

ORDINANCE 105-97

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF QUEEN CREEK, ARIZONA, AMENDING THE TOWN CODE, CHAPTER 8, BUSINESS REGULATIONS, BY CREATING A NEW ARTICLE, 8-3, PARIMUTUEL WAGERING, INCLUDING NINETEEN NEW SECTIONS, ESTABLISHING A PROCEDURE FOR LICENSING OPERATORS AND ESTABLISHMENTS INVOLVED IN OFF-TRACK BETTING.

BE IT ORDAINED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF QUEEN CREEK, ARIZONA, AS FOLLOWS:

Section 1. That Chapter 8, Business Regulations, is hereby amended by creating a new Article, 8-3, Parimutuel Wagering, including nineteen new sections, establishing a procedure for licensing operators and establishments involved in off-track betting, to read as follows:

ARTICLE 8-3 PARIMUTUEL WAGERING

- 8-3-1 Definitions
- 8-3-2 Purpose; effect on other regulations
- 8-3-3 Administration
- 8-3-4 Teletrack operator, teletrack wagering establishment, license required
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- 8-3-8 Additional information
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- 8-3-10 Fingerprinting, criminal history investigation, exemption
- 8-3-11 Issuance and display of license identification card; nontransferability
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- 8-3-14 Public hearing on teletrack wagering establishment license; notice
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- 8-3-19 Teletrack operator license suspension

Section 8-3-1 Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Person means any individual, partnership, limited partnership, firm, corporation or association of any kind.

Racing program means the live races conducted at an authorized track and any simulcast races shown to the public in conjunction with live racing on which parimutuel wagering is allowed.

Teletrack operator means any person who holds an Arizona Racing Commission permit for dog or horse racing events within Arizona and who accepts bets or wagers on the results of any parimutuel race at a location other than the race track and who regularly conducts dog or horse racing events for at least thirty (30) days in the course of a calendar year.

Teletrack wagering means parimutuel wagering conducted at an off-track teletrack facility on a dog or horse racing program which is authorized within Arizona.

Teletrack wagering establishment means any establishment at which a teletrack operator accepts bets or wagers on the results of a dog or horse racing program conducted by a teletrack operator at an authorized track within Arizona.

Teletracking means the telecast of live audio and visual signals of dog or horse racing programs conducted at an authorized enclosure within Arizona to an authorized additional wagering facility within Queen Creek for the purpose of parimutuel wagering.

Section 8-3-2 Purpose; effect on other regulations

This article is enacted for regulatory purposes. Persons required to obtain a license for any activity covered by this article remain subject to all other applicable regulatory, tax or fee ordinances of the Town.

Section 8-3-3 Administration.

- A. The town manager shall administer this article, except as otherwise specifically provided, and shall develop appropriate forms for this purpose. The county sheriff's department shall assist in connection with license applications and enforcement.
- B. License applications made pursuant to this article shall be submitted to the town manager or designee, who may issue, deny, suspend or revoke licenses in accordance with article I, provided that the decision whether or not to issue a teletrack wagering establishment license shall be made by the town council following the hearing provided for in section 8-3-14.

Section 8-3-4 Teletrack operator, teletrack wagering establishment, license required.

- A. It shall be unlawful for any person to function in the town as a teletrack operator or operate a teletrack wagering establishment without first obtaining the appropriate license under this article.

- B. The licenses required by this section shall be in addition to any other licenses or permits required by any governmental authority.
- C. A separate teletrack wagering establishment license is required for each teletracking location within the town.
- D. A separate teletrack operator license is required for each teletrack operator located at a teletrack wagering establishment.
- E. A person desiring to operate a teletrack wagering establishment and to function as a teletrack operator shall obtain a license for each activity.
- F. Licenses issued pursuant to this chapter are nontransferable.

Section 8-3-5 Information required for teletrack operator license applications.

