



Arizona State Legislature  
1700 West Washington  
Phoenix, AZ 85007

June 23, 2023

Dear Senator Bennet, Representative Bliss, & Representative Nguyen,

Thank you for your June 5, 2023 letter. I appreciate the time you spent engaging legal counsel and the opinion provided by Rusty Crandell. I am aware of the concerns outlined in the letter, but I do not believe the proposed ordinance is preempted by or conflicts with state law. The City takes seriously its responsibility to protect the public health, safety, and welfare and does so within the framework established by state law.

To be clear, my primary interests are focused on public safety of all motor vehicles. One group of vehicles with serious safety concerns are OHV, UTV, and ATVs (collectively "OHVs"). OHVs are not safe on paved or public roads. I continually point that out to stakeholders and no one—including the local OHV rental companies or manufacturers—disputes that. Vehicle safety issues are a real concern within the City of Sedona. In the past three years, there have been four rollover OHV accidents within City limits, most resulting in serious physical injury. In 2021, statewide there were 187 OHVs involved in accidents with 16 fatalities in 2021 resulting in a 8.55% fatality rate. By comparison, there were 197,630 passenger vehicles, trucks, and vans involved in accidents in 2021 with 1,327 fatalities resulting in a 0.6% fatality rate. A 1400% difference.

The City continues to engage stakeholders, including the Coconino National Forest, the Greater Sedona Recreation Council, OHV manufacturers, and the local OHV rental companies, to find any amicable solutions like an OHV staging area on City-owned property outside of City limits. To that end, the City has postponed the June 27, 2023 public hearing on the OHV ordinance to a later date.

OHVs are not safe on paved or public roads according to the OHV manufacturers. On the same date of your letter, the City received a letter from ROHVA, the Recreational Off-Highway Vehicles Association, made up of the manufacturers of OHVs, supporting the City's proposed ordinance (see attached).

The Consumer Product Safety Commission recommends persons never ride OHVs on public or paved roads. In a letter to the City, the National Highway Traffic Safety Administration ("NHTSA") stated, "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." In a different letter, the United States Department of Transportation ("DOT") stated, "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."

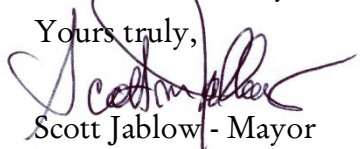
You might not be aware, but the ADOT MVD Off-Highway Vehicle Decal Application requires owners of OHVs to certify under penalty of perjury that the OHV "has been modified to meet all applicable safety and equipment requirements of Arizona Revised Statutes Title 28, Chapter 3, Article 16, *as well as all...other*



*federal requirements*” (emphasis added). OHVs do not comply with DOT and NHTSA Federal Motor Vehicle Safety Standards because they are equipped with not-for-highway tires and are missing many safety requirements needed for on-road use including, stability control, crumple zones, rear bumpers, and airbags.

Lastly, the City’s proposed safety ordinance is less restrictive than what the City could do. A.R.S. § 28-1174(B) states that a person shall drive an off-highway vehicle only on roads, trails, routes or areas that are opened as indicated in rules or regulations of a federal agency, this state, a county or a municipality. The City of Sedona has never indicated by rule or regulation that its highways or streets are open. Similarly, A.R.S. § 28-1174(A)(3) states that “A person shall not drive an off-highway vehicle: ... 3. On roads, trails, routes or areas closed as indicated in rules or regulations of a federal agency, this state, a county or a municipality...” The City has not yet declared its roads closed to OHVs. To date, I intend the proposed ordinance to only require motor vehicles, including OHVs, be safe to drive on paved or public roads within the City. Without a doubt, OHVs are not currently safe on paved or public roads per the manufacturers and relevant federal agencies, but there are opportunities for the manufacturers to make them so.

I will continue to inform you of any action the City may take on the proposed ordinance. I appreciate the open dialogue we’ve had on this issue. I welcome future discussions and any further information you may have on this subject.

Yours truly,  
  
Scott Jablow - Mayor  
City of Sedona