

Senate Engrossed

underground facilities; excavations; notification

State of Arizona
Senate
Fifty-seventh Legislature
Second Regular Session
2026

SENATE BILL 1137

AN ACT

AMENDING SECTIONS 40-360.21, 40-360.22, 40-360.23, 40-360.26 AND 40-360.28, ARIZONA REVISED STATUTES; AMENDING TITLE 40, CHAPTER 2, ARTICLE 6.3, ARIZONA REVISED STATUTES, BY ADDING SECTION 40-360.33; RELATING TO UNDERGROUND FACILITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 40-360.21, Arizona Revised Statutes, is amended
3 to read:

4 40-360.21. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Abandoned" means no longer in service and physically
7 disconnected from a portion of the facility, or from any other facility,
8 that is in use or still carries service.

9 2. "Apartment community" means any real property that has one or
10 more structures and THAT contains five or more dwelling units for rent or
11 lease that are subject to title 33, chapter 10. For the purposes of this
12 paragraph, "dwelling unit" has the same meaning prescribed in section
13 33-1310.

14 3. "Building official" means the agency or officer employed by a
15 political subdivision of this state and charged with the administration
16 and enforcement of a building code to regulate the quality, type of
17 material and workmanship of construction of buildings or structures.

18 4. "Careful and prudent manner" means conducting an excavation in
19 such a way that when the excavation is less than or equal to twenty-four
20 inches from an underground facility that is marked with stakes or paint or
21 in some customary manner, the facility is carefully exposed with hand
22 tools, and the uncovered facility is supported and protected.

23 5. "Carefully" means acting with reasonable care under the
24 circumstances.

25 6. "Cross culverts or similar roadway drainage facilities" means
26 transverse drainage structures with both ends or openings visible
27 including box culverts, drainage pipes or other covered structures.

28 7. "Detectible underground location device" means any device that
29 is installed underground and that is capable of being detected from above
30 ground with an electronic locating device.

31 8. "Excavation" means any operation in which earth, rock or other
32 material in the ground is moved, removed or otherwise displaced by means
33 or use of any tools, equipment or explosives and includes, without
34 limitation, grading, trenching, digging, ditching, drilling, augering,
35 boring, tunnelling, scraping, cable or pipe plowing and driving.

36 ~~12.~~ 9. "Homeowners' association" has the same meaning prescribed
37 in section 33-2001.

38 ~~9.~~ 10. "Implied easement" means any easement or right-of-way on
39 private property required to provide utility services by means of
40 underground facilities in property of the owner requesting such service.

41 ~~10.~~ 11. "Inactive" means:

42 (a) That portion of an underground facility that is not in use but
43 is still connected to the facility, or to any other facility, that is in
44 use or still carries service.

1 (b) A new underground facility that has not been connected to any
2 portion of an existing facility.

3 ~~11.~~ 12. "Installation records of an underground facility" means
4 maps, drawings, diagrams, surveys, schematics, illustrations, sketches or
5 any other depictions or descriptions of an underground facility that
6 reflect the location at the time of installation of the underground
7 facility and any surface extensions in a reasonably accurate manner.

8 13. "INTERACTIVE POSITIVE RESPONSE SYSTEM" MEANS AN ELECTRONIC
9 INTERNET-BASED PLATFORM THAT IS ADMINISTERED BY A ONE-CALL NOTIFICATION
10 CENTER AND THAT ENABLES EXCAVATORS AND UNDERGROUND FACILITIES OPERATORS TO
11 EXCHANGE, RECORD AND VERIFY RESPONSES AND LOCATE STATUS UPDATES AND OTHER
12 REQUIRED COMMUNICATIONS.

13 ~~13.~~ 14. "Landlord" has the same meaning prescribed in section
14 33-1310 for an apartment community and has the same meaning prescribed in
15 section 33-1409 for a mobile home park.

16 15. "LARGE PROJECT":

17 (a) MEANS AN EXCAVATION ACTIVITY THAT MEETS ONE OR MORE OF THE
18 FOLLOWING CRITERIA:

19 (i) THE OVERALL PROJECT LENGTH EXCEEDS ONE MILE OF LINEAR
20 EXCAVATION OR A POLYGON WITH AN AREA OF A QUARTER SQUARE MILE OR MORE.

21 (ii) THE PROJECT DURATION IS EXPECTED TO EXCEED NINETY CALENDAR
22 DAYS.

23 (iii) THE PROJECT INCLUDES AT LEAST TEN CONTIGUOUS LAND PARCELS.

24 (b) DOES NOT INCLUDE THE ON-SITE DEVELOPMENT OF A NEW RESIDENTIAL
25 OR COMMERCIAL PROJECT ON A PREVIOUSLY UNDEVELOPED PARCEL OF LAND.

26 16. "LARGE PROJECT NOTIFICATION" MEANS A NOTICE THAT IS FILED WITH
27 A ONE-CALL NOTIFICATION CENTER FOR A LARGE PROJECT.

28 ~~14.~~ 17. "Locator strip" means a type of detectible underground
29 location device that consists of a plastic or other durable material
30 ribbon containing a material capable of being detected from above ground
31 with an electronic locating device and color coded by type of underground
32 facility.

33 ~~15.~~ 18. "Locator wire" means a type of detectible underground
34 location device that consists of a copper wire or metallic, conductive,
35 noncorrosive trace wire capable of being detected from above ground with
36 an electronic locating device.

37 ~~16.~~ 19. "Mobile home park" has the same meaning prescribed in
38 section 33-1409.

