

MARANA ORDINANCE NO. 2018.022

RELATING TO UTILITIES; AMENDING MARANA TOWN CODE TITLE 14 (UTILITIES), CHAPTER 14-4 (CONSTRUCTION AND FINANCING OF UTILITY FACILITIES) TO MODIFY SECTION 14-4-3 (CAPACITY REQUIREMENTS) AND TO ADD NEW SECTIONS 14-4-4 (REFUND OF COST OF FACILITIES FUNDED AND INSTALLED BY THE TOWN) AND 14-4-5 (NOTICE OF PROTECTED FACILITY AND ASSOCIATED CHARGE), ESTABLISHING PROTECTED FACILITIES PROVISIONS FOR PRIVATELY-CONSTRUCTED AND TOWN-CONSTRUCTED WATER AND WASTEWATER FACILITIES; AND DESIGNATING AN EFFECTIVE DATE

WHEREAS Town Code Chapter 14-4 (construction and financing of utility facilities) has existing provisions for establishment of an oversizing recovery charge to reimburse private parties for the construction of oversized privately-constructed water and wastewater facilities; and

WHEREAS the Town of Marana now desires to establish a similar provision for establishment of a protected facility charge to reimburse the Town for the construction of Town-constructed water and wastewater facilities; and

WHEREAS the Town Council finds that the amendments to the Town Code established by this ordinance are in the best interests of the Town and its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, 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):

14-4-3 Capacity requirements

A. [No changes]

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 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 add new sections 14-4-4 (refund

of cost of facilities funded and installed by the town) and 14-4-5 (notice of protected facility and associated charge), as follows:

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

If a water or wastewater facility installed and funded by the town to provide water or wastewater service to a property not participating in the construction cost, the water director 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 connection by non-participating property owners made to or benefiting from the protected facility.

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 shall notify owners of potentially affected property.
- B. Potentially affected property consists of lands the water director reasonably believes are likely someday to be served by the protected facility, taking into consideration topography, proximity, and normal water and sewer facility service and extension factors.
- C. Notice shall be given by electronic mail whose receipt is acknowledged by the recipient or by first class mail to the owner of the property as listed on the property tax roll.
- D. All of the following shall be included with the notice:
 - 1. A description of the protected facility.
 - 2. The amount per equivalent demand unit of the oversizing recovery charge or protected facility charge.
 - 3. An explanation of how the charge was calculated.
 - 4. The date and time of the council meeting where the protected facility designation and charge are expected to be considered for adoption.
- E. Failure to give or receive notice as provided in this section shall not affect the validity of the protected facility designation or the charge.

SECTION 3. The various town officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

SECTION 4. 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 5. 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 6. 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 4th day of December, 2018.

Mayor Ed Honea

ATTEST:

APPROVED AS TO FORM:

Hilary H. Hiser, Interim Town Clerk

Frank Cassidy, Town Attorney