

MARANA ORDINANCE NO. 2023.018

RELATING TO OFFENSES; REVISING MARANA TOWN CODE TITLE 11 (OFFENSES), CHAPTER 11-5 (NOISE), SECTION 11-5-4 (CONSTRUCTION NOISE) TO REVISE PROCEDURES FOR OBTAINING A SPECIAL PERMIT FOR EXTENDED WORK HOURS, AND MAKING OTHER VARIOUS REVISIONS TO SECTION 11-5-4; AND DESIGNATING AN EFFECTIVE DATE

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, as follows:

SECTION 1. Marana Town Code Title 11 (Offenses), Chapter 11-5 (Noise), Section 11-5-4 (Construction noise) is hereby amended as follows (with deletions shown with ~~strikeouts~~ and additions shown with double underlining):

11-5-4 Construction noise; extended work permits

- A. It shall be unlawful to allow or cause site construction activities that result in construction noise in any of the following circumstances. For purposes of this section, distances shall be determined by measuring from all property lines of the construction site. ~~disturbance to persons residing within 500 feet of the site~~
1. ~~Between the hours of 7:00 p.m. and 6:00 a.m. on weekdays, and between the hours of 7:00 p.m. and 7:00 a.m. on Saturdays, and between the hours of 7:00 p.m. and 9:00 a.m. on Sundays weekends on any construction site located within 500 feet of any residential zone district.~~
 2. Between the hours of 8:00 p.m. and 5:00 a.m. on any construction site located more than 500 feet from any residential zone district.
- B. ~~Commercial or industrial zones that are no closer than 500 feet to residential areas site construction may begin no earlier than 5:00 a.m. and end no later than 8:00 p.m.~~
- C. ~~It will be permissible for the contractor to obtain special permission to perform site construction work earlier in the summer months by notifying the residents within 500 feet of the site in writing and asking the residents to contact the town if they wish to deny permission. The Building Official will then evaluate the request, and if reasonable, and without majority of residents requesting denial, issue an early work permit and inform the police department of permitted early work. A contractor may apply to the building official for an extended work permit to perform site construction work earlier or later than allowed by paragraph A of this section by submitting an application in the form required by the building official at least ten business days prior to the requested start date for the extended work. At a minimum, the application shall include all of the following information:~~

1. The address or location where the site construction work is to be performed.
 2. The proposed start and stop dates for the extended work hours.
 3. The proposed extended work start and stop times.
 4. The name of the contractor performing the work and a name and phone number for an on site contact person.
 5. A site plan showing property lines and location of work to be performed during extended work hours.
 6. A description of the circumstances that justify the issuance of the extended work permit. An extended work permit will not be issued if economic hardship is the primary justification given by the applicant. Relevant circumstances may include, but are not limited to, one or more of the following:
 - a. Weather or other environmental conditions that interfere with completing the necessary work during allowed construction hours;
 - b. Obstruction or interference with traffic is less objectionable at night than during the daytime, or traffic safety is improved with nighttime work;
 - c. Construction noise in the vicinity of the proposed work site is less objectionable at off hours than during the allowed hours because of different population levels or different neighboring activities; or
 - d. The proposed construction activities need to be executed in a continuous, uninterrupted manner to ensure satisfactory completion.
 7. An explanation of any mitigation measures the contractor will take to reduce the impact of the off-hours construction work, such as but not limited to, noise or lighting mitigation efforts.
 8. Additional information requested upon review.
 9. A list of the addresses of all properties located within 500 feet of the construction site, including any properties for which only a portion of the property falls with the 500-foot radius.
 10. A copy of a proposed written notification from the contractor to the property owners identified in subparagraph B(9) above regarding the extended work permit. The written notification shall include all of the information listed in subparagraphs 1 through 4 of this paragraph B. The notice shall also include the contact information for the appropriate town staff for property owners to contact if they have a noise complaint.
- C. The building official will evaluate the application and may issue the extended work permit for site construction work if the building official finds the request to be reasonable in his or her sole discretion.
- D. The permit holder shall provide the written notification described in paragraph B(10) above to all properties located within 500 feet of the construction site, including any properties for which only a portion of the property falls with the 500-foot radius, no less than 48 hours prior to when extended work construction is due to begin. The permit holder may

provide the written notification through the use of door tags, letters, or any written means of notification.

