

ORDINANCE NO. 867-25

AN ORDINANCE OF THE COMMON COUNCIL OF THE TOWN OF QUEEN CREEK, ARIZONA, AMENDING CHAPTER 9, SECTION 9-3-3 “REGULATIONS DURING NIGHTTIME AND HOLIDAY CONSTRUCTION” AND CHAPTER 7, SECTION 7-1-4-10 “NIGHTTIME AND HOLIDAY CONSTRUCTION PERMIT ("NHCP")” OF THE TOWN OF QUEEN CREEK TOWN CODE, AS DESCRIBED IN EXHIBIT A ATTACHED HERETO.

WHEREAS, Arizona Revised Statutes § 9-802 provides a procedure whereby a municipality may enact the provisions of a code or public record by reference, without setting forth such provisions, providing that the adopting ordinance is published in full, but exhibits to the ordinance need not be published in full so long as certain requirements are fulfilled; and

WHEREAS, the Legislature adopted and the Governor signed S.B. 1182 to mandate certain code amendments relating to hours of construction which included an emergency clause making it effective as of May 13, 2025; and

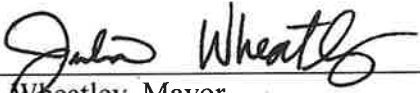
WHEREAS, it is in the best interest of the Town and its residents to adopt the amendments to the Town Code set forth in the attached Exhibit A amending Chapter 9, Section 9-3-3 “Regulations During Nighttime And Holiday Construction” and Chapter 7, Section 7-1-4-10 “Nighttime And Holiday Construction Permit ("NHCP)”.

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

- Section 1:** The amendments to the Queen Creek Town Code – Chapter 9, Section 9-3-3 “Regulations During Nighttime And Holiday Construction” and Chapter 7, Section 7-1-4-10 “Nighttime And Holiday Construction Permit ("NHCP)”, attached hereto as Exhibit A and incorporated herein are declared to be a public record.
- Section 2:** The amendments to the Queen Creek Town Code – Chapter 9, Section 9-3-3 “Regulations During Nighttime And Holiday Construction” and Chapter 7, Section 7-1-4-10 “Nighttime And Holiday Construction Permit ("NHCP)” set forth in Exhibit A are hereby adopted.
- Section 3:** If any section, subsection, clause, phrase or portion of this Ordinance or any part of these amendments to the Town Code is for any reason held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.
- Section 4:** At least one paper copy and one electronic copy of this Ordinance and Exhibit(s) are to be filed with and are located at the office of the Town Clerk and kept available for public use and inspection.

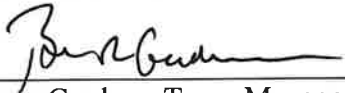
PASSED AND ADOPTED by the Common Council of the Town of Queen Creek, Arizona, this 18 day of June, 2025.

FOR THE TOWN OF QUEEN CREEK:



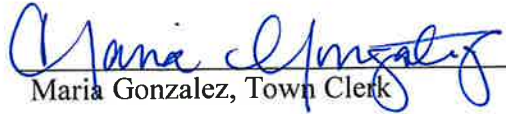
Julia Wheatley, Mayor

REVIEWED BY:



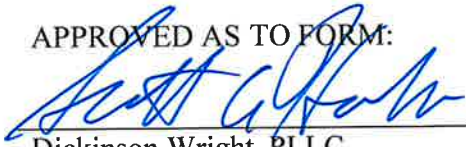
Bruce Gardner, Town Manager

ATTESTED TO:



Maria Gonzalez, Town Clerk

APPROVED AS TO FORM:



Dickinson Wright, PLLC
Town Attorneys

EXHIBITS ON FILE AND LOCATED AT THE TOWN CLERK'S OFFICE

EXHIBIT A
**Amendments to Chapter 9, Section 9-3-3 "Regulations During Nighttime And
Holiday Construction" and Chapter 7, Section 7-1-4-10 "Nighttime And Holiday
Construction Permit ("NHCP")"**

*[Deletions shown as strikethrough and additions as **BOLD ALL CAPITAL LETTERS**]*

9-3-3 Regulations During Nighttime And Holiday Construction

It is unlawful during the times hereinafter set forth, to conduct construction activities of any kind, including but not limited to excavating, clearing of surface land and delivery of equipment or supplies, or operation of any tools, generators, vehicles or equipment of any kind anywhere in the Town limits, when such activities result in the generation of loud, unreasonable, or excessive noise in violation of this Section or Section 9-6-4 below, or without complying with Section 7-1-4-10 of the Town Code

