

## MARANA ORDINANCE NO. 2019.013

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RELATING TO BUSINESS REGULATIONS; REPEALING TOWN CODE CHAPTER 9-9 (CABLE TELEVISION) AND REPLACING IT WITH TOWN CODE CHAPTER 9-9 (VIDEO SERVICES) TO CONFORM TO ARIZONA REVISED STATUTES TITLE 9 CHAPTER 13 AS ADOPTED BY LAWS 2018 CHAPTER 331 (SENATE BILL 1140); AND ADOPTING THE UNIFORM VIDEO SERVICES LICENSE AGREEMENT AND THE APPLICATION AND AFFIDAVIT FOR UNIFORM VIDEO SERVICE LICENSE

WHEREAS the Arizona Legislature adopted Senate Bill 1140 (Laws 2018 Chapter 331), which is now codified in the Arizona Revised Statutes at Title 9 Chapter 13 (A.R.S. § 9-1401 *et seq.*), requiring the creation of a state-wide uniform video services license agreement and application form and requiring all Arizona municipalities to adopt them no later than July 1, 2019; and

WHEREAS Senate Bill 1140 dictates the terms of the license agreement and application, and the League of Arizona Cities and Towns has developed the uniform license agreement and application form, in coordination with cable industry representatives; and

WHEREAS Senate Bill 1140 preempts all local cable regulations except in situations where an incumbent cable operator with an existing license opts to keep its old license; and

WHEREAS Marana's incumbent cable operator is Comcast, whose 2003 license expired in August 2018, leaving Marana with no incumbent cable operator with a license and with no reason to retain its old, now-preempted cable regulations; and

WHEREAS Marana's cable regulations are codified in Town Code Chapter 9-8 (Cable Television) as of the date this ordinance is being adopted, but will be renumbered as Town Code Chapter 9-9 (Cable Television) effective July 5, 2019 by operation of Section 1 of the text amendments attached as Exhibit A to Marana Resolution No. 2019-049, declaring as a public record the revisions to Town Code Title 9 (Business Regulations) adopted on June 5, 2019 by Marana Ordinance No. 2019.012; and

WHEREAS the Town Council finds that adoption of this ordinance is in the best interests of the Town and its citizens and conforms to and carries out the terms of Senate Bill 1140.

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

SECTION 1. Marana Town Code Chapter 9-9 (Cable Television) is hereby repealed in its entirety.

SECTION 2. Marana Town Code Title 9 (Business Regulations) Chapter 9-9 (Video Services) is hereby adopted as follows:

**CHAPTER 9-9. VIDEO SERVICE**

**9-9-1 Definitions and requirements**

- A. Terms used in this chapter are defined in A.R.S. § 9-1401.
- B. This chapter supplements and carries out the provisions of Arizona revised statutes title 9 chapter 13 (A.R.S. § 9-1401 *et seq.*), which sets forth the regulations and requirements for providing video service and constructing and operating a video service network in the town.

**9-9-2 Video service license required**

A person wishing to provide video service and to construct and operate a video service network in any service area within the boundaries of the town shall do all of the following:

- A. Submit a completed application and affidavit for uniform video service license.
- B. Sign and comply with the terms of the uniform video service license agreement.
- C. Comply with all applicable provisions of Arizona revised statutes title 9 chapter 13 (A.R.S. § 9-1401 *et seq.*).

**9-9-3 License fee**

- A. For the privilege of a video service provider to occupy or use, in whole or in part, any highway within the boundaries of the town to provide video service through a video service network, each video service provider shall pay the town a license fee of 5% of the gross revenue the video service provider receives from its subscribers located within the boundaries of the town.
- B. The license fee shall be paid quarterly, with the payment for each calendar quarter due no more than 30 calendar days following the end of the calendar quarter.
- C. If any license fee payment is not made on or before the its due date agreement, the video service provider shall pay an interest charge, computed from the due date, at an annual rate equal to the federal short-term rate

determined pursuant to 26 U.S.C. § 6621(b) plus 1½% during the period for which payment was due.

**9-9-4 Grant of authority**

- A. The local government receipt section of the application and affidavit for uniform video service license may be signed by or for the town clerk.
- B. The town engineer is authorized to sign the uniform video service license agreement on behalf of the town.

SECTION 3. The Application and Affidavit for Uniform Video Service License form, one paper copy and one electronic copy of which are on file in the office of the Town Clerk of the Town of Marana, Arizona, which was made a public record by and attached as Exhibit A to Marana Resolution No. 2019-058, is hereby referred to, adopted and made a part of this ordinance as if fully set out here.

SECTION 4. The Uniform Video Service License Agreement form, one paper copy and one electronic copy of which are on file in the office of the Town Clerk of the Town of Marana, Arizona, which was made a public record by and attached as Exhibit B to Marana Resolution No. 2019-058, is hereby referred to, adopted and made a part of this ordinance as if fully set out here.

SECTION 5. The Town Attorney is hereby authorized to make minor revisions to the forms adopted by Sections 3 and 4 of this ordinance, including without limitation revising the names of the Town officers signing the forms and making non-substantive revisions to conform to revisions to the Application and Affidavit for Uniform Video Service License and Uniform Video Service License Agreement forms issued by the League of Arizona Cities and Towns.

SECTION 6. The various town officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

SECTION 7. 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 8. 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 9. This ordinance is effective on July 19, 2019.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, Arizona, this 18<sup>th</sup> day of June, 2019.

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Mayor Ed Honea

ATTEST:

APPROVED AS TO FORM:

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Cherry L. Lawson, Town Clerk

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Frank Cassidy, Town Attorney