

ORDINANCE 564-15

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF QUEEN CREEK, ARIZONA, AMENDING THE QUEEN CREEK TOWN CODE, CHAPTER 8 BUSINESS REGULATIONS - ARTICLE 8-2 PEDDLERS, CANVASSERS, SOLICITORS AND TRANSIENT MERCHANTS – SECTION 8-2-1 LICENSE REQUIRED; SECTION 8-2-2 DEFINITIONS; SECTION 8-2-4 APPLICATION FOR LICENSE AND PERMIT; SECTION 8-2-6 SOLICITATION BY CHARITABLE, RELIGIOUS, PATRIOTIC OR PHILANTHROPIC ORGANIZATIONS; SECTION 8-2-7 POSTING OF LICENSE; ISSUANCE OF IDENTIFICATION CARDS; AND 8-2-13 PEDDLING ETC. ON POSTED PREMISES OR REFUSAL TO LEAVE PREMISES UPON REQUEST PROHIBITED; AND TOWN CODE CHAPTER 10 HEALTH AND SANITATION – ARTICLE 10-3 LITTER; NUISANCES – SECTION 10-3-1 DEFINITIONS; SECTION 10-3-9 HANDBILLS: COMMERCIAL AND NON-COMMERCIAL; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY.

WHEREAS, the Mayor and Town Council of the Town of Queen Creek, Arizona, find that it is necessary in order to protect the health, safety and welfare of its residents, to amend the sections of the Town Code that govern peddlers, solicitors and transients, as well as handbills.

BE IT ORDAINED by the Mayor and Common Councils of the Town of Queen Creek as follows:

Section 1: In General

That the Queen Creek Town Code of Queen Creek, Arizona, Chapter 8 Business Regulations - Article 8-2 Peddlers, Canvassers, Solicitors And Transient Merchants is hereby amended subject to attached "Exhibit A";

That the Queen Creek Town Code of Queen Creek Arizona, Chapter 10 Health and Sanitation – Article 10-3 Litter; Nuisances is hereby amended subject to attached "Exhibit B"

Section 2: Providing for Repeal of Conflicting Ordinances

All ordinances or parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference are hereby repealed.

Section 3: Providing for Severability

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of this 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 affect the validity of the remaining portions thereof.

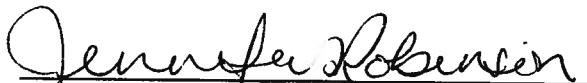
PASSED AND ADOPTED BY the Mayor and Common Council of the Town of Queen Creek, Arizona, this 18th day of February, 2015.

FOR THE TOWN OF QUEEN CREEK:



Gail Barney, Mayor

ATTESTED TO:

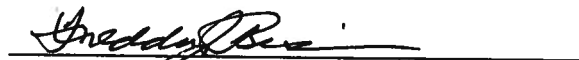

Jennifer F. Robinson, Town Clerk

REVIEWED BY:



John Kross, Town Manager

APPROVED AS TO FORM:



Dickinson Wright, PLLC, Attorneys for the Town

"EXHIBIT A"

CHAPTER 8 BUSINESS REGULATIONS

ARTICLE 8-2 PEDDLERS, CANVASSERS, SOLICITORS AND TRANSIENT MERCHANTS¹

- 8-2-1 License Required
- 8-2-2 Definitions
- 8-2-3 Exemptions from Article
- 8-2-4 Application for License and Permit
- 8-2-5 Investigation of Applicant for License and Permit; Issuance and Contents of License
- 8-2-6 Solicitation by Charitable, Religious, Patriotic or Philanthropic Organizations
- 8-2-7 Posting of License; Issuance of Identification Cards
- 8-2-8 Location for Transaction of Business Regulated
- 8-2-9 Creation of Undue Noise Prohibited
- 8-2-10 Enforcement of Article; Record of Licenses Issued and Violations Reported
- 8-2-11 Revocation of License and Permit
- 8-2-12 Appeal from Denial or Revocation of License
- 8-2-13 Peddling, Etc., on Posted Premises or Refusal to Leave Premises Upon Request Prohibited

¹Ordinance 43-94

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Section 8-2-1 License Required

~~Subject to the provisions of A.R.S. § 3-563~~ IT is unlawful for any peddler, solicitor, ~~canvasser~~, transient merchant or itinerant vendor, as the same are defined in this chapter, to engage in such business within the corporate limits of the town without first obtaining a license ~~therefor~~ in compliance with the provisions of this chapter, provided, **HOWEVER, THAT THE PROVISIONS OF THIS CHAPTER SHALL NOT APPLY TO THE PRODUCERS OF AGRICULTURAL PRODUCTS AS DEFINED IN STATE LAW, OR TO ANY MEMBER OF THE FAMILY OR AGENTS OR PERSONS IN THE SERVICE OF THE PRODUCER, WHEN THE AGRICULTURAL PRODUCTS ARE SOLD OR DISPOSED OF ON BEHALF OF THE PRODUCER.**

Section 8-2-2 Definitions

In this chapter, unless the context otherwise requires:

