

**TOWN OF CAREFREE, ARIZONA
ORDINANCE #2019-02**

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN CAREFREE, MARICOPA COUNTY, ARIZONA, APPROVING A “CABLE TELEVISION CODE FOR THE TOWN OF CAREFREE, ARIZONA” BY REPEALING THE EXISTING “CABLE TELEVISION CODE FOR THE TOWN OF CAREFREE” AND REPLACING THE CODE WITH ARIZONA REVISED STATUTES §9-1401 THROUGH §9-1452 AND ESTABLISHING A FEE STRUCTURE PURSUANT TO §9-1443.

WHEREAS, the Town of Carefree (the “Town”) was previously authorized to grant, renew, deny, and terminate licenses for the installation, operation and maintenance of cable systems and otherwise regulate cable services within the Town boundaries by virtue of federal and state statutes and by the Town’s police powers by its authority over its public rights-of-way.

WHEREAS, the state legislature determined that the licensing of video service providers and the regulation and use of video service are matters of statewide concern and therefore, preempted local licensing and replaced with uniform regulations and licensing procedures.

WHEREAS, between January 1, 2020 and June 30th 2020 incumbent cable operators may elect to continue to operate pursuant to their existing local license or terminate the local license and apply for a uniform service license pursuant to Arizona Revised Statutes.

WHEREAS, Arizona Revised Statute §9-1443 provides for local municipalities to assess a license fee to occupy or use in whole or in part any public right-of-way to provide for video services within the community and such fee shall be adopted by ordinance and applied equally on all video service providers within the community.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CAREFREE, ARIZONA AS FOLLOWS:

Section 1. The certain document known as the Cable Television Code for the Town of Carefree adopted by Ordinance numbers 87-05 and amended thereto including but not limited to Ordinances 87-15 and 03-01 are repealed.

Section 2. The certain document known as the Cable Television Code for the Town of Carefree shall be replaced with references to Arizona Revised Statutes §9-1401 through §9-1452.

Section 3. The license fee shall be 5% of gross revenue that video service provider receives from its subscribers located with the Town of Carefree as prescribed by Arizona Revised Statutes §9-1442 through §9-1443.

PASSED AND ADOPTED BY the Mayor and Town Council of the Town of Carefree, Arizona, this 4th day of July 2019

AYES 7 NOES 0 ABSTENTIONS 0 ABSENT 0

FOR THE TOWN OF CAREFREE

ATTESTED TO:

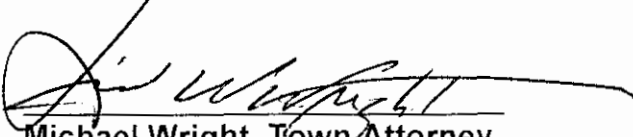


Les Peterson, Mayor



Kandace French Contreras, Town Clerk

APPROVED AS TO FORM:



Michael Wright, Town Attorney

Model Uniform Video Service License Agreement

Date of Issuance: _____

This Uniform Video Service License Agreement ("License") is made on the date of issuance hereof by and between the Town of Carefree, an Arizona municipal corporation ("Licensor") and _____, a _____ ("Licensee").

WHEREAS, Licensee has filed a completed application and affidavit under Title 9, Chapter 13, Arizona Revised Statutes ("Licensing Statute"), for Licensor to issue a Uniform Video Service License to Licensee; and

WHEREAS, Licensee is authorized under the laws of the State of Arizona to provide Cable Service.

NOW THEREFORE, in consideration of the foregoing recitals, which are incorporated herein and the mutual covenants set forth herein, the Parties agree as follows:

1. Definitions. Capitalized terms that are not defined herein have the same meaning prescribed in the Licensing Statute, including A.R.S. Section 9-1401.

2. Licensee Information. The following appear on Exhibit A attached hereto and are incorporated herein by this reference:

2.1 The name of Licensee, its type of entity and its jurisdiction of formation.

2.2 The address and telephone number of Licensee's principal place of business.

2.3 The names, titles and addresses of Licensee's principal executive officers or general partners.

2.4 The names, titles, telephone and fax numbers and email addresses of any persons authorized to represent Licensee before Licensor.

3. Grant of License. Under the Licensing Statute, Licensor hereby issues to Licensee, and Licensee hereby accepts from Licensor, a nonexclusive Uniform Video Service License.

3.1 The Service Area in which this License authorizes Licensee to provide Video Service in the area described on Exhibit B attached hereto and incorporated herein by this reference.

3.2. Licensor grants Licensee authority in the delivery of Video Service to use and occupy, and to construct and operate a Video Service Network in, Highways in the Service Area in compliance with the Licensing Statute and this License.

3.3 Licensee may operate and maintain facilities installed in the Highways in the Service Area to provide services pursuant to and subject to all the following: A.R.S. Section 9-584 and A.R.S. Title 9, Chapter 5.

4. Licensee Compliance with Law. Licensee shall comply with and be subject to:

4.1 All valid and enforceable federal and state laws.

4.2 All generally applicable, nondiscriminatory Local Laws, including highway use, mapping, insurance, performance bonds, security fund, indemnification, letter of credit or similar requirements that apply to the use and occupation of any highway and that conform to the Licensing Statute.

