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Senate Engrossed House Bill

State of Arizona
House of Representatives
Forty-seventh Legislature
First Regular Session
2005

HOUSE BILL 2256

AN ACT

AMENDING SECTIONS 40-360.21, 40-360.22, 40-360.23, 40-360.24, 40-360.26, 40-360.28, 40-360.30 AND 40-360.32, ARIZONA REVISED STATUTES; 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 to
3 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 disconnected
7 from a portion of the facility, or from any other facility, that is in use or
8 still carries service.

9 2. "BUILDING OFFICIAL" MEANS THE OFFICER EMPLOYED BY A POLITICAL
10 SUBDIVISION OF THIS STATE AND CHARGED WITH THE ADMINISTRATION AND ENFORCEMENT
11 OF A BUILDING CODE TO REGULATE THE QUALITY, TYPE OF MATERIAL AND WORKMANSHIP
12 OF CONSTRUCTION OF BUILDINGS OR STRUCTURES.

13 ~~2.~~ 3. "Careful and prudent manner" means conducting excavation in
14 such a way that when it is within twenty-four inches of the underground
15 facility located and marked, ~~by the owner or~~ UNDERGROUND FACILITIES
16 operator, by stakes, paint or in some customary manner, the exact location is
17 manually determined, and the uncovered facility is supported and protected.

18 ~~3.~~ 4. "Cross culverts or similar roadway drainage facilities" means
19 transverse drainage structures ~~where~~ WITH both ends or openings ~~are~~ visible,
20 and ~~which~~ includes box culverts, drainage pipes or other covered structures.

21 5. "DETECTIBLE UNDERGROUND LOCATION DEVICE" MEANS ANY DEVICE THAT IS
22 INSTALLED UNDERGROUND AND THAT IS CAPABLE OF BEING DETECTED FROM ABOVE GROUND
23 WITH AN ELECTRONIC LOCATING DEVICE.

24 ~~4.~~ 6. "Excavation" means any operation in which earth, rock or other
25 material in the ground is moved, removed or otherwise displaced by means or
26 use of any tools, equipment or explosives and includes, without limitation,
27 grading, trenching, digging, ditching, drilling, augering, BORING,
28 tunnelling, scraping, cable or pipe plowing and driving.

29 ~~5.~~ 7. "Implied easement" means any easement or right-of-way on
30 private property required to provide utility services by means of underground
31 facilities ~~on~~ IN property of the owner requesting such service.

32 ~~6.~~ 8. "Inactive" means:

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

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

38 ~~7.~~ 9. "Installation records of an underground facility" means maps,
39 drawings, diagrams, surveys, schematics, illustrations, sketches or any other
40 depictions or descriptions of an underground facility that reflect the
41 location at the time of installation of the underground facility and any
42 surface extensions in a reasonably accurate manner.

1 marking; on-site representative; validity period
2 of markings; liability for misuse of locate
3 requests; detectible underground locating devices;
4 civil penalty

5 A. A person shall not make or begin any excavation in any public
6 street, alley, right-of-way dedicated to the public use or utility easement,
7 ~~or on~~ IN any express or implied private property utility easement, without
8 first determining whether underground facilities will be encountered, and if
9 so where they are located from each and every ~~public utility, municipal~~
10 ~~corporation or other person having the right to bury such underground~~
11 ~~facilities within the public street, alley, right-of-way or utility easement~~
12 UNDERGROUND FACILITIES OPERATOR and taking measures for control of the
13 facilities in a careful and prudent manner.