- A. ~~"Canvasser or solicitor"~~ **"Solicitor"** means any person, corporate or individual, or firm, whether resident of the town or not, who travels, or whose agents travel, either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, from street to street or business to business, taking or attempting to take orders for sale of goods, wares and merchandise, edible foodstuffs, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether collecting advance payments on such sales or not; provided that such definition shall include any person or firm who, for themselves or itself, or for another person or firm, hires, leases, uses or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop or any other place within the town for the sole purpose of exhibiting samples and taking orders for future delivery.
- B. "Peddler" means any person, individual or corporate, or firm, whether a resident of the town or not, who travels, or whose agents travel, by foot, wagon, automobile or any other type of conveyance, from place to place, from house to house, from street to street or business to business, carrying, conveying or transporting goods, wares, merchandise, edible foodstuffs or provisions, offering and exposing the same for sale or making sales and delivering articles to purchasers or who, without traveling from place to place, shall sell or offer the same from a wagon, automotive vehicle, railroad car or other conveyance, and further provided, that persons or firms who solicit orders and as a separate transaction make delivery to purchasers as a part of the scheme of design to evade the provisions herein contained shall be deemed a peddler subject to the provisions herein contained. The word "peddler" shall include the words "hawker" and "huckster".
- C. "Transient merchant", "itinerant merchant" or "itinerant vendor" means any person, corporate or individual, or firm, whether owner or otherwise, whether a resident of the town or not, who engages, or whose agents engage, in a temporary business of selling and delivering goods, wares, merchandise, edible foodstuffs or provisions, within the town, and who in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, boat, public room in a hotel, lodging house, apartment, shop, or any street, alley or other place within the town for the exhibition and sale of such goods, wares, merchandise and edible foodstuffs, either privately or at public auction. The person or firm so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily

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with any local dealer, trader, merchant or auctioneer or by conducting such transient business in connection with, as a part of, or in the name of any such local dealer, trader, merchant or auctioneer.

Section 8-2-3 Exemptions from Article

In addition to the provisions of subsection C of Section 8-1-1, the terms of this article do not include the acts of persons selling personal property at wholesale to dealers in such articles, nor to newspaper deliverers, students on school class projects, nor to acts of merchants or their employees in delivering goods in the regular course of business. Nothing contained in this article prohibits any sale required by statute or by order of any court or prevents any person from conducting a bona fide auction sale pursuant to law.

Section 8-2-4 Application for License and Permit

- A. Individual Applicants. Individual applicants for the permit and license under this article must comply with the licensing requirements of Article 8-1 as well as this article. An applicant shall supply the following information to the town clerk in addition to the information required by Article 8-1:
1. Name and description of the applicant; date of birth; social security number.
 2. Address (legal and local); state sales tax number.
 3. A brief description of the nature of the business and the goods to be sold.
 4. If employed, the name and address of the employer, together with evidence establishing the exact relationship.
 5. The length of time for which the right to do business is desired.
 6. If a vehicle is to be used, a description of the same, together with license number or other means of identification.
 7. A photograph of the applicant taken within sixty days immediately prior to the date of filing of the application, which picture shall be two inches by two inches, showing the head and shoulders of the applicant in a clear and distinguishing manner.
 8. The names of at least two reliable property owners of the town who will certify as to the applicant's good character and business responsibility, or, in lieu of the names of references, any other available evidence as to the good character and business responsibility of the applicant.
 9. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor (except minor traffic violations) or violation of any municipal laws, the nature of the offense and the punishment or penalty assessed therefor.
 10. Applicants proposing to sell edible foodstuffs shall file with the application a statement by a reputable physician of the town, dated not more than ten days prior to the submission of the application, certifying the applicant to be free of infectious, contagious or communicable disease or, in lieu thereof, a Maricopa County health

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card.

11. At the time of filing the application, a fee of twenty-five dollars shall be paid to the clerk to cover the costs of the investigation.

B. Corporate or Firm Applicants. Corporate or firm applicants must furnish the following information upon duplicate applications sworn to by an appropriate officer of the firm or corporation authorized so to do:

1. Name of applicant; date of birth; social security number.
2. Address (legal and local); state sales tax number.
3. A brief description of the nature of the business and the goods, etc., to be sold.
4. The length of time for which the right to do business is desired.
5. If vehicles are to be used, the quantity and description of same, together with the license numbers or other means of identification.
6. A list of all of the agents or representatives who will be operating within the town, including their addresses. In this connection, such firm or corporation shall furnish at the time of application the following information and material pertaining to such representatives or agents:
 - a. A photograph of each agent or representative taken within sixty days immediately prior to the date of the filing of the application, which picture shall be two inches by two inches, showing the head and shoulders of the agent or representative in a clear and distinguishing manner.
 - b. The names of at least two reliable property owners of the town who will certify as to each person's good character and business responsibility or, in lieu of the names of references, any other available evidence as to the good character and business responsibility of the agents or representatives concerned.
 - c. A statement as to whether each agent or representative has been convicted of any crime, misdemeanor (except minor traffic violations) or violation of any municipal laws, the nature of the offense and the punishment or penalty assessed therefor.
 - d. A statement by a reputable physician of the town, dated not more than ten days prior to the submission of the application, certifying the applicant to be free of infectious, contagious or communicable disease or, in lieu thereof, a health certificate or card issued by Maricopa County.
 - e. A fee of twenty-five dollars per agent or representative shall be paid to the clerk to cover the cost of investigation.

C. No license issued hereunder shall be transferable, but corporate or firm licensees may change, substitute or alter the list of their agents or representatives furnished to the clerk at any time; provided, however, that for each newly named agent or representative on such list, the information and material required in subsection B, paragraph 6 of this section

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~~shall be furnished therewith~~ **MUST BE PROVIDED TO THE TOWN CLERK. A NEWLY NAMED AGENT OR REPRESENTATIVE WILL NOT BE DEEMED IN COMPLIANCE WITH THE REQUIREMENTS OF THIS ORDINANCE UNTIL AN IDENTIFICATION CARD HAS BEEN ISSUED TO SUCH AGENT OR REPRESENTATIVE PURSUANT TO SECTION 8-2-7 OF THIS ORDINANCE.**

Section 8-2-5 Investigation of Applicant for License and Permit; Issuance and Contents of License

Upon receipt of such application, the clerk shall cause such investigation of such person's business responsibility or moral character to be made as is deemed necessary to the protection of the public good. No license shall be issued until ten working days have passed or completion of the required investigation, whichever is the longer. If, as a result of such investigation, the applicant's or their agents' or representatives' business responsibility and character are found to be unsatisfactory, the application shall be denied. If, as a result of the investigation, the character and business reputation appear to be satisfactory, the clerk shall so certify in writing, and a license shall be issued by the clerk. The clerk shall keep a full record of all licenses issued. Such license shall contain the number of the license, the date the same is issued, the nature of the business authorized to be carried on, the amount of the license fee paid, the expiration date of such license, the place where such business may be carried on under such license and the name of the person authorized to carry on the same.