4.3 All public, education and government programming requirements of the Licensing Statute.

4.4 All customer service rules of the Federal Communications Commission under 47 Code of Federal Regulations Section 76.309(c) applicable to Cable Operators.

4.5 All consumer privacy requirements of 47 United States Code Section 551 applicable to Cable Operators.

5. Commencement of Video Service; Revocation. If Licensee is an incumbent cable operator, Licensee shall begin to provide Video Services under this License on the date of issuance of this license. If Licensee is not an incumbent cable operator, Licensee shall provide video service to at least one subscriber within each service area authorized by this License not later than twenty-four months after the date of issuance of this License. Failure of a non-incumbent cable operator to provide video service to at least one subscriber within each service area as set forth above shall result in revocation of this License unless the Licensee establishes to the satisfaction of the City/Town that such failure was for reasons beyond the Licensee's control.

6. License Fee. Licensee is required to pay the License Fees required under the Licensing Statute and all other lawful fees, taxes and charges imposed by Licensor. The initial rate of the License Fee shall be [five (5)] percent.

7. Federal Filing Requirement. Licensee is required to file in a timely manner with the Federal Communications Commission all forms required by that agency before Licensee offers Video Service in the Service Area, including the forms required by 47 Code of Federal Regulations Section 76.1801.

8. Term. The term of this License is ten (10) years and shall begin on the date of issuance.

STATE OF _____)
) ss.
County of _____)

The foregoing instrument was acknowledged before me this _____ day
of _____, 20__ by _____, Mayor of the Town of Carefree, an
Arizona municipal corporation, on its behalf.

(Seal)

Notary Public

EXHIBIT A

[Information about Licensee]

I. Licensee:

Date:		
Applicant's Name:		
Principal Place of Business		
Phone:	Address:	
City:	State:	Zip:
Type of Entity:	Jurisdiction of Formation:	Email:

II. Licensee's principal executive officers or general partners:

Name:	Title:
Address:	
Name:	Title:
Address:	
Name:	Title:
Address:	
Name:	Title:
Address:	

III. Person(s) authorized to represent Licensee before Local Government:

Name:	Title:	
Address:		
Phone:	Fax:	Email:
Name:	Title:	
Address:		
Phone:	Fax:	Email:
Name:	Title:	
Address:		
Phone:	Fax:	Email:

EXHIBIT B
[Service Area]

APPLICATION AND AFFIDAVIT FOR UNIFORM VIDEO SERVICE LICENSE
(Pursuant to Title 9, chapter 13, Arizona Revised Statutes)

Local Government: Town of Carefree

I. Applicant:

Date:		
Applicant's Name:		
Principal Place of Business:		
Phone:	Address:	
City/Town:	State:	Zip:
Type of Entity:	Jurisdiction of Formation:	Email:

II. Applicant's principal executive officers or general partners:

Name:	Title:
Address:	
Name:	Title:
Address:	
Name:	Title:
Address:	
Name:	Title:
Address:	

III. Person(s) authorized to represent Applicant before Local Government:

Name:	Title:	
Address:		
Phone:	Fax:	Email:
Name:	Title:	
Address:		
Phone:	Fax:	Email:

IV. Check one pursuant to Arizona Revised Statutes Section 9-1411(C)(4):

- Applicant is an Incumbent Cable Operator as provided in Arizona Revised Statutes, Section 9-1401(13).
- Applicant is not an Incumbent Cable Operator. The date on which the Applicant expects to provide Video Services in the Service Area identified below under Section 9-1411(C)(5) is:

Date:

V. For All Applications:

A. Applicant will timely file with the Federal Communications Commission all forms required by that agency before Applicant offers Video Service in the Service Area, including the forms required by 47 Code of Federal Regulations Section 76.1801.

B. The term of the uniform video service license shall be (not to exceed ten years):

Years

C. Applicant agrees to pay all lawful fees and charges imposed by Local Government as provided in Arizona Revised Statutes, Section 9-1414(B)(4).

D. Applicant agrees to notify Local Government in writing of changes to the above information within thirty days after the change occurs as provided in Arizona Revised Statutes, Section 9-1414(B)(2).

E. Provide an exact description of the Service Area as set forth in Arizona Revised Statutes, Section 9-1411(C)(5), as identified by a geographic information system digital boundary meeting or exceeding national map accuracy standards.

Select one:

The Service Area consists of all the territory within the Boundaries of Local Government:

The Service Area consists of all the territory within the area described on attached Exhibit A.

Applicant Verification

I certify that the information contained in this application for a video service license in the Town of Carefree is true and correct. I further affirm that I am authorized by _____ [NAME OF APPLICANT] to file this application on behalf of applicant and to bind the applicant with respect to the representations made in Section V, Paragraphs A through D of this application. A copy of the authorization is attached to this application.

Name and Title (printed):

Signature:

Date:

Local Government Receipt

The foregoing Application and Affidavit for Uniform Video Service License was received by Local Government this _____ day of _____, 20____; at _____ m.

Town of Carefree, an Arizona municipal corporation ("Local Government")

By

Print Name

Title

Address

8 Sundial Circle, P.O. Box 740

City, State, Zip

Carefree, AZ 85377

Phone

480-488-3686

Fax

480-488-3845

Email

Date