39 ~~17.~~ 20. "One-call notification center" means an organization of
40 owners or operators of underground facilities that provides a ~~telephone~~
41 ~~number~~ notification service for the purpose of receiving and distributing
42 to its members advance notifications from persons regarding planned
43 excavations.

1 ~~18.~~ 21. "Person":
2 (a) Means any individual, firm, joint venture, partnership,
3 corporation, association, homeowners' association, municipality,
4 governmental unit, department or agency. ~~and shall include~~
5 (b) INCLUDES any trustee, receiver, assignee or personal
6 representative ~~thereof~~ OF AN ENTITY LISTED IN SUBDIVISION (a) OF THIS
7 PARAGRAPH.
8 ~~19.~~ 22. "Routine road maintenance grading" means the routine
9 grading or resurfacing of the concrete, asphaltic or composite surface but
10 not the subbase of a roadway by ~~the~~ THIS state or a political subdivision
11 of ~~the~~ THIS state for the purpose of maintaining the surface condition of
12 the road and includes recovery of material from a borrow ditch.
13 ~~20.~~ 23. "Stakes or paint or in some customary manner" means
14 marking the location of an underground facility by the colors established
15 by the commission. These colors shall be restricted to the underground
16 facility location.
17 ~~21.~~ 24. "Underground facilities operator" means a public utility,
18 municipal corporation, landlord or other person having the right to bury
19 underground facilities in any public street, alley, right-of-way dedicated
20 to the public use or public utility easement, in any apartment community
21 or mobile home park or pursuant to any express or implied private property
22 easement. Underground facilities operator does not include a homeowner or
23 homeowners' association that owns a sewer facility in a public street,
24 alley, right-of-way dedicated to public use or public utility easement.
25 ~~22.~~ 25. "Underground facility" means any item of personal property
26 that is buried or placed below ground for use in connection with the
27 storage or conveyance of water, sewage, electronic, telephonic or
28 telegraphic communications, electric energy, oil, gas or other substances,
29 and shall include but not be limited to pipes, sewers, conduits, cables,
30 valves, lines, wires, manholes, attachments and those portions of poles
31 and their attachments below ground except cross culverts or similar
32 roadway drainage facilities and landscape irrigation systems of two inches
33 in diameter or less.
34 26. "WHITE LINING" MEANS THE PRACTICE OF MARKING THE PROPOSED AREA
35 OF EXCAVATION ON THE GROUND SURFACE USING ANY OF THE FOLLOWING:
36 (a) PAINT.
37 (b) FLAGS.
38 (c) CHALK.
39 (d) ANY OTHER METHOD THAT IS CUSTOMARILY USED.
40 ~~23.~~ 27. "Working day" means every day excluding Saturday of each
41 week, the fourth Friday in November, Sunday of each week and other legal
42 holidays as prescribed in section 1-301.

1 Sec. 2. Section 40-360.22, Arizona Revised Statutes, is amended to
2 read:

3 40-360.22. Excavations; determining location of underground
4 facilities; providing information; excavator
5 marking; on-site representative; validity period
6 of markings; liability for misuse of locate
7 requests; detectible underground locating
8 devices; civil penalty; large project
9 coordination

10 A. A person shall not make or begin any excavation in any public
11 street, alley, right-of-way dedicated to the public use or public utility
12 easement or in any express or implied private property utility easement or
13 in any apartment community or mobile home park without first determining
14 whether underground facilities will be encountered, and if so where they
15 are located from each and every underground facilities operator and taking
16 measures for control of the facilities in a careful and prudent manner.
17 For all excavations in an apartment community or mobile home park, the
18 excavator shall inform the landlord as promptly as ~~practical~~ PRACTICABLE
19 that the excavator intends to submit an inquiry to the landlord that will
20 trigger the landlord's obligations provided by subsection B of this
21 section and the inquiry itself shall be made by certified mail to the
22 landlord, using a form prepared by a one-call notification center. The
23 inquiry to a landlord may be made by a one-call notification center for a
24 reasonable fee to the excavator.

25 B. Except as otherwise provided in this subsection OR SUBSECTION R
26 OF THIS SECTION, ~~upon~~ ON receipt of the excavator's inquiry, the
27 underground facilities operator shall respond as promptly as ~~practical~~
28 PRACTICABLE, but ~~in no event~~ NOT later than two working days, by carefully
29 marking ~~such~~ THE UNDERGROUND facility with stakes or paint or in some
30 customary manner. A landlord shall respond in the same manner and as
31 promptly as ~~practical~~ PRACTICABLE, but ~~in no event~~ NOT later than ten
32 working days. ~~No~~ A person ~~shall~~ MAY NOT begin excavating before the
33 location and marking are complete or the excavator is notified that
34 marking is unnecessary. If the excavator consents, an underground
35 facilities operator may notify a one-call notification center that marking
36 is unnecessary pursuant to a method established by the one-call
37 notification center. An underground facilities operator may assign any
38 marking or notification obligations required by this subsection to an
39 agent or servant of the underground facilities operator. An underground
40 facilities operator ~~may~~ SHALL notify the excavator that marking is
41 unnecessary pursuant to ~~any mutually agreeable method~~ THE INTERACTIVE
42 POSITIVE RESPONSE SYSTEM.