Applications for a teletrack operator license under this chapter shall include the following information:

- A. The applicant's business name, business location, business mailing address and business telephone number.
- B. The full legal name, date of birth and residence address of all persons who participate in management, control or policy direction of the teletrack operator, including, with respect to a corporation, the corporation's officers, directors and shareholders holding ten (10) percent or more of the outstanding shares of the corporation's stock.
- C. Information with respect to any of the persons identified pursuant to subparagraph (B) of this section shall include a full disclosure as to (1) any felony conviction of such person within the preceding five (5) years; (2) any judicial or administrative finding of violation of any law or regulation relating to racing, wagering or gaming, in any jurisdiction; and (3) revocation or suspension of any license or permit relating to parimutuel betting or teletracking activities.
- D. Proof that the applicant holds a valid permit from the Arizona Racing Commission to conduct parimutuel races within the State of Arizona.
- E. Proof that a teletrack wagering establishment license has been issued or applied for with respect to the facility in which the teletrack operator license will be utilized, and proof of an agreement for use of the establishment by the applicant for teletrack wagering purposes.
- F. A plan of operation in accordance with the specifications of Arizona Administrative Code, Title 4, Chapter 27, Section R. 4-27-404.

Section 8-3-6 Teletrack wagering establishment license; application.

Applicants for a teletrack wagering establishment license shall provide the following information as part of the application:

- A. The applicant's name, date of birth, residence address and telephone number.
- B. The applicant's business name, business location, business mailing address and business telephone number.
- C. The full legal name, date of birth and residence address of all persons who participate in management, control or policy direction of the establishment, including, with respect to a corporation, the corporation's officers, directors and stockholders holding ten (10) percent or more of the outstanding shares of the corporation's stock.
- D. Information with respect to any of the persons identified pursuant to subparagraph (C) of this section shall include full disclosure as to (1) any felony conviction of such person within the preceding five (5) years; (2) any judicial or administrative finding of violation of any law or regulation relating to racing, wagering or gaming, in any jurisdiction; and (3) revocation or suspension of any license or permit relating to parimutuel betting or teletracking activities.
- E. Proof of a current license for the site if the establishment serves liquor.
- F. Accurate drawings to scale indicating the floor plan of all buildings on the premises and the precise location of all teletracking facilities and activities.
- G. A site plan for all buildings and associated parcel lines, including evidence of compliance with section 8-3-7 of this article.
- H. A vicinity ownership map showing and labeling all parcels within five hundred (500) feet of the exterior boundaries of the parcel, not including public property or right-of-way.
- I. A vicinity ownership list and mailing labels properly addressed, containing names and mailing addresses, with correct zip codes, of owners of all parcels shown on the vicinity ownership map.
- J. A parking plan showing all parking spaces available for the site, and traffic flow patterns.
- K. A security plan which may include security guards and other appropriate measures for the protection of patrons, employees and the public.
- L. Proof that a teletrack operator license has been issued or applied for with respect to each operator who will conduct teletrack wagering activities at the establishment, and proof of an agreement between the applicant and each operator for use of the establishment by the operator for teletrack wagering purposes.

Section 8-3-7 Location of teletrack wagering establishment.

- A. No license shall be granted for any teletrack wagering establishment unless all of the following standards are met:
1. No teletrack wagering establishment shall be located within one thousand (1,000) feet of any other teletrack wagering establishment.
 2. No teletrack wagering establishment shall be located within five hundred (500) feet of any public or private school, public park or day nursery or preschool.
 3. The applicant for teletrack wagering establishment located within five hundred (500) feet of any of the following zoning district boundaries: R1-43, R1-35, R1-18, R1-8, R1-6, R-2, R-3, R-4, R-5, MHR, C-S, C-O, C-1, or C-2 has posted the property and sent notice of the proposed teletrack use to each household on the vicinity ownership map required in Section 8-3-6 (I). Such notice shall be sent and shall indicate that the resident shall file any protest to the application in writing with the town manager or designee within thirty (30) days or the application will be administratively approved. If any protests are received, a public hearing shall be held in accordance with Section 8-3-14 prior to issuance unless a petition requesting waiver of this requirement, signed by fifty-one (51) percent of those persons residing thirty (30) days or more within a five hundred-foot (500) radius of the proposed location is received and verified by the town manager or designee. In such case, the town council may waive the requirements of this subsection.
- B. For purposes of this section, streets, alleys and other thoroughfares adjacent to the zoning district boundaries specified in subparagraph (A)(3) shall themselves be considered within such district boundaries. With respect to any such street, alley or other thoroughfare, measurements to determine whether the teletrack wagering establishment is within five hundred (500) feet of such boundary shall be taken to the edge of such alley nearest to the teletrack wagering establishment, or from the centerline of such street or thoroughfare, or to the property line of said public or private school, public park or other teletrack wagering establishment. Measurement from the teletrack wagering establishment shall be taken from that portion of the teletrack wagering establishment, including projections therefrom, that is closest to said residential district, public or private school, public park or other teletrack wagering establishment.
- C. These provisions shall not be construed as permitting any use or activity which is otherwise prohibited or made punishable by law.