Section 8-2-6 Solicitation By Charitable, Religious, Patriotic or Philanthropic Organizations

- A. Any organization, society, association or corporation desiring to solicit or have solicited in its name money, donations of money or property or financial assistance of any kind or desiring to sell or distribute any item of literature or merchandise to persons other than members of such organization upon the streets, in office or business buildings, ~~by house-to-house canvass~~ **BY DOOR-TO-DOOR CONTACT**, or in public places for a charitable, religious, patriotic or philanthropic purpose exclusively shall be exempt from the provisions of Sections 8-2-1, 8-2-3 and 8-2-10 of this article; provided, there is filed a sworn application in writing on a form to be furnished by the town clerk which shall give the following information:
1. Name and purpose of the cause for which the permit is sought.
 2. Names and addresses of the officers and directors of the organization.
 3. Period during which the solicitation is to be carried on.
 4. Whether or not any commission, fees, wages or emoluments are to be expended in connection with such solicitation and the amount thereof.
- B. Upon being satisfied that such organization, association or corporation is a religious, charitable, patriotic or philanthropic organization, **BUT NO LATER THAN TEN WORKING DAYS AFTER RECEIPT OF THE APPLICATION**, the clerk shall issue a permit without charge to such organization, association or corporation to solicit in the town. Such organization, association or corporation shall furnish all of its members, agents or representatives conducting solicitations identification cards stating the name of the

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organization, name of agent and purpose of solicitation which must be displayed upon demand.

Section 8-2-7 Posting of License; Issuance of Identification Cards

The license issued to the individual or corporate licensees hereunder shall be posted in a conspicuous place if such licensees are using a vehicle or building. The clerk shall issue an identification card to each individual licensee having upon it the pertinent information contained in such license. Agents and representatives of corporate and firm applicants shall be issued similar identification cards. All such cards shall be shown upon request **AND NO LICENSEE OR SUCH LICENSEE'S AGENT OR REPRESENTATIVE MAY UNDERTAKE THE ACTIVITIES REGULATED BY THIS CHAPTER UNTIL SUCH IDENTIFICATION CARD HAS BEEN ISSUED.**

Section 8-2-8 Location for Transaction of Business Regulated

No licensee hereunder shall have any exclusive right to any location in the public street, nor shall any licensee be permitted a stationary location, nor shall they transact business within three hundred feet of a public school ground, nor shall they be permitted to operate in any congested area where the operations might impede or inconvenience the public. For the purpose of this article, the judgment of the clerk or the clerk's representative, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

Section 8-2-9 Creation of Undue Noise Prohibited

No licensee nor any person in their behalf shall shout, make any outcry, blow a horn, ring a bell or use any sound device, including any loud-speaking radio or sound-amplifying system, upon any of the streets, alleys, parks or other public places of the town or upon any private premises in the town where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the public thoroughfares for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

Section 8-2-10 Enforcement of Article; Record of Licenses Issued and Violations Reported

It shall be the duty of the law enforcement agency of the town to enforce this article. The law enforcement agent shall report to the clerk all convictions for violation of this article, and the clerk shall maintain a record for each license issued and record the reports of violations therein.

Section 8-2-11 Revocation of License and Permit

Permits and licenses issued under the provisions of this article may be revoked by the clerk after notice and hearing, as provided in Article 8-1 of this code, for any of the following causes:

- A. Fraud, misrepresentation or false statement contained in the application for license.

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- B. Fraud, misrepresentation or false statement made in the course of carrying on their business.
- C. Any violation of this chapter.
- D. Conviction of any crime or misdemeanor involving moral turpitude.
- E. Conducting business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

Section 8-2-12 Appeal From Denial or Revocation of License

An appeal from denial or revocation of license shall be controlled by the provisions of Article 8-1 of this chapter, pertaining to appeal regarding business licenses.

Section 8-2-13 Peddling, etc., on Posted Premises or Refusal to Leave Premises Upon Request Prohibited

~~It is unlawful for any peddler, solicitor, canvasser or transient merchant, their agents or representatives to come upon any premises whereon a sign bearing the words "no peddlers" or "no canvassers" or "no solicitors" or any combination of such terms or terms similar thereto is exposed to public view or to remain on any premises after having been requested to leave by the owner or occupant thereof whether such premises are posted as specified above or not.~~

- A. **IT IS UNLAWFUL FOR ANY PEDDLER, SOLICITOR OR TRANSIENT MERCHANT, THEIR AGENTS OR REPRESENTATIVES, TO COME UPON ANY PREMISES WHEREON A SIGN BEARING THE WORDS "NO PEDDLERS," "NO SOLICITORS," "NO TRANSIENT MERCHANTS," "NO "DOOR-TO-DOOR SALESMEN," OR ANY COMBINATION OF SUCH TERMS OR TERMS SIMILAR THERETO IS EXPOSED TO PUBLIC VIEW.**
- B. **IT IS ALSO UNLAWFUL FOR ANY PEDDLER, SOLICITOR OR TRANSIENT MERCHANT, THEIR AGENTS OR REPRESENTATIVES TO REMAIN ON ANY PREMISES AFTER HAVING BEEN REQUESTED TO LEAVE BY THE OWNER OR OCCUPANT THEREOF WHETHER SUCH PREMISES ARE POSTED AS SPECIFIED ABOVE OR NOT.**