1 ~~C. On a timely request by the underground facilities operator, the~~
2 ~~excavator shall mark the boundaries of the area requested to be excavated~~
3 ~~in accordance with a color code designated by the commission or by~~
4 ~~applicable custom or standard in the industry. A request under this~~
5 ~~subsection for excavator marking does not alter any other requirement of~~
6 ~~this section.~~

7 C. BEFORE AN EXCAVATOR SUBMITS A LOCATION REQUEST TO THE ONE-CALL
8 NOTIFICATION CENTER, THE EXCAVATOR SHALL CLEARLY AND CAREFULLY MARK WITH
9 WHITE LINING THE AREA THAT IS REQUESTED TO BE EXCAVATED IN COMPLIANCE WITH
10 A COLOR CODE THAT IS ESTABLISHED BY THE COMMISSION OR BY CUSTOM OR
11 STANDARD. THIS SUBSECTION:

12 1. DOES NOT APPLY TO EXCAVATIONS THAT ARE PERFORMED BY A PERSON ON
13 A SINGLE-FAMILY RESIDENTIAL PROPERTY THAT IS OWNED OR OCCUPIED BY THE
14 PERSON.

15 2. EXCEPT FOR EXCAVATIONS PRESCRIBED IN PARAGRAPH 1 OF THIS
16 SUBSECTION, APPLIES TO ALL EXCAVATIONS, INCLUDING LARGE PROJECTS AND
17 EXCAVATIONS ON RESIDENTIAL PROPERTIES.

18 D. Except as provided in subsection F of this section, a person
19 shall not begin excavating in any apartment community or mobile home park
20 before the landlord has completed marking the underground facility or the
21 excavator is notified that marking is unnecessary. After underground
22 facility markings are complete or the excavator has received notice that
23 marking is unnecessary, an excavator shall notify the landlord if any of
24 the following conditions exist:

25 1. Visible and obvious evidence, such as pavement cuts, that would
26 alert a reasonable excavator to the presence of an unmarked underground
27 facility within the boundary of the intended area of excavation.

28 2. The excavator has concerns regarding the accuracy and meaning of
29 the marks.

30 3. The excavator encounters an underground facility that has not
31 been marked.

32 4. The excavator encounters an underground facility that has been
33 incorrectly marked or marked in the wrong location.

34 E. For every excavation in an apartment community or mobile home
35 park where the excavation method is boring:

36 1. Every underground facilities operator shall be notified of this
37 methodology.

38 2. The excavator shall ensure that sufficient clearance is
39 maintained between the bore path and any marked underground facility.

40 3. The excavator shall visually check the drill head each time it
41 passes through potholes, entrances and exit pits, including during
42 pullback.

43 4. Each underground facilities operator shall be given a reasonable
44 opportunity to inspect its facility before and during the boring
45 operation.

1 F. If a landlord fails to respond to an excavator's request in a
2 manner required by this article, an excavator does not violate this
3 article and fulfills the standard of care of a reasonably prudent
4 excavator if the excavator complies with all of the following:

5 1. One working day before conducting the excavation, the excavator
6 notifies the landlord in writing or by fax that the excavator has
7 determined that the acts or omissions of the landlord ~~is~~ CONSTITUTE a
8 refusal to respond to an excavator's request.

9 2. The excavator investigates for the presence of visible and
10 obvious evidence that would alert a reasonable excavator to the presence
11 of an unmarked underground facility within the boundaries of the area to
12 be excavated.

13 3. The excavator carefully locates all unmarked facilities that are
14 known to exist due to the excavator's investigation performed pursuant to
15 paragraph 2 of this subsection using one of the methods listed in
16 subsection G of this section and carefully marks the facilities with
17 stakes or paint or in some customary manner. In addition, when a landlord
18 provides verbal or written information regarding the location of
19 underground facilities that are within the boundaries of the area to be
20 excavated, the excavator carefully locates all such identified facilities
21 using one of the methods listed in subsection G of this section and
22 carefully marks the facilities with stakes or paint or in some customary
23 manner.

24 4. The excavator takes measures to control all such located
25 facilities in a careful and prudent manner.

26 5. The excavator shall not excavate if the excavator receives a
27 response from the landlord that notifies or alerts the excavator to the
28 presence of a mistake or an intention by the landlord to respond in a
29 manner that is consistent with this article, even if the response will be
30 untimely. A landlord's delay, failure to respond to a location request,
31 failure to mark or other noncompliance is not excused by the excavator's
32 or landlord's compliance with this subsection.

33 G. Except as otherwise provided in this section, in performing the
34 marking required by subsection B of this section, the underground
35 facilities operator of an underground facility installed after December
36 31, 1988 in a public street, alley or right-of-way dedicated to public use
37 or public utility easement, but not including any express or implied
38 private property utility easement, shall carefully locate the facility by
39 referring to installation records of the facility that are in the
40 possession of the underground facility operator and utilizing one of the
41 following methods:

- 42 1. Vertical line or facility markers.
- 43 2. Locator strip or locator wire.
- 44 3. Signs or permanent markers.
- 45 4. Electronic or magnetic location or tracing techniques.

- 1 5. Electronic or magnetic sensors or markers.
- 2 6. Metal sensors or sensing techniques.
- 3 7. Sonar techniques.
- 4 8. Underground electrical or radio transmitters.
- 5 9. Manual location techniques, including pot-holing.
- 6 10. Surface extensions of underground facilities.
- 7 11. Any other surface or subsurface location technique that is at
- 8 least as accurate as the other marking methods in this subsection and that
- 9 is not prohibited by the commission or by federal or state law. This
- 10 paragraph does not obligate an underground facilities operator to be aware
- 11 of and utilize every surface or subsurface location technique available.