14 B. ~~Every public utility, municipal corporation or other person having~~
15 ~~the right to bury~~ underground facilities OPERATOR shall file with the
16 corporation commission the job title, address and telephone number of the
17 person or persons from whom the necessary information may be obtained. Such
18 person or persons shall be readily available during established business
19 hours. The information on file shall also include the name, address and
20 telephone number of each one-call notification center to which the ~~owner of~~
21 ~~the facility~~ UNDERGROUND FACILITIES OPERATOR belongs. Upon receipt of
22 inquiry or notice from the excavator, the ~~owner of the facility~~ UNDERGROUND
23 FACILITIES OPERATOR shall respond as promptly as practical, but in no event
24 later than two working days, by marking such facility with stakes, paint or
25 in some customary manner. No person shall begin excavating before the
26 location and marking are complete or the excavator is notified that marking
27 is unnecessary. IF THE EXCAVATOR CONSENTS, AN UNDERGROUND FACILITIES
28 OPERATOR MAY NOTIFY THE ONE-CALL NOTIFICATION CENTER THAT MARKING IS
29 UNNECESSARY PURSUANT TO A METHOD ESTABLISHED BY THE ONE-CALL NOTIFICATION
30 CENTER. AN UNDERGROUND FACILITIES OPERATOR MAY DELEGATE ANY MARKING OR
31 NOTIFICATION OBLIGATIONS REQUIRED BY THIS SUBSECTION TO AN AGENT OR SERVANT
32 OF THE UNDERGROUND FACILITIES OPERATOR. AN UNDERGROUND FACILITIES OPERATOR
33 MAY NOTIFY THE EXCAVATOR THAT MARKING IS UNNECESSARY PURSUANT TO ANY MUTUALLY
34 AGREEABLE METHOD.

35 C. On a timely request by the ~~owner of a facility~~ UNDERGROUND
36 FACILITIES OPERATOR, the excavator shall mark the boundaries of the location
37 requested to be excavated in accordance with a color code designated by the
38 commission or by applicable custom or standard in the industry. A request
39 under this subsection for excavator marking does not alter any other
40 requirement of this section.

41 D. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, in performing the
42 marking required by subsection B of this section, the ~~owner~~ UNDERGROUND
43 FACILITIES OPERATOR of an underground facility installed after December 31,
44 1988 in a public street, alley or right-of-way dedicated to public use, but
45 not including any express or implied private property utility easement, shall

1 locate the facility by referring to installation records of the facility and
2 utilizing one of the following methods:

- 3 1. Vertical line or facility markers.
- 4 2. Locator strip or locator wire.
- 5 3. Signs or permanent markers.
- 6 4. Electronic or magnetic location or tracing techniques.
- 7 5. Electronic or magnetic sensors or markers.
- 8 6. Metal sensors or sensing techniques.
- 9 7. Sonar techniques.
- 10 8. Underground electrical or radio transmitters.
- 11 9. Manual location techniques, including pot-holing.
- 12 10. Surface extensions of underground facilities.
- 13 11. Any other surface or subsurface location technique THAT IS at least
14 as accurate as the other marking methods in this subsection AND THAT IS not
15 prohibited by the commission or by federal or state law.

16 E. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, for an underground
17 facility other than one installed after December 31, 1988, in a public
18 street, alley or right-of-way dedicated to public use, in performing the
19 marking required by subsection B of this section, the ~~owner~~ UNDERGROUND
20 FACILITIES OPERATOR may refer to installation or other records relating to
21 the facility to assist in locating the facility and shall locate the facility
22 utilizing one of the methods listed under subsection D of this section.

23 F. If an underground ~~facility-owner~~ FACILITIES OPERATOR is unable to
24 complete the location and marking within the time period provided by
25 subsection B of this section, the ~~facility-owner~~ FACILITIES OPERATOR shall
26 satisfy the requirements of this section by providing prompt notice of these
27 facts to the excavator and assigning one or more representatives to be
28 present on the excavation site at all pertinent times as requested by the
29 excavator to provide facility location services until the facilities have
30 been located and marked. The underground ~~facility-owner~~ FACILITIES OPERATOR
31 shall bear all of its own costs associated with assigning representatives.
32 If representatives are assigned under this subsection, the excavator is not
33 responsible or liable for damage to or repair of the ~~owner's~~ UNDERGROUND
34 FACILITIES OPERATOR'S underground facility while acting under the direction
35 of an assigned representative of the ~~owner~~ UNDERGROUND FACILITIES OPERATOR,
36 unless the damage or need for repair was caused by the excavator's
37 negligence.