EXHIBIT 'B'

CHAPTER 10 HEALTH AND SANITATION

ARTICLE 10-3 LITTER; NUISANCES ¹

- 10-3-1 Definitions
- 10-3-2 Public Nuisances Defined
- 10-3-3 Litter in Public Places; Construction Debris
- 10-3-4 Depositing Litter in Gutters
- 10-3-5 Litter Thrown from Vehicles
- 10-3-6 Littering from Trucks
- 10-3-7 Littering in Parks
- 10-3-8 Deposit of Commercial Handbills on Public Property
- 10-3-9 Handbills: Commercial and Non-Commercial
- 10-3-10 Dropping Litter from Aircraft
- 10-3-11 Deposit of Litter on Occupied Private Property
- 10-3-12 Maintenance of Litter-Free Premises
- 10-3-13 Vacant Lots
- 10-3-14 Business Establishments - Receptacles
- 10-3-15 Unsightly Premises
- 10-3-16 Abatement of Nuisances
- 10-3-17 Penalties

Section 10-3-1 Definitions

In this chapter, unless the context otherwise requires:

- A. "Aircraft" means any contrivance now known or hereafter invented, used or designed for navigation or for flight in the air, and includes, but is not limited to, helicopters and lighter-than-air dirigibles and balloons.
- B. "Abandoned Structure" means a vacant structure, characterized by blight, the ownership responsibilities of which have been surrendered or relinquished, whether intentionally or by failure to occupy and maintain such property.
- C. "Animal" means any and all types of animals, domestic and wild, male and female, singular and plural.
- D. "Authorized private receptacle" means a litter storage and collection receptacle as required and authorized in this article.
- E. "Blight or Blighted" means unsightly conditions including accumulation of debris; fences characterized by holes, breaks, rot, crumbling, cracking, peeling or rusting; landscaping that is dead, characterized by uncontrolled growth, lack of maintenance or damage; buildings, structures, whether main or accessory characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or any other evidence of physical decay, neglect, excessive use or lack of maintenance; other similar conditions of disrepair and deterioration regardless of the condition of other properties in the neighborhood.
- F. "Building" means any structure designed for occupancy including mobile homes, manufactured homes, factory-built buildings, and like property for which taxes may be assessed.

¹ Ordinance 469-10

- G. "Commercial handbill" means any printed or written matter, any sample or device, circular, leaflet, pamphlet, paper, booklet or any other printed, or otherwise reproduced original or copies of any matter or literature:
1. Which is not defined as in this chapter as either a newspaper or a non-commercial handbill; and
 2. Which advertises for sale any merchandise, product, commodity or thing; or
 3. Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interests thereof by sales; or
 4. Which directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind, for which an admission fee is charged for the purpose of private gain or profit. The terms of this paragraph shall not apply when an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition or event of any kind, when in either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order. Nothing contained in this paragraph shall be derived to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition or event of any kind without a license, where such license is or may be required by any law of this state, or under any ordinance of this town; or
 5. Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.
- H. "Debris" means junk, abandoned broken or neglected lumber, furniture, furniture parts, stoves, sinks, cabinets, household fixtures, refrigerators, vehicles, car parts, equipment or the remains of something of little or no apparent economic value.
- I. "Deteriorated or deterioration" means a lowering in quality of the condition or appearance of a building, structure or premises, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or any other evidence of physical decay, neglect, damage or lack of maintenance.
- J. "Dilapidated structure" means any unsightly and dangerous structure as defined by the Uniform Code for the Abatement of Dangerous Buildings, 1994 edition Section 302 or any unsafe building or structure defined by the Uniform Building Code, 1994 edition, Section 102, or any old, abandoned or partially destroyed structure, or any structure commenced and abandoned.
- K. "Filth" means any accumulation of garbage, junk or litter, or any condition which constitutes a breeding place for flies, rodents, mosquitoes and other insects or animals which are capable of carrying and transmitting disease-causing organisms to any person or persons, any spoiled or contaminated food or drink intended for human consumption, or all sewage, human or animal excreta, wastewater, garbage or other organic wastes deposited, stored, discharged or exposed so as to be a potential instrument or medium in the transmission of disease to or between any person or persons.
- L. "Fowl" means any and all fowl, domesticated and wild, male and female, singular and plural.