12 H. Except as otherwise provided in this section, for an underground
13 facility other than one installed after December 31, 1988, in a public
14 street, alley or right-of-way dedicated to public use or public utility
15 easement, in performing the marking required by subsection B of this
16 section, the underground facilities operator may refer to installation
17 records or other records relating to the facility to assist in locating
18 the facility and shall carefully locate the facility utilizing one of the
19 methods listed under subsection G of this section.

20 I. If an underground facilities operator is unable to complete the
21 location and marking within the time period provided by subsection B of
22 this section, the **UNDERGROUND** facilities operator shall satisfy the
23 requirements of this section by providing prompt notice of these facts to
24 the excavator and assigning one or more representatives to be present on
25 the excavation site at all pertinent times as requested by the excavator
26 to provide facility location services until the facilities have been
27 located and marked or the excavator is notified that marking is
28 unnecessary pursuant to any mutually agreeable method. A person that
29 receives notice from the underground facilities operator of these facts
30 shall not begin excavating before the underground facilities operator has
31 completed marking the underground facility or the excavator is notified
32 that marking is unnecessary. Except as provided in subsection J of this
33 section, the underground facilities operator shall bear all of its own
34 expenses associated with assigning representatives.

35 J. The marking required by subsection B of this section is valid
36 for fifteen working days from the date of the marking. If the excavation
37 will continue past the validity period of the marks as provided by this
38 subsection, the excavator shall notify the underground facilities operator
39 or an organization designated by the underground facilities operator at
40 least two working days before the end of the validity period. All
41 requests for facility markings and requests to extend the validity period
42 of the markings shall be for the purpose of excavating within the validity
43 period of the markings. An excavator that requests facility markings
44 shall limit the request to an area that can reasonably be excavated within
45 the validity period of the markings. A person who violates this

1 subsection is liable to the one-call notification center and to all
2 affected underground facilities operators for any damages proximately
3 caused by the violation, including economic loss.

4 K. ~~Nothing in~~ NOTWITHSTANDING THE PRECONSTRUCTION CONFERENCE THAT
5 IS REQUIRED FOR A LARGE PROJECT, this section ~~shall be construed to~~ DOES
6 NOT prevent an excavator and an underground facilities operator from
7 holding a preconstruction conference regarding marking and location of
8 underground facilities and entering into a mutually agreeable written
9 schedule for marking or excavating or written arrangement that may
10 constrain the excavation methods or that may provide for the delivery of
11 installation records to the excavator for the purpose of satisfying the
12 requirements of this section, except that this subsection does not
13 eliminate the excavator's obligation to notify the underground facilities
14 operator to locate and mark excavation sites under subsection B of this
15 section based on the actual construction schedule.

16 L. For abandoned and apparently abandoned underground facilities:

17 1. The underground facilities operator shall notify the excavator
18 whether the facility is active or abandoned. An inactive facility shall be
19 considered active for purposes of this subsection. This section does not
20 obligate any person to represent that an underground sewer facility in any
21 public street, alley, right-of-way dedicated to public use or public
22 utility easement is abandoned if it was installed on or before December
23 31, 2005 and it is not owned by an underground facilities operator of a
24 sewer system. This paragraph does not obligate a landlord to represent
25 that an underground facility in any apartment community or mobile home
26 park is abandoned if it was installed before January 1, 2007.

27 2. For an underground facility abandoned after December 31, 1988 or
28 covered by installation records prepared under section 40-360.30, the
29 underground facilities operator may not advise or represent to the
30 excavator that a facility or portion of a facility is abandoned unless the
31 underground facilities operator has verified, by reference to installation
32 records or by testing, that the facility or portion is actually abandoned
33 and not merely inactive. For all other abandoned or apparently abandoned
34 underground facilities, each one-call notification center shall establish
35 a method of providing personnel from an underground facilities operator
36 qualified to safely inspect and verify that the facility is abandoned or
37 active. For the purposes of this article, an underground facilities
38 operator shall not represent that an underground facility is abandoned
39 unless the facility has been verified as abandoned pursuant to this
40 subsection.

41 3. For the purposes of this article, if an excavator encounters an
42 apparently abandoned underground facility, the excavator shall not treat
43 the underground facility as abandoned until the excavator has received
44 notification that the underground facility is abandoned pursuant to
45 paragraph 1 of this subsection or has notified the underground facilities

1 operator of the apparent abandonment and has received verification of
2 abandonment pursuant to paragraph 2 of this subsection.

3 4. Each one-call notification center may establish a method for
4 reimbursing the verifying underground facilities operator for the expenses
5 incurred under paragraph 2 of this subsection. The reimbursement method
6 shall not include any charge or expense to the excavator. A landlord that
7 fails to advise or represent that an underground facility is abandoned
8 pursuant to paragraph 1 of this subsection, whose underground facility is
9 verified as abandoned pursuant to this subsection and who has not filed
10 information with a one-call notification center is liable to the one-call
11 notification center and to all affected underground facilities operators
12 and excavators for the cost of verifying abandonment together with any
13 damages, including economic loss, proximately caused by the violation.

14 M. All new and active underground facilities installed in any real
15 property after December 31, 2005 shall be installed with a detectible
16 underground location device unless the facility is capable of being
17 detected from above ground with an electronic locating device or the
18 facility is installed within single family residential property and is
19 beneath a pool, permanent pool decking that is less than forty-eight
20 inches from the pool or a permanent building. A person who violates this
21 subsection is subject to a civil penalty in an amount ~~OF not to exceed~~
22 ~~five thousand dollars~~ MORE THAN \$5,000. The building official shall
23 administer and enforce this subsection for all underground facilities
24 except those that are installed for a public utility or municipal
25 corporation. Any penalties received by the building official shall be
26 deposited in the municipality's or political subdivision's general fund,
27 as applicable. Except as required by a city, town or county building code
28 or other related code, for purposes of locating an underground facility a
29 building official or political subdivision shall not compel the
30 installation of one or more clean-outs on any underground sewer facility
31 that is owned by another person and serves one customer where any portion
32 of the underground sewer facility is in any public street, alley,
33 right-of-way dedicated to public use, private property or easement.