38 G. The marking required by subsection B of this section is valid for
39 fifteen days from the date of the marking, excluding Saturdays, Sundays and
40 other legal holidays. If the excavation will continue past the validity
41 period of the marks as provided by this subsection, the excavator shall
42 notify the ~~facility-owner~~ UNDERGROUND FACILITIES OPERATOR or an organization
43 designated by the ~~facility-owner~~ UNDERGROUND FACILITIES OPERATOR at least two
44 days, excluding Saturdays, Sundays and OTHER legal holidays, before the end
45 of the validity period. ALL REQUESTS FOR FACILITY MARKINGS AND REQUESTS TO
46 EXTEND THE VALIDITY PERIOD OF THE MARKINGS SHALL BE FOR THE PURPOSE OF

1 EXCAVATING WITHIN THE VALIDITY PERIOD OF THE MARKINGS. AN EXCAVATOR THAT
2 REQUESTS FACILITY MARKINGS SHALL LIMIT THE REQUEST TO AN AREA THAT CAN
3 REASONABLY BE EXCAVATED WITHIN THE VALIDITY PERIOD OF THE MARKINGS. A PERSON
4 WHO VIOLATES THIS SUBSECTION IS LIABLE TO THE ONE-CALL NOTIFICATION CENTER
5 AND TO ALL AFFECTED UNDERGROUND FACILITIES OPERATORS FOR ANY RESULTING
6 DAMAGES, COSTS AND EXPENSES.

7 H. Nothing in this section shall be construed to prevent an excavator
8 and an underground ~~facility owner~~ FACILITIES OPERATOR from holding a
9 preconstruction conference regarding marking and location of underground
10 facilities and entering into a mutually agreeable written schedule or written
11 arrangement for satisfying the requirements of this section, except that this
12 subsection does not eliminate the excavator's obligation to notify the
13 ~~facility owner~~ UNDERGROUND FACILITIES OPERATOR TO LOCATE AND mark excavation
14 sites under subsection B of this section based on the actual construction
15 schedule.

16 I. FOR ABANDONED AND APPARENTLY ABANDONED UNDERGROUND FACILITIES:

17 1. The ~~owner of an~~ underground ~~facility~~ FACILITIES OPERATOR shall
18 notify the excavator whether the facility is active or abandoned. AN
19 INACTIVE FACILITY SHALL BE CONSIDERED ACTIVE FOR PURPOSES OF THIS SUBSECTION.
20 THIS SECTION DOES NOT OBLIGATE ANY PERSON TO REPRESENT THAT AN UNDERGROUND
21 SEWER FACILITY IN ANY PUBLIC STREET, ALLEY, RIGHT-OF-WAY DEDICATED TO PUBLIC
22 USE OR UTILITY EASEMENT IS ABANDONED IF IT WAS INSTALLED ON OR BEFORE
23 DECEMBER 31, 2005 AND IT IS NOT OWNED BY AN UNDERGROUND FACILITIES OPERATOR
24 OF A SEWER SYSTEM.

25 2. For an underground facility abandoned after December 31, 1988 or
26 covered by installation records prepared under section 40-360.30, subsection
27 A, the ~~owner of the facility~~ UNDERGROUND FACILITIES OPERATOR may not advise
28 or represent to the excavator that a facility or portion of a facility is
29 abandoned unless the ~~owner~~ UNDERGROUND FACILITIES OPERATOR has verified, by
30 reference to installation records or by testing, that the facility or portion
31 is actually abandoned and not merely inactive. For all other abandoned or
32 apparently abandoned underground facilities, each one-call notification
33 center shall establish a method of providing personnel from a ~~facility owner~~
34 AN UNDERGROUND FACILITIES OPERATOR qualified to safely inspect and verify
35 that the facility is abandoned or active and a method for reimbursing the
36 verifying ~~facility owner~~ UNDERGROUND FACILITIES OPERATOR for the costs
37 incurred. The reimbursement method may not include any charge or expense to
38 the excavator. ~~An inactive facility shall be considered active for purposes~~
39 ~~of this article. For all purposes under this article, a facility owner,~~
40 ~~excavator or other person subject to this article may~~ FOR THE PURPOSES OF
41 THIS ARTICLE, AN UNDERGROUND FACILITIES OPERATOR SHALL not represent that an
42 underground facility is abandoned, ~~or treat an underground facility as~~
43 ~~abandoned,~~ unless the facility has been verified as abandoned pursuant to
44 this subsection.