- M. "Garbage" means the accumulation of spoiled or discarded animal or vegetable material resulting from the handling, preparation, cooking or consumption of food for humans or animals as well as other organic waste material subject to rapid decomposition.
- N. "Graffiti" means initials, slogans, designs or drawings, written, spray-painted, etched, sketched or otherwise applied on a sidewalk, wall, building, fence, sign, or any other structure or surface without consent of the owner and visible from a public right-of-way.
- O. "Grass" includes, but is not limited to, Barnyard grass, Bermuda grass, Bluegrass, Brome grasses, Crab grass, Foxtail, Johnson grass, Ragweed, Rye grass, wild oats, or hybrids thereof.
- P. **"HANDBILL" MEANS ANY PRINTED OR WRITTEN MATTER, ANY SAMPLE OR DEVICE, CIRCULAR, LEAFLET, PAMPHLET, PAPER, BOOKLET OR ANY OTHER PRINTED OR OTHERWISE REPRODUCED ORIGINAL OR COPY OF ANY MATTER OR LITERATURE WHICH ADVERTISES FOR SALE ANY BUSINESS, PRODUCT, COMMODITY OR THING; DIRECTS ATTENTION TO ANY BUSINESS OR ESTABLISHMENT FOR THE PURPOSE OF EITHER DIRECTLY OR INDIRECTLY PROMOTING THE INTEREST THEREOF; OR WHICH DIRECTS ATTENTION TO OR ADVERTISES ANY MEETING, THEATRICAL PERFORMANCE, EXHIBITION OR EVENT OF ANY KIND.**
- Q. "Hazard" means any condition that presents a risk to the safety of any person or adversely affects or jeopardizes the health or well-being of any person or endangers property. Such conditions include, but are not limited to, occupancy without adequate water or sanitation facilities, accumulation of human or animal waste, presence of medical or biological waste, sharps, gaseous or combustible materials, radioactive waste, dangerous or corrosive chemicals or liquids, flammable or explosive materials, friable asbestos, offal or decay matter.
- R. "Hazardous wastes" means any chemical, compound, mixture, substance or article which is identified or listed by the United States Environmental Protection Agency or appropriate agency of the State to be "hazardous waste" as defined in 40 Code of Federal Regulations Section 261.1 through 261.33, as and if amended, except that, for purposes of this ordinance hazardous waste shall include household waste as defined in 40 Code of Federal Regulations Section 261.4B.1.
- S. "Junk" means items that in their present state are of little or no apparent economic value, that are not confined within an industrial area in compliance with the zoning ordinance, including, but not limited to an accumulation of the following materials: discarded or scrapped furniture; glass, metal, paper or machinery parts; inoperative machinery or appliances; building material wastes; litter or discarded or empty containers. Junk also includes all types of solid waste described in the Town of Queen Creek Town Code.
- T. "Land" means all land in the Town of Queen Creek, whether improved or unimproved.
- U. "Litter" means any filth, debris and weeds which constitute a hazard to public health and safety and shall include, without limitation, any deposit, accumulation, pile or heap of brush, grass, debris, weeds, cans, cloth, paper, wood, rubbish, ashes, street cleanings or other unsightly and unsanitary matter of any kind whatsoever, any other matter defined as "refuse" in this chapter, and any growth of weeds higher than six inches.
- V. "Major repair" means the removal from any vehicle of a major portion thereof, including, but not limited to, the differential, transmission, head, engine block or oil pan.
- W. "Newspaper" means a publication regularly issued for dissemination of current news, matters of general interest and local happenings at stated short intervals of time whether such publication is distributed by paid subscription or for free. Such publication shall be

from a known office of publication and shall bear the dates of issue and shall be numbered consecutively.

- X. "Non-commercial handbill" means any printed or written matter, any sample or device, circular, leaflet, pamphlet, magazine paper booklet, or any other printed or otherwise reproduced original or copies of any matter or literature not included in the definitions of a commercial handbill or a newspaper.
- Y. "Owner" means a person, persons or legal entity listed as current title holder as recorded in the official records of the County Recorder's Office.
- Z. "Owner's agent" means a statutory agent designated pursuant to A.R.S. § 33-1902 as and if amended.
- AA. "Park" means a park, reservation, playground, recreation center or any other public area in the town owned or used by the town and devoted to public recreation.
- BB. "Person" means a human being, enterprise, corporation, association, partnership, firm or society.
- CC. "Pond" means an in-ground body of water that is at least eighteen inches deep and eight feet or greater in any dimension. This does not apply to Town-approved retention basins as a whole except for portions of retention basins creating, contributing to or causing injury or endangerment to the health, safety or welfare of the community.
- DD. "Private property" or "private premises" means any dwelling, house, building or other structure designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and includes but is not limited to any yard, grounds, walk, driveway, porch, steps, vestibule or mail box belonging or appurtenant to such dwelling, house, building or other structure.
- EE. "Property" means and includes buildings, grounds, lots and tracts of land.
- FF. "Property used for agricultural purposes" means property of not less than ten contiguous acres which:
 - 1. The primary use of the property is as agricultural land and the property has been in active production in conformance with generally accepted agricultural practices for at least two of the five prior years; and
 - 2. There is a reasonable expectation of operating profit, exclusive of land cost, from the agricultural use of the property.
- GG. "Public place" means any and all streets, sidewalks, boulevards, alleys, rights-of-ways or other public ways and any and all public parks, squares, spaces, grounds and buildings.
- HH. "Refuse" means all putrescible and non-putrescible solid wastes, except body wastes, including garbage, rubbish, ashes, dead animals, abandoned, wrecked or junked vehicles or parts thereof and solid market and industrial wastes.
- II. "Responsible Party" means any owner, occupant, lessor, lessee, manager, licensee, or other person having control over a structure or parcel of land; and in the case where the demolition of a structure is proposed as a means of abatement, any lienholder whose lien interest is recorded in the official records of the County Recorder's Office.
- JJ. "Rubbish" means non-putrescible solid wastes consisting of both combustible and non-combustible wastes, such as paper, wrappings, cigarettes, cardboard, metal cans, yard clippings, leaves, metal, wood, glass, bedding, crockery and similar materials.
- KK. "Streets or road" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of

vehicular travel, and includes the whole right-of-way of the public entity maintaining said way, whether such right-of-way is paved or not.

- LL. "Structure" means that which is built or constructed, an edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner and includes buildings, improvements and other structures that are constructed or placed on land.
- MM. "Trash" means any accumulation of refuse, rubbish, litter or garbage.
- NN. "Unsecured structure" means any structure that is vacant with a damaged or open door, window, or other opening not secured in accordance with Town standards to prevent unauthorized entry.
- OO. "Vacant structure" means any unoccupied or an illegally occupied structure or any occupied structure without adequate facilities/utilities which is empty or remains empty and is not continuously maintained for twenty-one (21) consecutive days or longer by occupants having custody or legal right of entry to said property; or any structure which exhibits dilapidated walls, windows, roof or doors which will fail to prevent the entry of a trespasser.
- PP. "Vehicle" means every device in, upon or by which, any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks, except for a device propelled solely by human power.
- QQ. "Weeds" means a useless and troublesome plant generally accepted as having no value and frequently of uncontrolled growth. Any vegetation which is, or is likely to be, detrimental, destructive or unsightly and difficult to control or eradicate, including but not limited to bull thistle, cocklebur, foxtail, horseweed, lambsquarters, london rocket, mallow, milkweed, pigweed, mustards, prickly lettuce, ragweed, Russian thistle, shepardspurse, sow thistle, white horse nettle, willow weed and those types of plant growth defined as noxious weeds by A.R.S. § 3-201 regardless of whether a particular property owner or occupant who is the subject of enforcement action under this Chapter regards the growth as desirable.