34 N. ~~Nothing in~~ This section ~~shall be construed as prohibiting~~ DOES
35 NOT PROHIBIT the use of warning tape, warning markers or any other warning
36 device by the underground facilities operator.

37 O. For every underground facilities operator of a sewer system:

38 1. For the purposes of this article, an underground facilities
39 operator of a sewer system is responsible for locating and carefully
40 marking the underground sewer facilities owned by another person pursuant
41 to subsection B of this section if those underground facilities are
42 installed after December 31, 2005 and are in any public street, alley,
43 right-of-way dedicated to public use or public utility easement.

1 2. In performing the marking required by this subsection, the
2 underground facilities operator of the sewer system shall carefully locate
3 the facility by referring to installation records of the facility and by
4 using one of the methods listed in subsection G of this section.

5 3. This subsection does not obligate an underground facilities
6 operator of a sewer system to locate and mark the underground sewer
7 facilities owned by another person if the customer receiving sewer service
8 from the underground sewer facility refuses to grant permission to the
9 underground facilities operator of a sewer system to access the real
10 property for the purpose of ascertaining the location of the underground
11 sewer facility in any public street, alley, right-of-way dedicated to
12 public use or public utility easement.

13 4. This subsection does not obligate an underground facilities
14 operator of a sewer system to maintain, clean or unstop underground sewer
15 facilities owned by another person.

16 P. For every landlord:

17 1. For the purposes of this article, each landlord is responsible
18 for marking the underground facilities operated by the landlord pursuant
19 to subsection B of this section. For the purposes of this paragraph,
20 "underground facilities operated by the landlord" includes every
21 underground facility that is in an apartment community or a mobile home
22 park and that:

23 (a) Discharges into an underground facility that is operated by the
24 landlord.

25 (b) Is supplied by an underground facility that is operated by the
26 landlord.

27 (c) Is not operated by a public utility or municipal corporation.

28 2. If a landlord is unable to complete the location and marking
29 within the time period provided by subsection B of this section, the
30 landlord shall satisfy its obligations in the manner provided by
31 subsection I of this section. ~~Nothing in~~ This subsection ~~shall be~~
32 ~~construed to~~ DOES NOT prevent the excavator and the landlord from entering
33 into a mutually agreeable written schedule or written arrangement for
34 satisfying the requirements of this section in the manner provided by
35 subsection K of this section.

36 3. In performing the marking required by this subsection for an
37 underground facility installed after December 31, 2006, the landlord shall
38 carefully locate the facility by referring to installation records of the
39 facility that are in the possession of the landlord and by using one of
40 the methods listed in subsection G of this section.

41 4. In performing the marking required by this subsection for an
42 underground facility installed before January 1, 2007, the landlord may
43 refer to installation records or other records relating to the facility to
44 assist in locating the facility and shall locate the facility using one of
45 the methods listed in subsection G of this section.

1 5. Subject to the availability of monies, landlords may apply for
2 grants from a grant account established for the purpose of meeting the
3 standards prescribed by this article and for the purpose of creating
4 installation records for facilities that are not required to be created or
5 maintained by this article.

6 6. Notwithstanding any other provision in this article, a landlord
7 is not liable for any costs or expenses, including damage to third
8 parties, resulting from damage to an underground sewer facility owned by
9 the landlord and located within a public right-of-way if the damage was
10 not caused by either:

11 (a) The landlord's or tenant's actions.

12 (b) The landlord's or tenant's refusal to grant access to the
13 operator of the sewer system that connects to the landlord's underground
14 sewer facility.

15 7. This article does not obligate a landlord to locate and mark a
16 facility owned by a tenant if the tenant owns the mobile home, the tenant
17 refuses to grant permission to the landlord to access the mobile home and
18 the facility cannot be located without accessing the mobile home.

19 8. Any rule, regulation, lease or agreement that purports to
20 obligate a tenant to perform the landlord's obligations required by this
21 article is against the public policy of this state and is void.

22 9. This subsection does not obligate a landlord to maintain, clean
23 or unstop underground facilities owned by another person.

24 Q. All inquiries and notices to a landlord shall be made to the
25 address on file at a one-call notification center. Notwithstanding any
26 other law, if the landlord has not filed information at the one-call
27 notification center, the excavator does not violate this article and
28 fulfills the standard of care of a reasonably prudent excavator if the
29 excavator makes the inquiry or notice to the property owner of record
30 according to the records of the county assessor in the county in which the
31 property is located.

32 R. AN EXCAVATOR THAT PROPOSES TO PERFORM A LARGE PROJECT SHALL
33 NOTIFY A ONE-CALL NOTIFICATION CENTER AS SOON AS POSSIBLE BUT NOT LESS
34 THAN FIFTEEN BUSINESS DAYS OR TWENTY-ONE CALENDAR DAYS BEFORE THE PROPOSED
35 START DATE TO SCHEDULE A LARGE PROJECT COORDINATION MEETING. THE LARGE
36 PROJECT NOTIFICATION TO A ONE-CALL NOTIFICATION CENTER INITIATES A MEETING
37 BETWEEN THE EXCAVATOR, THE LOCAL JURISDICTION AND THE UNDERGROUND
38 FACILITIES OPERATOR TO:

39 1. IDENTIFY THE PROPOSED PLAN FOR MARKING REQUEST NOTIFICATIONS.