1. Start/stop time periods of construction. Above mentioned construction activities are prohibited during the following time periods, unless a Nighttime and Holiday Construction Permit ("NHCP") is obtained as required under Section 7-1-4-10 of the Town Code **IF THE CONSTRUCTION WORK IS BEING PERFORMED PURSUANT TO A VALID BUILDING PERMIT ISSUED BY THE MUNICIPALITY:**
 - ~~1. Prior to 5:00 am and after 7:00 pm Monday through Friday from May 15 through September 15. FROM MAY 1 TO OCTOBER 15:~~
 - 1. PRIOR TO 5:00 AM AND AFTER 7:00 PM MONDAY THROUGH FRIDAY**
 - 2. PRIOR TO 7:00 AM AND AFTER 7:00 PM ON SATURDAYS**
 - 3. ALL TIMES ON SUNDAYS**
 - 2. DURING THE REMAINDER OF THE YEAR:**
 1. Prior to 6:00 am and after 7:00 pm Monday through Friday ~~during the remainder of the year.~~
 2. Prior to 7:00 am and after 5:00 pm on Saturdays-
 3. At all times on Sundays and Legal Holidays as defined by the Town-
 - 3. CONCRETE POURING IS PERMITTED ONE HOUR BEFORE THE TIME THAT GENERAL CONSTRUCTION ACTIVITIES ARE REGULARLY SCHEDULED TO BEGIN.**
2. Stop orders. Whenever any work on a construction project is in violation of the provisions of this section, ~~an Authorized Enforcement Agent~~ **THE DEVELOPMENT SERVICES DIRECTOR OR THEIR DESIGNEE** may order the construction project stopped by notice in writing ~~served on~~ **DELIVERED IN PERSON TO** any persons responsible for the project, and any such persons shall forthwith stop work on the project until a permit is obtained. Failure to obey a stop order is a separate violation.
3. Exclusions. The following activities shall be excluded from such prohibition:

1. Noise generated by work being performed by a resident of a residential building or structure may continue until 10:00 pm but may not begin earlier than the times set forth in subsection A of this section.
2. Noise resulting from emergencies, including but not limited to, repair of roofs, windows, doors, electrical, plumbing and mechanical (HVAC) shall be permitted whenever necessary. An emergency shall be defined as any situation where work must be performed in order to prevent serious injury to persons or property.
4. Violation of this Section or an issued NHCP is a Civil Offense and Section 9-6-10 shall apply to Repeat Violators as set forth therein.

7-1-4-10 Nighttime And Holiday Construction Permit ("NHCP")

Construction work may be conducted at different times than otherwise allowed in Section 9-33 of the Town Code only if, upon written application, a permit to perform nighttime/holiday construction ("NHCP") is obtained from the ~~Development Services Department, Building Safety Division~~ **DEVELOPMENT SERVICES DIRECTOR OR THEIR DESIGNEE**. The form and contents of the application, permit and any supporting documentation required for issuance of a permit shall be established by, and as determined necessary by, the ~~Building Official~~ **DEVELOPMENT SERVICES DIRECTOR**.

7-1-4-10-1 Application For A NHCP

An application for a NHCP will be submitted to the ~~Development Services Department, Building Safety Division~~ **DEVELOPMENT SERVICES DIRECTOR OR THEIR DESIGNEE** at the same time as the application for the required permits under 7-1-4-1, ~~or if no building permit is required prior to commencing any construction activity~~ **OR IN WRITING DIRECTLY TO THE DEVELOPMENT SERVICES DIRECTOR OR THEIR DESIGNEE**. The application shall be in the form and supported by such documentation as required by the ~~Building Official~~ **DEVELOPMENT SERVICES DIRECTOR OR THEIR DESIGNEE**, and shall include, at a minimum:

1. A complete schedule showing the specific dates with start and end times nighttime/holiday work is proposed to be performed;
2. A detailed description of the work to be performed on each date (delineating times when specific activities will be performed);
3. The type, size and amount of equipment, including vehicles (*i.e.*, concrete and delivery vehicles), to be used on each specific date;
4. A detailed sound and light mitigation plan, if required; and
5. A detailed plan for providing notice to the surrounding neighborhood including who will receive notice, and the methods, substance and times when notice will be provided, and a 24-hour contact for complaints.