Section 10-3-2 Public Nuisances Defined

In combination with Article 10-2, acts, omissions, conditions and things in or upon any land, property, private lot, building, structure or premises, or in or upon any public right-of-way, wash, street, avenue, alley, park, parkway or other public or private place in the town which are injurious to the public health, safety and general welfare, which interfere with the comfortable enjoyment of life or property by any person, or which unlawfully obstruct the free passage or use of any public park, wash, square, alley, sidewalk, street or highway are hereby declared to be public nuisances, including, but not limited to the following:

- A. Privies, vaults, cesspools, sumps, pits or like places which are not securely protected from insects or rodents, or which are foul or malodorous, or which are not securely closed and protected or, if necessary, illuminated so as to prevent persons or objects from falling therein. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as "property used for agricultural purposes."
- B. Filthy, littered or trash-covered exterior areas, including all buildings and structures thereon and areas adjacent thereto.
- C. Animal manure in any quantity which is not securely protected from insects and the elements, or which is kept or handled in violation of any ordinance of the town or Maricopa County. Nothing in this subsection shall be deemed to prohibit uses named

¹ Ordinance 469-10

herein when such are necessary and incidental to an agricultural use on land defined in this chapter as "property used for agricultural purposes."

- D. Poison oak, poison ivy, or any noxious or toxic weeds or uncultivated plants (whether growing or otherwise), weeds, tall grass, uncultivated shrubs or growth higher than six inches or which present a fire hazard. All exterior property areas shall be kept free from dry vegetation, tumbleweeds, weeds, bushes and tall grass and trees which present a visual blight upon the area, which may harbor insect or rodent infestations and dry vegetation, or which may likely become a fire hazard, or result in a condition which may threaten the health and safety or the economic welfare of adjacent property owners or occupants.
- E. Accumulations of bottles, glass, cans, ashes, scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster and all other trash and abandoned material, unless the same be kept in covered bins or metal receptacles approved by this code or any town ordinance. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as "property used for agricultural purposes."
- F. Accumulations of trash, litter, rags, empty barrels, boxes, crates, packing cases, mattresses, bedding, packing straw, packing hay or other packing material, lumber, scrap iron, tin and other metal, or anything whatsoever in which insects may breed or multiply or which provides harborage for rodents or which may create a fire hazard. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as "property used for agricultural purposes."
- G. Any unsightly and dangerous building, billboard or other structure, or any old abandoned or partially destroyed building or structure, or any building or structure commenced and abandoned.
- H. All places used or maintained as junk yards or dumping grounds, or for the wrecking, disassembling, repair or rebuilding of automobiles, trucks, tractors or machinery of any kind, or for the storing or leaving of worn out, wrecked or abandoned automobiles, trucks, tractors or machinery of any kind or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which said places are kept or maintained so as to interfere with the comfortable enjoyment or the quality of life or property by and of others; provided, however, that nothing contained in this subsection shall be deemed to prohibit any automobile wrecking yard or other junk yard where the same is otherwise permitted by the town zoning ordinance and amendments thereto, which is operated in conformity therewith. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as "property used for agricultural purposes."
- I. Any putrid, unsound or unwholesome bones, meat, hides, skins, or the whole or any part of any dead animal, fish or fowl, butcher's trimmings and offal, or any waste vegetable or animal matter in any quantity, garbage, human or animal excreta, sewage or other offensive substances accumulated on private or public property; provided, however, nothing herein contained shall prevent the temporary retention of waste in receptacles in the manner provided by a county health officer, this code or ordinance of the town.
- J. The erection, continuance or use of any building, room or other place in said town for the exercise of any trade, employment or manufacture which, by noxious exhalations, including, but not limited to, smoke, soot, dust, fumes or other gases, offensive odors or other annoyances, which is discomforting or offensive or detrimental to the health of

individuals or of the public, except for normal exhalation or smoke produced by normal heating devices. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as "property used for agricultural purposes."

- K. Causing, allowing or permitting any artificial illumination of such intensity as to interfere substantially and unnecessarily with the use and enjoyment of public or private property by any considerable number of people, with the lawful use of any school, public place or public street, with any governmental or public function of the town, or as to constitute a hazard or threat to the public health, safety and welfare of the people of the town; provided, however, this subsection shall not apply where the person responsible for said artificial illumination is authorized by the town manager, any school within the town, this code or any ordinance of the town. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as "property used for agricultural purposes."
- L. Burning of refuse. No outside burning is allowed except when such burning is necessary and incidental to an agricultural use on land defined in this chapter as "property used for agricultural purposes."
- M. Any unguarded or abandoned excavation, pit, well or hole which is dangerous, injurious or harmful to life or property.
- N. To leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under the control of any person and in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside, unless such icebox, refrigerator or other container is properly stored by first removing said door or lid, snap lock or other locking device from said icebox, refrigerator or container.
- O. The doing of any act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or other thing either:
 - 1. Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous the free passage or use, in the customary manner, of any stream, public park, parkway, square, sidewalk, street or highway in the town and is no less a nuisance because the extent of the annoyance or damage inflicted is unequal.
 - 2. Obstructs the free use of property so as to essentially interfere with the comfortable enjoyment of life and property by an entire community or neighborhood or by a considerable number of persons.
- P. To leave or permit to remain overnight in the front yard of any private premises, construction equipment whether free standing or on one or more axles; or to store overnight in the front yard of any private premises, any building materials whether free standing or on pallets or skids, when such equipment or materials are not for use at the premises or stored pursuant to a valid and current building permit issued by the town for work at that premises. Equipment and materials may be stored in the side yard area of any private premises so long as they are screened from public view by an opaque wall, fence or other permitted screen. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as "property used for agricultural purposes."
- Q. Any dangerous, deteriorated, abandoned, partially destroyed or unfinished building, addition, appendage or other structure, or any building or structure in violation of the uniform building codes as adopted by the town, and any vacated or abandoned building not securely closed at all times; any abandoned structure, unsecured structure or vacant