Section 8-3-8 Additional information

In addition to the information specified above an applicant shall provide such supplemental information as the town manager or designee reasonably determines to be necessary to fully evaluate the application.

Section 8-3-9 Payment of fees and taxes

No application for a license under this chapter will be processed with respect to an applicant who is delinquent in payment of any town taxes, fees or other payments due.

Section 8-3-10 Fingerprinting, criminal history investigation, exemption

Applicants for any license under this chapter, and all other persons required to be identified in connection with an application shall be subject to background and criminal history investigation and fingerprinting, provided that, fingerprinting and criminal history investigation will not be required for a teletrack operator if:

- A. The applicant, within twelve (12) months prior to filing the application for a town teletrack operator license, has supplied the required information to the Arizona Racing Commission or to the Arizona Department of Racing or updated such information previously supplied as to any material changes and a criminal history investigation has been conducted at the state level on the basis of said information; and
- B. The information described in subsection (A) and the result of the criminal investigation are available to the county sheriff.

Section 8-3-11 Issuance and display of license identification card, nontransferability

- A. At the election of the town manager or designee, the license identification card may constitute the actual license issued.
- B. The license identification card shall be displayed on an outer garment, on the front of the body above the waist, with photograph visible while the holder is on the teletrack wagering establishment premises.

Section 8-3-12 Fees

An application for a teletrack operator or teletrack wagering establishment shall include a nonrefundable application fee of two hundred dollars (\$200.00) and other fees required by this article.

- A. The fee for a teletrack operator license shall be:
 - 1. One thousand two hundred dollars (\$1,200.00) per year for up to four (4) parimutuel betting windows or tote machines.
 - 2. Five hundred dollars (\$500.00) per year for each parimutuel window or tote machine in excess of four (4).
- B. The fee for a teletrack wagering establishment license shall be one hundred dollars (\$100.00) per year.

- D. A twenty-five dollar (\$25.00) fee for criminal history investigation and fingerprinting shall be paid at the time of application with respect to each applicant and person required to be identified in connection with an application under this article, unless exempt from section 8-3-10.
- E. A ten dollar (\$10.00) fee shall be paid for a replacement license identification card if required because of loss of the original.

Section 8-3-13 Term of license

The term of a teletrack wagering establishment and teletrack operator license issued pursuant to the provisions of this article is one (1) year, commencing at the same time as the teletrack permit issued by the State of Arizona for the establishment.

Section 8-3-14 Public hearing on teletrack wagering establishment license; notice

- A. The town council shall hold a public hearing on an application for a teletrack wagering establishment license except as provided in Section 8-3-7(A)(3). Notice of the hearing shall be given at least thirty (30) days prior to the hearing in the following manner:
 - 1. Notice shall be published at least once in a newspaper of general circulation in the town.
 - 2. Notice shall be posted on the subject property in such a manner as to be legible from the public right-of-way.
 - 3. Notice shall be mailed by first class mail to each owner and tenant as listed on the vicinity ownership list.
- B. Within five (5) working days of the public hearing the applicant shall be notified in writing of the council's decision to approve or deny the application. The town manager or designee shall communicate this decision to the state racing commission.
- C. The council may approve or deny the application or may approve subject to conditions for any reason deemed appropriate by the council in order to provide optimum protection for the public health, safety and welfare.

Section 8-3-15 Information update

An applicant or licensee shall give written notice to the town manager or designee of any material changes in information submitted in connection with an application, within ten (10) days of such change.

