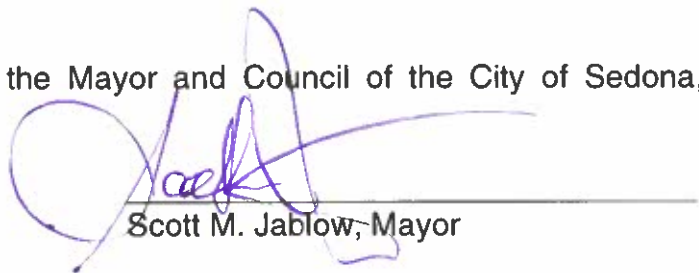
Section 6. Penalties: Any violation of or failure or refusal to do or perform any act required by the provisions of this ordinance or of the Sedona City Code as amended herein shall constitute a civil traffic violation and be subject to the provisions of Sedona City Code Section 1.15.010.

Section 7. Severability. 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 8. 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.


Section 9. 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 October, 2024.



Scott M. Jablow, Mayor

ATTEST:



JoAnne Cook, CMC, City Clerk

APPROVED AS TO FORM:



Kurt W. Christianson, City Attorney

“October 2024 Amendments to Sedona City Code Section 10.15.040 Speed Limits”

Chapter 10.15 TRAFFIC CONTROL

10.15.040 Speed limits.

A. Pursuant to the provisions of A.R.S. Sections [28-627](#) and [28-703](#), the established speed on all roads and streets and other areas accommodating motor vehicular traffic within the confines and boundaries of the city shall be 25 miles per hour unless otherwise posted. This section shall not apply to the regulation of any speed of traffic upon any state or federal highway. [Code 2006 § 11-3-4].

B. Pursuant to the provisions of A.R.S. Sections 28-627 and 28-703, the established speed on all roads and streets for all-terrain vehicles and off-highway vehicles shall be 15 miles per hour where adopted by City Council by resolution and where posted by appropriate signs. This section shall not apply to the regulation of any speed of all-terrain vehicles or off-highway vehicles upon any state or federal highway.