structure; any wood, metal or other material used for securing structures and buildings must be compatible with the color of the building or structure.

- R. All land shall be maintained so as to prevent a pond or the accumulation of stagnant water when such pond or water causes a hazardous or unhealthy condition, becomes a breeding area for insects, or which is causing soil erosion or damage to foundation walls. This does not apply to Town-approved retention basins as a whole except for portions of retention basins creating, contributing to or causing injury or endangerment to the health, safety or welfare of the community.
- S. Any condition defined or deemed to be a nuisance or hazard to the public health, safety, or welfare by any statute of the State of Arizona or any code or ordinance adopted by the Town of Queen Creek. These include but are not limited to the Queen Creek Town Code, the Queen Creek Zoning Ordinance, the Uniform Fire Code, International Building Code, Uniform Housing Code, and similar codes or any provision of any State statute or code or ordinance adopted by the Town of Queen Creek and intended to protect the character, safety or attractiveness of a neighborhood or area.
- T. Any landscaping, visible from public property, that is substantially dead, damaged, or characterized by uncontrolled growth, or presents a deteriorated or blighted appearance; uncultivated plants, weeds, tall grass, uncultivated shrubs or growth (whether growing or otherwise) higher than six (6) inches; or any dead trees, bushes, shrubs or portions thereof, including stumps; or any palm or similar type tree having dead or dry fronds descending downward from the base of the lowest living frond more than eight (8) feet or dry fronds longer than five (5) feet and closer than eight (8) feet to the ground.
- U. Any wall or fence that is missing blocks, boards or other material, or is otherwise deteriorated so as to constitute a hazard to persons or property. This includes but is not limited to, leaning or damaged fences, fences missing slats or blocks or any other materials that are otherwise broken or damaged in such amounts as to present a deteriorated or blighted appearance. All replacement materials shall be uniform, compatible and consistent with the design thereof.
- V. To leave or permit to remain on any property, areas infested with insects or rodents including, but not limited to: bees, wasps, hornets, yellow jackets, mice, rats, or roaches, in an amount that may become a hazard to public health or safety.
- W. All exposed exterior surfaces, windows and doors shall be maintained so as to be free of deterioration that is a threat to health and safety, impervious to moisture and weather elements, or shall not otherwise present a deteriorated or blighted appearance. Windows, doors, locks on doors, and hinges must be present and installed properly. These items must be free from deterioration or blighting conditions. Any temporary boarding of structures and buildings must be done in accordance with Town specifications.

Examples of such deterioration and blight include but are not limited to:

1. Improperly anchored canopies, metal awnings, stairways, exhaust ducts and overhead extensions;
2. Chimneys that are structurally unsafe;
3. Exterior windows, doors, garage doors, door hardware and door frames that are not maintained in sound condition, that are not fitted securely in their frames and are not substantially weather tight or have inoperable locks, holes, breaks or cracks; Any exterior door incapable of functioning as intended by design;
4. Paint that is deteriorated, indicated by peeling, flaking, cracked, blistering or mildew, resulting in exposed bare unprotected surfaces;

5. Window screening, if present, shall be maintained in good condition;
 6. Boarded window or door openings on an occupied structure;
 7. Boarded window or door openings on an unoccupied or vacant structure for more than one hundred eighty days in any two-year period;
 8. Broken, rotted, split, curled or missing roofing material in such amounts as to present a deteriorated or blighted appearance;
 9. Exterior painted surfaces with loose, cracked, scaling, chipping or peeling paint, visible from a public area, in such amounts as to present a deteriorated or blighted appearance;
 10. Any wood surfaces unprotected from the elements by paint or other protective treatment, except those naturally resistant to decay;
 11. The existence of hazards, hazardous waste, junk or graffiti on Property.
- X. All vacant, unsecured or abandoned buildings and structures shall be secured against unauthorized entry at all times.
1. Notice Posting.
 - a. The owner of record of a vacant, unsecured or abandoned structure or building is required to post a notice at the front of the structure or building, in a conspicuous location protected from the weather, that provides the current name, address, and phone number of the owner of record, if the owner of record resides locally, or the current name, address, and phone number for a local authorized agent.
 - b. If a notice of default or foreclosure has been recorded for the real property on which the vacant, unsecured or abandoned structure or building is constructed, the lender's name, address, and telephone number must also be provided on the notice posted.
 - c. The posted notice shall be no smaller than 8 ½ inches by 11 inches.
 2. Security.

The owner of a vacant, unsecured or abandoned structure or building, or responsible party, is responsible for securing that building or structure and its property against unauthorized entry in accordance with the following provisions:

 - a. For the first ninety (90) consecutive days during which the structure or building remains vacant, unsecured or abandoned, any doors, including garage doors, windows, and other opening of the structure or building may be secured with painted plywood panels that match the exterior appearance of the structure or building.
 - b. After the expiration of ninety (90) consecutive days, the owner, or responsible party, shall restore and maintain the structure or building to an occupied appearance, with all doors, including garage doors, windows, and other openings of the structure or building in good repair. The owner, or responsible, shall also install and maintain a security fence around the structure or building and maintain a commercially-serviced, 24-hour burglar alarm system to prevent unauthorized entry into the structure or building or onto the property.
- Y. Any condition which poses a substantial risk to the health or safety of any person or of the public, including, but not limited to, an unsafe, unsanitary or structurally unsound condition.