DE. Grading and roadway construction is permitted to begin at 6:00 a.m. and end no later than 7:00 p.m. in any zoning district. If a contractor wishes to perform road work or grading outside these hours, ~~at an earlier time for road work or grading, he~~ the contractor shall make an application to the town's development engineering division or capital improvement projects division, as applicable, engineer for an early extended work permit. ~~The town engineer~~ Town staff shall consider whether construction noise in the vicinity of the proposed work site ~~would be~~ is less objectionable at night than during the day due to population levels or activities, or interference with traffic, and if ~~whether~~ the noise ~~would not will~~ cause significant disturbance in residential areas. Emergency work or repairs may be authorized by the appropriate division manager ~~town engineer or his representative~~ regardless of the time of day. The town engineer may use any factor or reasoning to allow work during ~~night time~~ extended hours if there exists a community benefit.

F. The holder of an extended work permit for site construction or grading and roadway construction is required to have the extended work permit on site for inspection by town staff, including police personnel, at all times during the extended work time.

G. The building official or the development engineering division or capital improvement projects division, as applicable, may revoke an extended work permit if the town receives a complaint that cannot be resolved.

EH. Service trucks may work on equipment stored on site ~~up to~~ until 9:00 p.m. Maintenance during other hours will be allowed if no objectionable noise is generated.

FI. Sand and gravel operations (mining); and agricultural operations are exempt from this section ordinance.

GJ. ~~Emergency Conditions. In case of emergency operations contact must be made with the Building Official or the head of Public Works. If neither of them can be reached, notification must be made to the police department. If emergency conditions require that work be completed at times outside the hours allowed by this section and the contractor does not already possess an extended work permit, the contractor must notify the building official for site construction work, or the development engineering division or capital improvement projects division, as applicable, for grading or roadway construction, as soon as practicable. If the contractor is unable to contact the building official or development engineering division or capital improvement projects division, the contractor shall notify the police department.~~

HK. Definitions. For purposes of this section:

1. "Site construction" means is the work relating to site improvements ~~such as~~ including, but not limited to, installation of utilities, including storm drain infrastructure, on site curbs, asphalt placement ~~parking lot surfaces,~~ on site sidewalks, and all structures such as buildings, walls, signs and light poles.
2. "Construction noise" means shall be considered any construction activity that generates ~~a level of noise that is generated from site construction, including associated delivery of materials, and~~ that disturbs the peace or quiet of any residence or that causes discomfort or annoyance to any reasonable person of normal sensitivity residing within 500 feet of the construction site.

3. "Construction site" means the parcel(s) or property where the site construction is taking place. A notification as stated in section C shall be considered door tags, letters or any written means of notification at least 24 hours prior to early work start.

~~I. The penalty for violation of this section will be as provided in chapter 11-10 Penalties. Violation of this provision will be a class 1 misdemeanor and will be issued by the Marana police department upon complaint and investigation finding probable cause to issue a ticket.~~

SECTION 2. The various town officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

SECTION 3. All ordinances, resolutions, or motions and parts of ordinances, resolutions, or motions of the Council in conflict with the provisions of this ordinance are hereby repealed, effective as of the effective date of this ordinance.

SECTION 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 5. This ordinance shall be effective the 31st day after its adoption.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, Arizona, this 16th day of May 2023.



Mayor Ed Honea

ATTEST:



David L. Udall, Town Clerk

APPROVED AS TO FORM:



Jane Fairall, Town Attorney