40 2. DISCUSS ANY POTENTIAL UNDERGROUND FACILITY CONFLICTS.

41 3. ESTABLISH A MARKING AND EXCAVATION SCHEDULE.

42 4. DISCUSS ANY OTHER PROTECTIVE MEASURES THAT ARE APPROPRIATE TO
43 THE SCOPE AND DURATION OF THE LARGE PROJECT.

1 S. AN EXCAVATOR THAT REQUESTS A LARGE PROJECT COORDINATION MEETING
2 AS PRESCRIBED IN SUBSECTION R OF THIS SECTION SHALL PROVIDE THE FOLLOWING
3 INFORMATION TO THE ONE-CALL NOTIFICATION CENTER:

- 4 1. THE TYPE OF WORK TO BE PERFORMED.
- 5 2. THE COMPLETE GEOGRAPHIC SCOPE.
- 6 3. THE PROPOSED PHASED PLAN FOR MARKING NOTIFICATIONS WITHIN THE
7 COMPLETE GEOGRAPHIC SCOPE OF THE LARGE PROJECT.
- 8 4. THE PROPOSED START DATE.
- 9 5. THE EXPECTED COMPLETION DATE.
- 10 6. A PROPOSED MEETING DATE, TIME AND LENGTH OF THE LARGE PROJECTION
11 COORDINATION MEETING WITH THE AFFECTED UNDERGROUND FACILITIES OPERATOR AND
12 THE LOCAL JURISDICTION.

13 T. ON RECEIPT OF THE LARGE PROJECT NOTIFICATION FROM THE EXCAVATOR,
14 THE UNDERGROUND FACILITIES OPERATOR SHALL:

15 1. CONFIRM THE UNDERGROUND FACILITIES OPERATOR'S INTENT TO ATTEND
16 THE MEETING AS SOON AS POSSIBLE BUT NOT LATER THAN TWO BUSINESS DAYS AFTER
17 RECEIVING THE LARGE PROJECT NOTIFICATION.

18 2. DISCUSS ANY POTENTIAL CONFLICTS RELATED TO THE UNDERGROUND
19 FACILITIES THAT MAY OCCUR WITHIN THE COMPLETE GEOGRAPHIC SCOPE OF THE
20 LARGE PROJECT.

21 3. DETERMINE THE RESOURCES AND EXPECTED TIME FRAMES THAT ARE
22 NECESSARY TO COMPLETE MARKINGS BASED ON THE EXCAVATOR'S PROPOSED PHASED
23 PLAN FOR MARKING NOTIFICATIONS.

24 U. THE FOLLOWING APPLY TO THE LARGE PROJECT COORDINATION MEETING:

25 1. THE MEETING MAY BE ON-SITE OR VIRTUAL. THE EXCAVATOR MAY
26 INDICATE WHETHER THE MEETING SHOULD TAKE PLACE ON-SITE OR VIRTUALLY BASED
27 ON THE DISCRETION OF THE EXCAVATOR. IF VIRTUAL, THE EXCAVATOR SHALL
28 PROVIDE A LINK TO JOIN THE MEETING. IF ON-SITE, THE EXCAVATOR MAY USE THE
29 MEETING TO COMPLETE WHITE LINING.

30 2. AT THE MEETING, THE EXCAVATOR, THE LOCAL JURISDICTION AND THE
31 UNDERGROUND FACILITIES OPERATOR SHALL ESTABLISH A SCHEDULE FOR MARKING AND
32 EXCAVATION FOR THE SCOPE AND DURATION OF THE LARGE PROJECT. THE
33 EXCAVATOR, THE LOCAL JURISDICTION'S PUBLIC WORKS OR UTILITY INSPECTOR AND
34 THE UNDERGROUND FACILITIES OPERATOR SHALL AGREE ON THE QUANTITY OF TICKETS
35 AND THE GEOGRAPHIC AREA THAT THE TICKETS WILL COVER. THE EXCAVATOR SHALL
36 FOLLOW THE PHASED PLAN FOR TICKET CREATION THAT WAS AGREED TO AT THE
37 MEETING.

38 3. THE UNDERGROUND FACILITIES OPERATOR HAS FIFTEEN BUSINESS DAYS
39 FROM THE DATE THE EXCAVATOR NOTIFIES THE ONE-CALL NOTIFICATION CENTER TO
40 LOCATE AND MARK THE GEOGRAPHIC AREA IDENTIFIED IN THE PHASED PLAN. THIS
41 TIME FRAME MAY BE EXTENDED IF AGREED ON BY THE EXCAVATOR IN THE
42 INTERACTIVE POSITIVE RESPONSE SYSTEM.