45 3. FOR THE PURPOSES OF THIS ARTICLE, IF AN EXCAVATOR ENCOUNTERS AN
46 APPARENTLY ABANDONED UNDERGROUND FACILITY, THE EXCAVATOR SHALL NOT TREAT THE

1 UNDERGROUND FACILITY AS ABANDONED UNTIL THE EXCAVATOR HAS RECEIVED
2 NOTIFICATION THAT THE UNDERGROUND FACILITY IS ABANDONED PURSUANT TO PARAGRAPH
3 1 OF THIS SUBSECTION OR HAS NOTIFIED THE UNDERGROUND FACILITY OPERATOR OF THE
4 APPARENT ABANDONMENT AND HAS RECEIVED VERIFICATION OF ABANDONMENT PURSUANT TO
5 PARAGRAPH 2 OF THIS SUBSECTION.

6 J. ALL NEW AND ACTIVE UNDERGROUND FACILITIES INSTALLED IN ANY REAL
7 PROPERTY AFTER DECEMBER 31, 2005 SHALL BE INSTALLED WITH A DETECTIBLE
8 UNDERGROUND LOCATION DEVICE UNLESS THE FACILITY IS CAPABLE OF BEING DETECTED
9 FROM ABOVE GROUND WITH AN ELECTRONIC LOCATING DEVICE. A PERSON WHO VIOLATES
10 THIS SUBSECTION IS SUBJECT TO A CIVIL PENALTY IN AN AMOUNT NOT TO EXCEED FIVE
11 THOUSAND DOLLARS. THE BUILDING OFFICIAL SHALL ADMINISTER AND ENFORCE THIS
12 SUBSECTION FOR ALL UNDERGROUND FACILITIES EXCEPT THOSE THAT ARE INSTALLED FOR
13 A PUBLIC UTILITY OR MUNICIPAL CORPORATION. ANY PENALTIES RECEIVED BY THE
14 BUILDING OFFICIAL SHALL BE DEPOSITED IN THE MUNICIPALITY'S OR POLITICAL
15 SUBDIVISION'S GENERAL FUND, AS APPLICABLE.

16 K. Nothing in this section shall be construed as prohibiting the use
17 of warning tape, warning markers or any other warning device by the ~~owner of~~
18 an underground facility FACILITIES OPERATOR.

19 L. FOR EVERY UNDERGROUND FACILITIES OPERATOR OF A SEWER SYSTEM:

20 1. FOR THE PURPOSES OF THIS ARTICLE, AN UNDERGROUND FACILITIES
21 OPERATOR OF A SEWER SYSTEM IS RESPONSIBLE FOR LOCATING AND MARKING THE
22 UNDERGROUND SEWER FACILITIES OWNED BY ANOTHER PERSON PURSUANT TO SUBSECTION B
23 OF THIS SECTION IF THOSE UNDERGROUND FACILITIES ARE INSTALLED AFTER DECEMBER
24 31, 2005 AND ARE IN ANY PUBLIC STREET, ALLEY, RIGHT-OF-WAY DEDICATED TO
25 PUBLIC USE OR UTILITY EASEMENT.

26 2. IN PERFORMING THE MARKING REQUIRED BY THIS SUBSECTION, THE
27 UNDERGROUND FACILITIES OPERATOR OF THE SEWER SYSTEM SHALL LOCATE THE FACILITY
28 BY REFERRING TO INSTALLATION RECORDS OF THE FACILITY AND BY USING ONE OF THE
29 METHODS LISTED IN SUBSECTION D OF THIS SECTION.

30 3. THIS SUBSECTION DOES NOT OBLIGATE AN UNDERGROUND FACILITIES
31 OPERATOR OF A SEWER SYSTEM TO LOCATE AND MARK THE UNDERGROUND SEWER
32 FACILITIES OWNED BY ANOTHER PERSON IF THE CUSTOMER RECEIVING SEWER SERVICE
33 FROM THE UNDERGROUND SEWER FACILITY REFUSES TO GRANT PERMISSION TO THE
34 UNDERGROUND FACILITIES OPERATOR OF A SEWER SYSTEM TO ACCESS THE REAL PROPERTY
35 FOR THE PURPOSE OF ASCERTAINING THE LOCATION OF THE UNDERGROUND SEWER
36 FACILITY IN ANY PUBLIC STREET, ALLEY, RIGHT-OF-WAY DEDICATED TO PUBLIC USE OR
37 EASEMENT.

