

ORDINANCE NO. 2023-__

AN ORDINANCE OF THE CITY OF SEDONA, ARIZONA, ADOPTING AN AMENDMENT TO THE CITY CODE TITLE 10 (VEHICLES AND TRAFFIC) BY ADDING CHAPTER 10.30 (IMPROPER MOTOR VEHICLE EQUIPMENT); PROVIDING FOR PENALTIES, A SAVINGS CLAUSE, AND FOR REPEAL OF CONFLICTING ORDINANCES; AND ESTABLISHING AN EFFECTIVE DATE.

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

WHEREAS, every year tire failure causes approximately 11,000 vehicle crashes and 200 deaths nationwide and adhering to Department of Transportation (DOT) tire regulations reduces the chance of tire failure; and

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

WHEREAS, no UTV, ATV, or 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 the City deems it necessary to adopt certain regulations regarding improper motor vehicle equipment to protect the health, safety, and welfare of the City residents in accordance with DOT regulations.

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 10 (Vehicles and Traffic)

Title 10 (Vehicles and Traffic) of the City Code of the City of Sedona is hereby amended by adding the following Chapter:

Chapter 10.30 – IMPROPER MOTOR VEHICLE EQUIPMENT

10.30.010 - Definitions.

In this chapter unless the context otherwise requires:

"Driver" means a person who drives or is in actual physical control of a motor vehicle.

"Highway" means the entire width between the boundary lines of every paved way if a part of the way is open to the use of the public for purposes of motor vehicle travel including public roads and streets.

“Manufacturer” means a person or entity—

- (A) manufacturing or assembling motor vehicles or motor vehicle equipment; or
- (B) importing motor vehicles or motor vehicle equipment for resale.

"Motor vehicle" means a self-propelled vehicle, including Utility Terrain Vehicles, All Terrain Vehicles, and Off Highway Vehicles.

"Owner" means the person in whose name such motor vehicle is registered.

"Public employees" means any federal, state, county or City employees.

"State or Federal motor vehicle safety standards" means all motor vehicle standards listed in A.R.S Title 28 or Title 49 of the Code of Federal Regulations (FMVSS) including:

- A.R.S. 28-971 - Brake light or stop lamp in good working order
- A.R.S. 28-955 or A.R.S. 28-1179(A)(3) - Muffler or noise dissipative device in good working order.
- A.R.S. 28-957.01 or A.R.S. 28-964(A)- Adequate windshield or eye protection.
- 49 C.F.R. § 574.5(e)(3) – The DOT symbol must not appear on tires to which no Federal Motor Vehicle Safety Standard is applicable.
- 49 C.F.R. § 574.5(e)(1) – All motor vehicles operated on highways must be equipped with street legal tires approved by NHTSA or DOT.

10.30.020 – Operating Motor Vehicle with Improper Motor Vehicle Equipment Prohibited.

- A person shall not drive or move on a highway a motor vehicle that:
 - Is in an unsafe condition that endangers a person.
 - Does not contain those parts or is not at all times equipped with lamps and other equipment in proper condition and adjustment as required in this chapter.
 - Is equipped in any manner in violation of State or Federal motor vehicle standards.
 - Is not approved by the manufacturer to be operated on a highway.
- An owner shall not drive or allow a person to drive or move on a highway the owner's motor vehicle that:
 - Is in an unsafe condition that endangers a person.
 - Does not contain those parts or is not at all times equipped with lamps and other equipment in proper condition and adjustment as required in this chapter.
 - Is equipped in any manner in violation of State or Federal motor vehicle standards.

- Is not approved by the manufacturer to be operated on a highway.

10.30.030 – Applicability; Exceptions.

- This chapter applies to all highways within the Sedona City limits.
- This chapter does not apply to public employees in the performance of their official duties or to any motor vehicle owned or operated by any federal, state, or local governmental entity.

- – Inspections.

If at any time there is reasonable cause to believe that a motor vehicle is unsafe or is not equipped as required by this chapter or that a vehicle's equipment is not in proper adjustment or repair, any peace officer may require the driver of the motor vehicle to stop and submit the vehicle to an inspection and such test with reference to the inspection as may be appropriate.

6.15.050 – Authority to Impound Vehicles.

Vehicles operated in violation of this chapter may be impounded in the same manner as provided for by the provisions of SCC 10.15.150.

6.15.060 – Enforcement; Liability.

- Any AZPOST certified peace officer, community service officer, community service aide may issue a written warning or citation for the violation of this chapter.
- Persons Liable. If any motor vehicle is found in violation of any provision of this chapter, the owner, the person in whose name such motor vehicle is registered, as well as the driver of the vehicle at the time of the violation, shall be jointly and severally responsible for such violation and are subject to the penalties therefor. If the vehicle is not attended by a driver, the owner, or person in whose name such vehicle is registered, shall be held prima facie responsible for such violation and is subject to the penalties therefor. Proof that a person other than the owner was operating the vehicle at the time of the violation shall not constitute a valid defense to the offense.

6.15.070 - Separate Offenses.

Each violation pursuant to this chapter shall constitute a separate offense and each day a violation remains unabated may constitute a separate offense.

6.15.080 - Penalties.

- Upon a first violation of this chapter, an officer shall issue a written warning and repair order. A certificate of correction or adjustment of illegal or faulty equipment shall be obtained the person and shown to the police department within five days.
- If there is a violation of this chapter and the person fails to provide the City with a certificate of correction or adjustment within five days or the person has previously been issued a warning within one hundred eighty (180) days from the date a warning was issued, the violation is a civil offense punishable by a fine not to exceed five hundred dollars (\$500.00), plus any other penalties, assessments or surcharges authorized by law.
- If there is a violation of this chapter and the person has previously been convicted two (2) or more times of violating this chapter under subsection B, the new violation is a class 1 misdemeanor, plus any other penalties, assessments or surcharges authorized by law.

Section 3. 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 4. 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 5. Effective Date

The effective date of this Ordinance shall be 60 days following adoption by the City Council.

PASSED AND ADOPTED by the Mayor and Council of the City of Sedona, Arizona, this 23rd day of May, 2023.

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Scott M. Jablow, Mayor

ATTEST:

JoAnne Cook, CMC, City Clerk

APPROVED AS TO FORM:

Kurt W. Christianson, City Attorney