Section 10-3-3 Litter in Public Places; Construction Debris

- A. No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the town except in public receptacles, or in authorized private receptacles for collection.
- B. Construction debris shall not remain uncontained for more than twenty-four hours and shall be contained at all times upon the premises.

Section 10-3-4 Depositing Litter in Gutters

No person shall sweep into or deposit in any gutter, street or other public place within the town the accumulation of litter from any public or private sidewalk or driveway or any building or lot. Persons owning or occupying property or places of business shall keep the sidewalk and parkway in front of their premise free of litter.

Section 10-3-5 Litter Thrown from Vehicles

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the town or upon private property.

Section 10-3-6 Littering From Trucks

No person shall drive or move any truck or other vehicle within the town unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place.

Section 10-3-7 Littering in Parks

No person shall throw or deposit litter in any park within the town except in public receptacles and in such manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or public place. Where public receptacles are not provided, all litter shall be carried away from the park by the person responsible for its presence and properly disposed of.

Section 10-3-8 Deposit of Commercial Handbills on Public Property

No person shall throw or deposit any commercial or non-commercial handbill in or upon any sidewalk, street or other public place within the town, nor shall any person hand out or distribute or sell any commercial handbill in any public place, but nothing in this section shall be deemed to prohibit any person from handing out or distributing on any sidewalk, street or other place within the town, without charge to the receiver thereof, any non-commercial handbill to any person willing to accept it.

Section 10-3-9 Handbills: Commercial and Non-Commercial

- A. No person shall throw or deposit any commercial or non-commercial handbill in or upon any vehicle, but it is not unlawful on any public place for a person to hand out or distribute without charge to the receiver thereof, a non-commercial handbill to any occupant of a vehicle who is willing to accept it.

- B. No person shall throw or deposit any commercial or non-commercial handbill in or upon any private premises which are known, or should be known, to such person to be temporarily or continuously uninhabited or vacant.
- C. No person shall throw, deposit or distribute any commercial or non-commercial handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed on the premises in a conspicuous position near the entrance thereof, a sign bearing the words "~~no trespassing~~", "~~no peddlers or agents~~", "~~no advertisement~~", or any similar notice" **"NO TRANSIENT MERCHANTS," "NO PEDDLERS," "NO DOOR-TO-DOOR SALESMEN," "NO TRESPASSING," "NO ADVERTISEMENTS," "NO FLIERS," "NO HANDBILLS"**, indicating in any manner that the occupants of said premises do not desire to be molested or have their right of privacy disturbed, or to have any handbill left upon such premises.
- D. No person shall **KNOWINGLY OR RECKLESSLY** throw, deposit or distribute any commercial or non-commercial handbill in or upon private premises which are inhabited unless the handbill is so placed or deposited as to secure or prevent the handbill from being blown or drifted about the premises or sidewalks, streets or other public places, and except that mailboxes may not be so used when so prohibited by federal postal law or regulations. The provisions of this section shall not apply to the distribution of mail by the United States nor of newspapers as defined by this article.
- ~~E. No person shall throw, deposit or distribute any commercial handbill in or upon private premises which are inhabited except upon the acceptance thereof, or the express consent therefor, by an occupant of such premises.~~

Section 10-3-10 Dropping Litter from Aircraft

No person in any aircraft shall throw out, drop or deposit within the town any litter, handbill or any other object.

Section 10-3-11 Deposit of Litter on Occupied Private Property

No person shall throw or deposit litter on any occupied private property within the town, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

Section 10-3-12 Maintenance of Litter-Free Premises

The owner or person in control of any private property shall at all times maintain the premises free of litter; but this section shall not prohibit the storage of litter in authorized private receptacles for collection, or within any building when not in violation of any health, fire, building or any other regulation, ordinance, order or statute.

Section 10-3-13 Vacant Lots

No person shall throw or deposit litter on any open or vacant private property within the town whether owned by such person or not.

Section 10-3-14 Business Establishments - Receptacles

No person occupying or employed in any business establishment shall deposit any litter in any receptacle, unless such receptacle shall be provided with a lid of sufficient weight to prevent the escape of any litter from the receptacle. This provision shall not apply to boxes, either postboard or wooden, greater than six inches square in size, provided, however, that a receptacle shall be provided of sufficient size to prevent any such boxes from being carried or deposited by the elements upon any street, alley or other public place.

Section 10-3-15 Unsightly Premises

Every person owning, managing, controlling or occupying any real property in the town shall not allow any part of such property visible from the street or adjoining premises to become so unsightly or untidy as to substantially detract from the appearance of the immediate neighborhood or tend to threaten the safety and welfare of the immediate neighborhood.

Section 10-3-16 Abatement of Nuisances

Any public nuisance committed under this article may be abated in any manner provided by law including the method set forth in Article 10-2 of this chapter.

Section 10-3-17 Penalties

Any person, whether as principal, owner, agent, tenant, employee or otherwise who maintains a nuisance upon any property within the town, violates any provision of this article, or fails to comply with any provision of this article, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable as provided in Article 1-8 of this code. The conviction of any person hereunder shall not relieve such person from the responsibility to correct such violation, nor prevent the enforcement, correction or removal thereof in any manner authorized by law. Every day that a nuisance is permitted to exist or caused to continue to exist under this article shall be deemed a separate violation.

¹Ordinance 486-10