38 4. THIS SUBSECTION DOES NOT OBLIGATE AN UNDERGROUND FACILITIES
39 OPERATOR OF A SEWER SYSTEM TO MAINTAIN, CLEAN OR UNSTOP UNDERGROUND SEWER
40 FACILITIES OWNED BY ANOTHER PERSON.

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

43 40-360.23. Making excavation in careful, prudent manner;
44 liability for negligence; notice; response;
45 obliteration of marks; representative availability

1 A. Obtaining information as required by this article does not excuse
2 any person making any excavation from doing so in a careful and prudent
3 manner, nor shall it excuse such persons from liability for any damage or
4 injury resulting from his negligence.

5 B. After markings have been made pursuant to section 40-360.22, an
6 excavator shall notify either the ~~owner of an underground facility~~ FACILITIES
7 OPERATOR or an organization designated by the ~~owner~~ UNDERGROUND FACILITIES
8 OPERATOR if the excavator encounters an underground facility that has not
9 been located and marked or has been marked in the wrong location.

10 C. Unless it would interfere with compliance with commission rules or
11 requirements regarding maintenance or restoration of service and repair of
12 facilities, the ~~owner of an underground facility~~ FACILITIES OPERATOR shall
13 immediately respond to a notification under subsection B of this section for
14 emergencies involving injury or damage.

15 D. An excavator or a ~~facility owner~~ AN UNDERGROUND FACILITIES OPERATOR
16 shall not move or obliterate markings made pursuant to section 40-360.22,
17 subsection B or fabricate markings in an unmarked location for the purpose of
18 concealing or avoiding liability for a violation of or noncompliance with
19 this article.

20 E. ~~Owners of~~ Underground facilities OPERATORS in a county having a
21 population of more than seven hundred one thousand persons according to the
22 most recent United States decennial census shall have designated
23 representatives available and on call for excavators who by public works
24 contract specifications or municipal ordinances are required to work in
25 congested locations involving public streets, alleys or rights-of-way
26 dedicated to the public use during the night or on weekends. Night and
27 weekend telephone numbers to reach the designated representatives shall be
28 furnished to the excavator in writing within forty-eight hours after they are
29 requested for a specific location.

30 Sec. 4. Section 40-360.24, Arizona Revised Statutes, is amended to
31 read:

32 40-360.24. Notice of damage to underground facility

33 In the event of any damage to or dislocation of any underground
34 facility OR DETECTIBLE UNDERGROUND LOCATION DEVICE in connection with any
35 excavation the person responsible for the excavation operations shall
36 immediately notify the ~~owner of such facility~~ UNDERGROUND FACILITIES OPERATOR
37 and shall not attempt any repair, except temporary emergency repairs, to the
38 damaged facility OR DEVICE, EXCEPT THAT TEMPORARY EMERGENCY REPAIRS SHALL NOT
39 BE MADE BY AN EXCAVATOR, WITHOUT THE UNDERGROUND FACILITIES OPERATOR'S
40 CONSENT, TO A PUBLIC UTILITY'S OR MUNICIPAL CORPORATION'S NATURAL GAS,
41 ELECTRIC, PROPANE, HAZARDOUS LIQUID, COMMUNICATION, CABLE TELEVISION, SEWER
42 SYSTEM, WASTE WATER OR WATER FACILITIES. The excavation shall be left open
43 until the arrival of representatives of the ~~owner of the facility~~ UNDERGROUND
44 FACILITIES OPERATOR. Upon receipt of notice, the ~~owner of the~~ underground
45 ~~facility~~ FACILITIES OPERATOR shall dispatch its representatives promptly, but

1 in no event later than two working days, to examine the underground facility,
2 and, if necessary, effect repairs.

