

MARANA ORDINANCE NO. 2020.020

RELATING TO UTILITIES; AMENDING MARANA TOWN CODE TITLE 14 (UTILITIES), CHAPTER 14-4 (CONSTRUCTION AND FINANCING OF UTILITY FACILITIES) TO MODIFY SECTIONS 14-4-3 (CAPACITY REQUIREMENTS), 14-4-4 (REFUND OF COST OF FACILITIES FUNDED AND INSTALLED BY TOWN), AND 14-4-5 (NOTICE OF PROTECTED FACILITY AND ASSOCIATED CHARGE) TO MAKE THE PROTECTED FACILITY DESIGNATION AND PROTECTED FACILITY CHARGE AVAILABLE FOR DRAINAGE FACILITIES

WHEREAS Marana Town Code Title 14 (Utilities), Chapter 14-4 (Construction and Financing of Utility Facilities), sections 14-4-3 (Capacity requirements), 14-4-4 (Refund of cost of facilities funded and installed by town), and 14-4-5 (Notice of protected facility and associated charge) provide for the designation of water and sewer facilities as protected facilities and authorize the creation of a protected facility charge associated with those facilities; and

WHEREAS the Town Council finds that the best interests of the Town and its citizens and businesses are served by expanding the protected facility designation and protected facility charge to include drainage facilities.

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

SECTION 1. Marana Town Code Title 14 (Utilities), Chapter 14-4 (Construction and Financing of Utility Facilities) is hereby amended to revise section 14-4-3 (Capacity requirements) as follows (with additions shown with double underlining and deletions shown with ~~strikeouts~~):

14-4-3 Capacity requirements

- A. ~~Water, or wastewater,~~ or drainage system capacity requirements. The town water director may require an applicant to install "on-site" or "off-site" water and/or wastewater facilities of a size greater than is required to provide service to applicant's development, and the town engineer may require an applicant to install "on-site" or "off-site" drainage facilities of a size greater than is required to protect or serve applicant's development. This requirement to install oversized facilities is referred to as oversizing.
- B. [No changes]
- C. *Oversizing recovery charge.* The council may, at its sole option, designate the facility as a "protected facility" and establish an "oversizing recovery charge"

to be charged proportionately to each subsequent use of the protected facility connection by non-participating property owners made to or benefiting from the oversizing.

SECTION 2. Marana Town Code Title 14 (Utilities), Chapter 14-4 (Construction and Financing of Utility Facilities) is hereby amended to revise section 14-4-4 (Refund of cost of facilities funded and installed by town) as follows (with additions shown with double underlining and deletions shown with ~~strikeouts~~):

14-4-4 Refund of cost of facilities funded and installed by the town

If a water, ~~or wastewater,~~ or drainage facility is installed and funded by the town to provide water or wastewater service or drainage to a property not participating in the construction cost, the water director or town engineer may request that the council designate the facility as a “protected facility” and establish a “protected facility charge” to be charged proportionately to each subsequent use of the protected facility connection by non-participating property owners made to or benefiting from the protected facility.

SECTION 3. Marana Town Code Title 14 (Utilities), Chapter 14-4 (Construction and Financing of Utility Facilities) is hereby amended to revise section 14-4-5 (Notice of protected facility and associated charge) as follows (with additions shown with double underlining and deletions shown with ~~strikeouts~~):

14-4-5 Notice of protected facility and associated charge

- A. Not less than 30 days before the designation of a protected facility and the adoption of an oversizing recovery charge or protected facility charge, the water director (for water or wastewater facilities) or town engineer (for drainage facilities) shall notify owners of potentially affected property.
- B. Potentially affected property consists of lands the water director or town engineer reasonably believes are likely someday to be served or drained by the protected facility, taking into consideration topography, proximity, and (for water or wastewater facilities) normal water and sewer facility service and extension factors or (for drainage facilities) anticipated drainage flow attributes.
- C. [No changes]
- D. All of the following shall be included with the notice:
 - 1. [No changes]
 - 2. The amount per equivalent demand unit, acre, unit of flow, or other similar measurement of the oversizing recovery charge or protected facility charge.
 - 3. [No changes]
 - 4. [No changes]
- E. [No changes]

SECTION 4. The various town officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

SECTION 5. 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 6. 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 7. This ordinance shall become effective on the thirty-first day after its adoption.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 1st day of December, 2020.

Mayor Ed Honea

ATTEST:

APPROVED AS TO FORM:

Cherry L. Lawson, Town Clerk

Jane Fairall, Town Attorney