WORK DURING NIGHTTIME HOURS OR ON HOLIDAYS AS DEFINED IN SECTION 9-3-3 SHALL NOT OCCUR UNTIL THE NHCP REQUEST IS APPROVED BY THE DEVELOPMENT SERVICES DIRECTOR OR THEIR DESIGNEE.

7-1-4-10-2 Issuance Of A NHCP

No NHCP will be issued until a completed application has been formally submitted to and approved by the ~~Building Official~~ **DEVELOPMENT SERVICES DIRECTOR OR THEIR DESIGNEE**. In granting a NHCP, the ~~Building Official~~ **DEVELOPMENT SERVICES DIRECTOR OR THEIR DESIGNEE** shall, as the ~~Building Official~~ **DEVELOPMENT SERVICES DIRECTOR OR THEIR DESIGNEE** determines is appropriate for the specific location and type of work involved, consider whether:

1. Construction noise in the vicinity of the proposed work site would be less objectionable at night than during the daytime because of the different population levels or different neighborhood activities;
2. Obstruction and interference with traffic, particularly on streets of major importance, would be less objectionable at night than during the daytime;
3. The kind of work to be performed emits noises and/or light at such a low level as to not cause significant disturbance of the reasonable peaceful enjoyment of the surrounding neighbors in the vicinity of the work site;
4. The neighborhood of the proposed work site is primarily residential in character wherein sleep would be disturbed;
5. Undue economic hardship to the applicant or other undue hardship to the neighborhood the work site is located in would occur if the work were spread over a longer time period;
6. The work will abate or prevent hazard to life or property;
7. The proposed early morning or night work is in the general public interest;
8. The effectiveness of the sound and light mitigation plan;
9. The effectiveness of the traffic mitigation plan, if required;
10. The effectiveness of the plan for providing notice to the neighborhood;
11. The applicant's prior record of compliance with Town Codes and requirements; and
12. Any other factors the ~~Building Official~~ **DEVELOPMENT SERVICES DIRECTOR OR THEIR DESIGNEE** determines are relevant support or preclude the issuance of the requested permit.

7-1-4-10-3 Single And Multiple Projects

A NHCP may be obtained for a single project, or for multiple projects under construction, by the same applicant, within 600 feet, approximately two blocks, of each other.

7-1-4-10-4 NHCP Requirements

In the NHCP, the ~~Building Official~~ **DEVELOPMENT SERVICES DIRECTOR OR THEIR DESIGNEE** shall prescribe such conditions, working times, types of construction equipment to be used, sound and light mitigation, traffic mitigation, notice requirements, and other conditions as ~~Building Official~~ **DEVELOPMENT SERVICES DIRECTOR OR THEIR DESIGNEE** deems appropriate in the public interest for the construction work and project at the location nighttime/holiday construction activities are to occur. The current approved NHCP shall be available for inspection at the work site at all times.

7-1-4-10-5 Emergencies

A NHCP shall not be required to perform emergency work necessary to restore property to a safe condition following a public calamity, work required to protect the health, safety or welfare of persons or property, or work by private or public utilities when restoring utility service.

7-1-4-10-6 Amendment Of NHCP

The Applicant shall strictly comply with the requirements of the NHCP. If at any time the applicant determines that a NHCP requires amendment for any reason, the applicant shall submit to the ~~Building Official~~ **DEVELOPMENT SERVICES DIRECTOR OR THEIR DESIGNEE** and application to amend the NHCP, and shall continue to comply with the terms of the NHCP in place until an amendment is granted by the ~~Building Official~~ **DEVELOPMENT SERVICES DIRECTOR OR THEIR DESIGNEE** in writing.

7-1-4-10-7 Revocation Of Permits; Appeals

The ~~Building Official~~ **DEVELOPMENT SERVICES DIRECTOR OR THEIR DESIGNEE** may revoke any NHCP granted hereunder upon complaints based upon evidence acceptable to the ~~Building Official~~ **DEVELOPMENT SERVICES DIRECTOR OR THEIR DESIGNEE** that the applicant has not strictly complied with the terms of the then current NHCPO and/or the construction work causes significant undue disturbance of the reasonable peaceful enjoyment of the surrounding neighbors in the vicinity of the work site. Any person aggrieved by the granting or the refusal to grant a NHCP by the ~~Building Official~~ **DEVELOPMENT SERVICES DIRECTOR'S DESIGNEE** may appeal the decision to the Director of Development Services. ~~Appeals~~ **APPEALS** of the Director's decisions may be made to the Town Manager, whose determination shall be final.