

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON GRANTING A SPECIAL PERMIT TO MARIO SINACOLA & SONS EXCAVATING, INC. TO ALLOW FOR WORK HOURS OUTSIDE THOSE ORDINARILY ALLOWED PURSUANT TO SECTION 17-20 (C)(3)(F) OF THE CITY OF DENTON CODE OF ORDINANCES, WITH RESPECT TO HOURS OF OPERATION RELATED TO HICKORY CREEK ROAD PHASE 3 CONSTRUCTION OF THE HICKORY CREEK ROAD AND BRIDGE OVER HICKORY CREEK AND CANADIAN PACIFIC KANSAS CITY RAILROAD: PROVIDING FOR APPROVAL OF SPECIAL PERMIT FOR A VARIANCE IN THE HOURS OF OPERATION DURING WEEKDAYS AND WEEKENDS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the hours for the erection, excavation, demolition, alteration, or repair work on any building within the limits of the City of Denton are ordinarily limited to the hours between the hours of 6:00 a.m. and 8:30 p.m. Monday through Friday from June 1 to September 30; between 7:00 a.m. and 8:30 p.m. Monday through Friday from October 1 to May 31; between 8:00 a.m. and 8:30 p.m. on Saturday; and between 1:00 p.m. and 8:30 p.m. on Sunday, pursuant to Section 17-209(c)(3)(f) of the Code of Ordinances; and

WHEREAS, pursuant to this Code provision, the City Council may issue special permits or exceptions for construction work at other hours, in cases of urgent necessity and in the interest of public safety and convenience; and

WHEREAS, Mario Sinacola & Sons Excavating, Inc. (Sinacola), has requested a Special Permit, as shown in the attached Exhibit 2, to allow work hours outside those ordinarily allowed for the months of May 19, 2026 thru May 2027 to allow for the construction of the Hickory Creek Road Phase 3 (the "Project") that includes a bridge over Hickory Creek and a bridge over Canadian Pacific Kansas City Railroad (CPKC) for the installation of bridge beams, deck panels, and continuous pour of deck pavement, authorizing unrestricted hours of operation; and

WHEREAS, the Project crosses the CPKC right of way; and

WHEREAS, the Project crosses the CPKC rail lines; and

WHEREAS, the current CPKC trains run on inconsistent schedules throughout the day, seven (7) days a week; and

WHEREAS, Staff has reviewed and recommends approval of the submitted Special Permit submitted by Sinacola, as shown in Exhibit 2; and

WHEREAS, the City Council finds that the extended hours of operation and/or Sundays for the construction requested is for a case of necessity and in the interest of public safety, due to the following reasons:

1. Work within the railroad right of way is highly restricted and monitored,
 2. Temperature constraint of a maximum 85 degrees for bridge decks, bridge slabs and super structures,
 3. CPKC train schedule run on inconsistent schedules seven days a week,
 4. There are only two (2) residents at a 1,320-foot (1/4-mile) radius of the project bridges;
- and

WHEREAS, the City Council further finds that granting a special permit for this construction project, limited to the extended hours requested, and limited to the restrictions contained herein, would serve the public interest; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The findings and recitations contained in the preamble of this ordinance are incorporated herein by reference and found to be true.

SECTION 2. Pursuant to Section 17-20(c)(3)(f) of the Code of Ordinances, Mario Sinacola & Sons Excavating, Inc. is hereby granted approval for the Noise Ordinance Special Permit submitted and attached as Exhibit A, for the amplified sound prohibition subject to the following restrictions:

1. Special Permit issued pursuant to Section 17-20(C)(3)(f) of the Code of Ordinances of the City of Denton, is granted only in connection with the construction of Hickory Creek Road Phase 3 (the "Project") that includes a bridge over Hickory Creek and a bridge over Canadian Pacific Kansas City Railroad (CPKC), for the following the months of May 2026 through May 2027; and
2. Mario Sinacola & Sons Excavating, Inc. agrees to take full responsibility for ensuring that the conditions of this exception are met and to take all reasonable measures necessary to avoid disturbing persons of ordinary sensibilities in the immediate vicinity of the event; and
3. This Ordinance confers no personal or property rights, and may be amended, modified, suspended, or revoked in whole or in part at the will of the City Council of the City of Denton, without any advance warning, hearing, or compensation, for any reason at all, or for no reason; and
4. This Ordinance shall be strictly construed as an exception granted pursuant to Section 17-20 of the Code of Ordinances of the City of Denton. The City of Denton expressly reserves unto itself and all other persons any and all legal remedies, both civil and criminal, relating to excessive noise in connection with the construction activity, and hereby disclaims any promissory, or equitable estoppel which might in any way impede the pursuit of such remedies by any person.

SECTION 3. This Ordinance shall be effective immediately upon its passage and approval and shall expire upon the completion of the Hickory Creek Road Phase 3 Project, unless sooner repealed, modified, or rescinded.

The motion to approve this ordinance was made by _____ and seconded by _____, the ordinance was passed and approved by the following vote [___ - ___]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Jordan Villareal, District 1:	_____	_____	_____	_____
Nick Stevens, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2026.

GERARD HUDSPETH, MAYOR

ATTEST:
KRISTI FOGLE, INTERIM CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Heary McMahon