43 V. THE ONE-CALL NOTIFICATION CENTER SHALL PROVIDE THE INTERACTIVE
44 POSITIVE RESPONSE SYSTEM, WHICH IS A TOOL FOR COMMUNICATION BETWEEN THE
45 EXCAVATOR AND THE UNDERGROUND FACILITIES OPERATOR FOR THE STATUS OF

1 LOCATING SITES, WORK UPDATES, CHANGES IN SCHEDULING AND OTHER FACTORS THAT
2 MAY IMPACT THE LARGE PROJECT.

3 W. THE EXCAVATOR, THE LOCAL JURISDICTION AND THE UNDERGROUND
4 FACILITIES OPERATOR MAY AGREE TO A PHASED MARKING SCHEDULE THAT PROVIDES
5 FOR TIMELY AND ACCURATE MARKINGS OF ACTIVE WORK AREAS AS SUBMITTED BY THE
6 EXCAVATOR WITHIN THE MARKING REQUEST. COMPLIANCE WITH AN AGREED PHASED
7 SCHEDULE IS DEEMED COMPLIANCE WITH THE NOTICE AND MARKING REQUIREMENTS OF
8 THIS ARTICLE. ANY CHANGES TO THE AGREED PHASED SCHEDULE SHALL BE
9 COMMUNICATED AND AGREED TO BY THE EXCAVATOR, THE LOCAL JURISDICTION AND
10 THE UNDERGROUND FACILITIES OPERATOR THROUGH THE INTERACTIVE POSITIVE
11 RESPONSE SYSTEM.

12 X. THE ONE-CALL NOTIFICATION CENTER IS RESPONSIBLE FOR DEVELOPING A
13 PROCESS FOR UNDERGROUND FACILITIES OPERATORS, EXCAVATORS AND DESIGNERS TO
14 USE THE INTERACTIVE POSITIVE RESPONSE SYSTEM TO ADMINISTER LARGE PROJECT
15 NOTIFICATIONS, INCLUDING TICKET REQUEST PROCEDURES, COORDINATION MEETING
16 STANDARDS AND RECORDKEEPING REQUIREMENTS.

17 Y. IF THE EXCAVATOR, LOCAL JURISDICTION AND UNDERGROUND FACILITIES
18 OPERATOR DO NOT MUTUALLY AGREE ON A MARKING SCHEDULE, THE MARKINGS SHALL
19 BE COMPLETED WITHIN FIFTEEN BUSINESS DAYS.

20 Z. THE VALIDITY PERIOD FOR THE MARKINGS PRESCRIBED IN SUBSECTION J
21 OF THIS SECTION APPLIES TO BOTH LARGE PROJECT TICKETS AND STANDARD
22 EXCAVATION NOTICE TICKETS.

23 Sec. 3. Section 40-360.23, Arizona Revised Statutes, is amended to
24 read:

25 40-360.23. Conducting excavation in careful, prudent manner;
26 liability for negligence; notice; obliteration
27 of marks

28 A. Except as otherwise provided in section 40-360.28, subsection E,
29 obtaining information as required by this article does not excuse any
30 person making any excavation from doing so in a careful and prudent
31 manner, nor shall it excuse such persons from liability for any damage or
32 injury resulting from their negligence.

33 B. Except as otherwise provided in section 40-360.22, subsection D,
34 after markings have been made pursuant to section 40-360.22, an excavator
35 shall notify either the underground facilities operator or an organization
36 designated by the underground facilities operator if the excavator
37 encounters an underground facility that has not been located and marked or
38 has been marked in the wrong location.

39 C. An excavator or an underground facilities operator shall not
40 move or obliterate markings made pursuant to this article or fabricate
41 markings in an unmarked location for the purpose of concealing or avoiding
42 liability for a violation of or noncompliance with this article.

43 D. AN EXCAVATOR MAY BEGIN EXCAVATING AFTER THE EXCAVATOR CONTACTS
44 AND RECEIVES ALL OF THE AFFECTED UNDERGROUND FACILITIES OWNERS' RESPONSES
45 THROUGH THE INTERACTIVE POSITIVE RESPONSE SYSTEM. AN UNDERGROUND

1 FACILITIES OPERATOR SHALL ENTER ALL LOCATE STATUS INFORMATION, INCLUDING
2 MARKED, NO CONFLICT OR DELAYED INTO THE INTERACTIVE POSITIVE RESPONSE
3 SYSTEM WITHIN THE TIME REQUIRED BY THIS ARTICLE. AN UNDERGROUND
4 FACILITIES OPERATOR'S DUTY TO MARK IS SATISFIED BY COMPLIANCE WITH A LARGE
5 PROJECT PLAN AS PRESCRIBED IN SECTION 40-360.22.

6 E. NOTWITHSTANDING ANY OTHER LAW, THIS ARTICLE DOES NOT SUPERSEDE
7 OR PREEMPT ANY ORDINANCE, STANDARD, POLICY, PROCEDURE OR OTHER REQUIREMENT
8 OF A CITY OR TOWN THAT RELATES TO EXCAVATIONS.

9 Sec. 4. Section 40-360.26, Arizona Revised Statutes, is amended to
10 read:

11 40-360.26. Damage of underground facility; liability to
12 owner; homeowner and tenant exemption

13 A. If any underground facility is damaged by any person in
14 violation of this article as a result of failing to obtain information as
15 to its location, failing to take measures for protection of the facilities
16 or failing to excavate in a careful and prudent manner, the person is
17 liable to the owner of the underground facility for the total cost of the
18 repair of the facility.

19 B. A homeowner or homeowners' association engaging in excavating in
20 an express or implied private property utility easement across property
21 owned by the homeowner or homeowners' association is not liable to the
22 owner or operator of the underground facility THAT IS damaged by the
23 homeowner or homeowners' association pursuant to this section if the
24 damaged underground facility is not buried or placed below ground in
25 accordance with the applicable standards, if the underground facility is
26 not located within the easement or if the homeowner or homeowners'
27 association engaged in the excavation has complied with section 40-360.22.
28 This subsection does not apply to any person WHO IS employed by a
29 homeowner or a homeowners' association including a contractor licensed
30 pursuant to title 32, chapter 10 or a person engaging WHO ENGAGES in
31 contracting without a license as prohibited by section 32-1151.