Section 8-3-16 Special provisions

- A. A person under the age of eighteen (18) years may not be present on the premises of a teletrack wagering establishment during any time when teletrack wagering is being conducted, unless accompanied by a parent or guardian.
- B. The owner or operator of the teletrack wagering establishment shall take all reasonable measures, including but not limited to requiring identification from persons entering or present in a teletrack wagering establishment, to prevent unlawful gambling by minors.
- C. Wagering pay-offs in a single amount of five hundred dollars (\$500.00) or more shall be made by check or similar instrument other than cash. Notice to this effect shall be posted conspicuously near all betting windows.
- D. Teletrack wagering establishments shall maintain security in accordance with the security plan approved during licensing of the establishment by the town.
- E. Teletrack wagering may be conducted only between the hours of 7:00 a.m. and 1:00 a.m.
- F. Revocation or suspension of a state operator license or permit will constitute automatic revocation or suspension of the corresponding town license.

Section 8-3-17 Renewal

- A. Sixty (60) days prior to the license expiration date, a licensee may apply to the town manager or designee for renewal of the license. Application shall be made and reviewed as an original application, except that an application fee payment is not required on a renewal application. All other applicable fee payments are required.
- B. Criminal history investigations and fingerprinting shall be completed each year as part of the renewal process, unless section 8-3-10 applies.
- C. Granting of a license under this article does not confer an entitlement to or presumption of renewal of the license. Renewal may be denied for any reason deemed sufficient by the town council.

Section 8-3-18 Inspection of premises, property and records

The business premises of any person required to be licensed under this article, including any property on the premises and any and all ledgers, books, records or memoranda, including information maintained on computer disks, tapes and terminal memory shall be open to inspection by representatives of the town upon request, at any time during the licensee's regular business hours.

Section 8-3-19 Revocation; grounds

- A. The town manager or designee may revoke a license in accordance with the procedures on any of the grounds for revocation stated in article 8-1 of this chapter, and for any of the

following additional grounds:

1. Violation of the laws governing wagering within the State of Arizona or the sale of liquor within the State of Arizona.
 2. Repeated acts of violence or disorderly conduct.
 3. False or misleading testimony by the licensee in an investigation or other proceeding.
 4. Delinquency for more than thirty (30) days in the payment of any applicable taxes or fees to the town.
 5. Failure to operate a teletrack wagering establishment in compliance with plans submitted and approved pursuant to section 8-3-6 (F), (J) and (K) of this article.
 6. Violation of any of the provisions of this article.
- B. Revocation of a teletrack wagering establishment license shall constitute revocation of the teletrack operator license(s) issued for the same location.

Section 8-3-20 Teletrack operator license suspension

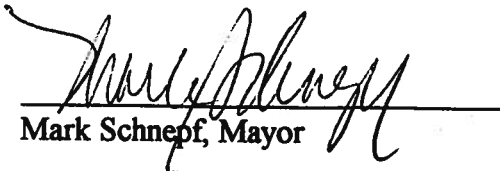
The teletrack operator license will be suspended in the event the teletrack wagering establishment location is no longer licensed due to ownership change or expiration of teletrack wagering establishment license.

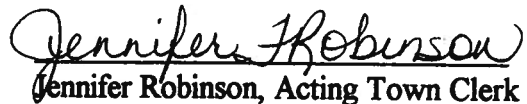
Section 2. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of these amendments to the Town Code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not effect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Queen Creek, Arizona, this 7th day of May, 1997.

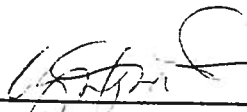
FOR THE TOWN OF QUEEN CREEK:

ATTESTED TO:


Mark Schnepf, Mayor

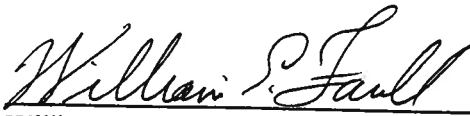

Jennifer Robinson, Acting Town Clerk

REVIEWED BY:



Cynthia Seelhammer, Town Manager

APPROVED AS TO FORM:



William E. Farrell, Town Attorney