32 C. Notwithstanding any other provision in this article, a homeowner
33 is not liable for any costs or expenses, including damage to third
34 parties, resulting from damage to an underground facility THAT IS owned by
35 the homeowner but located within a public right-of-way if the damage was
36 not caused by the homeowner's actions or by the homeowner's refusal to
37 grant permission to the underground facilities operator of a sewer system
38 to access the real property for the purpose of ascertaining the location
39 of the underground sewer facility. A tenant is not liable for any costs or
40 expenses, including damage to third parties, resulting from damage to an
41 underground facility THAT IS owned by the tenant but located within a
42 mobile home park if the damage was not caused by the tenant's actions or
43 by the tenant's refusal to grant permission to the landlord to access the
44 mobile home for the purpose of ascertaining the location of the
45 underground facility.

1 D. AN EXCAVATOR THAT COMPLIES WITH AN AGREED LARGE PROJECT SCHEDULE
2 PURSUANT TO SECTION 40-360.22 AND THAT USES THE INTERACTIVE POSITIVE
3 RESPONSE SYSTEM FOR ALL COMMUNICATIONS REQUIRED UNDER THIS ARTICLE IS
4 DEEMED TO HAVE SATISFIED THE EXCAVATOR'S DUTY TO REQUEST AND MAINTAIN
5 MARKINGS UNDER THIS ARTICLE FOR THE PORTION OF THE PROJECT COVERED BY THE
6 LARGE PROJECT SCHEDULE.

7 Sec. 5. Section 40-360.28, Arizona Revised Statutes, is amended to
8 read:

9 40-360.28. Civil penalty; liability

10 A. Except as provided in section 40-360.22, subsection M, a person
11 who violates any provision of this article is subject to a civil penalty
12 in an amount OF not ~~to exceed five thousand dollars~~ MORE THAN \$5,000 to be
13 imposed by the court in favor of the state. Any penalties received by the
14 state shall be deposited in the state general fund.

15 B. If a violation of this article results in damage to an
16 underground facility, the violator is liable to all affected underground
17 facilities operators and excavators for all resulting damages proximately
18 caused by the violations, including economic loss.

19 C. If a person violates this article by failing to provide timely
20 notice as required by this article, by failing to respond in the time and
21 manner provided by this article or by failing to locate and mark an
22 underground facility in the manner provided by this article, the person is
23 liable to all affected underground facilities operators and excavators for
24 all damages proximately caused by the violation, including economic loss.

25 D. Notwithstanding any other law, a violation of section 40-360.22,
26 subsection D or subsection L, paragraph 3 is a superseding event that
27 breaks the chain of causation for any damages that could result from an
28 underground facilities operator's failure to accurately locate or mark an
29 underground facility.

30 E. If a landlord or an excavator complies with the duties set forth
31 in sections 40-360.22, 40-360.30 and 40-360.32 for all facilities operated
32 by a landlord as provided in section 40-360.22, subsection P, paragraph 1,
33 the person is not liable for any death or injury to persons or property or
34 for any economic loss to any person to the extent the conduct is regulated
35 by this article. This section does not excuse any landlord or excavator
36 from liability for any death or injury to persons or property or for any
37 economic loss to any person to the extent the injury or loss does not
38 arise from the conduct regulated by this article.

39 F. This section ~~is not applicable~~ DOES NOT APPLY to an excavation
40 made:

41 1. During an emergency ~~which~~ THAT involves IMMEDIATE danger to
42 life, health or property if reasonable precautions are taken to protect
43 underground facilities.

44 2. In agricultural operations or for the purpose of finding or
45 extracting natural resources.

1 3. With hand tools on property owned or occupied by the person
2 performing the excavation while gardening or tilling such property.

3 G. AN UNDERGROUND FACILITIES OPERATOR OR AN EXCAVATOR MAY BE
4 SUBJECT TO A CIVIL PENALTY AS PROVIDED BY THIS SECTION IF THE UNDERGROUND
5 FACILITIES OPERATOR OR THE EXCAVATOR FAILS:

6 1. TO NOTIFY THE ONE-CALL NOTIFICATION CENTER AT LEAST TWO BUSINESS
7 DAYS BEFORE BEGINNING EXCAVATION.

8 2. TO COMPLY WITH A LARGE PROJECT TICKET COORDINATION PLAN.

9 3. TO ADHERE TO THE REQUIREMENTS OF THE INTERACTIVE POSITIVE
10 RESPONSE SYSTEM.

11 Sec. 6. Title 40, chapter 2, article 6.3, Arizona Revised Statutes,
12 is amended by adding section 40-360.33, to read:

13 40-360.33. Corporation commission; rulemaking; one-call
14 notification center

15 THE COMMISSION, IN CONSULTATION WITH THE ONE-CALL NOTIFICATION
16 CENTER AND IMPACTED STAKEHOLDERS, SHALL:

17 1. ADOPT RULES TO IMPLEMENT THIS ARTICLE THAT INCLUDE ALL OF THE
18 FOLLOWING:

19 (a) PROCEDURES FOR LARGE PROJECT TICKETS.

20 (b) MANDATORY WHITE LINING.

21 (c) THE INTERACTIVE POSITIVE RESPONSE SYSTEM.

22 2. ESTABLISH MINIMUM TECHNICAL AND DATA SECURITY STANDARDS FOR THE
23 INTERACTIVE POSITIVE RESPONSE SYSTEM.

24 Sec. 7. Corporation commission; rulemaking; one year

25 The corporation commission shall adopt rules to implement this act
26 within one year after the effective date of this act.