3 Sec. 5. Section 40-360.26, Arizona Revised Statutes, is amended to
4 read:

5 40-360.26. Damage of underground facility; liability to owner;
6 homeowner exemption

7 A. If any underground facility is damaged by any person IN VIOLATION
8 OF THIS ARTICLE as a result of failing to obtain information as to its
9 location, failing to take measures for protection of the facilities or
10 failing to excavate in a careful and prudent manner ~~as required by this~~
11 ~~article~~, the person is liable to the owner of the underground facility for
12 the total cost of the repair of the facility.

13 B. A ~~person~~ HOMEOWNER engaging in excavating in an express or implied
14 PRIVATE PROPERTY utility easement across property owned by ~~him~~ THE HOMEOWNER
15 is not liable to the owner OR OPERATOR of the underground facility damaged by
16 the ~~property owner~~ HOMEOWNER PURSUANT TO THIS SECTION if the damaged
17 underground facility is not buried or placed below ground in accordance with
18 the applicable standards, if the underground facility is not located within
19 the easement or if the ~~person~~ HOMEOWNER engaged in the excavation has
20 complied with section 40-360.22.

21 Sec. 6. Section 40-360.28, Arizona Revised Statutes, is amended to
22 read:

23 40-360.28. Civil penalty; liability

24 A. EXCEPT AS PROVIDED IN SECTION 40-360.22, SUBSECTION J, a person who
25 violates any provision of this article is subject to a civil penalty in an
26 amount not to exceed five thousand dollars to be imposed by the court in
27 favor of the state. Any penalties received by the state shall be deposited
28 in the STATE general fund.

29 B. If a violation of this article results in ~~physical contact with~~
30 DAMAGE TO an underground facility, the violator is liable to the owner of the
31 facility for all damages to the facilities and ALL costs, ~~AND~~ expenses, ~~and~~
32 INCLUDING damages to third ~~parties~~ PERSONS, incurred by the owner of the
33 facility as a result of the ~~contact~~ DAMAGE.

34 C. If the ~~owner or~~ UNDERGROUND FACILITIES operator ~~fails~~ VIOLATES THIS
35 ARTICLE BY FAILING to locate AND MARK or BY incorrectly ~~locates~~ LOCATING the
36 underground facility, ~~pursuant to this article~~, the ~~owner or~~ UNDERGROUND
37 FACILITIES operator becomes liable for resulting damages, costs and expenses
38 to the injured party.

39 D. This section is not applicable to an excavation made:

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

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

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

1 Sec. 7. Section 40-360.30, Arizona Revised Statutes, is amended to
2 read:

3 40-360.30. Installation records of underground facilities

4 A. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, for all new
5 underground facilities, excluding service drops and service lines, installed
6 after December 31, 1988 in a public street, alley or right-of-way dedicated
7 to the public use, but not including any express or implied private property
8 utility easement, the ~~owner of an~~ underground facility FACILITIES OPERATOR
9 shall prepare, or cause to be prepared, installation records of the
10 underground facility, shall keep such records in its possession and shall
11 refer to such records in locating and marking pursuant to section 40-360.22,
12 SUBSECTION B. FOR ALL NEW SEWER FACILITIES INSTALLED AFTER DECEMBER 31, 2005
13 IN ANY PUBLIC STREET, ALLEY, RIGHT-OF-WAY DEDICATED TO THE PUBLIC USE OR
14 UTILITY EASEMENT, THE UNDERGROUND FACILITIES OPERATOR OF A SEWER SYSTEM SHALL
15 PREPARE, OR CAUSE TO BE PREPARED, INSTALLATION RECORDS OF THE UNDERGROUND
16 FACILITY, SHALL KEEP SUCH RECORDS IN ITS POSSESSION AND SHALL REFER TO SUCH
17 RECORDS IN LOCATING AND MARKING PURSUANT TO SECTION 40-360.22, SUBSECTION B.
18 TO ASSIST THE UNDERGROUND FACILITIES OPERATOR OF A SEWER SYSTEM IN
19 MAINTAINING SUCH RECORDS, A CERTIFIED SURVEY PLAN OF THE SEWER'S LOCATION IN
20 THE PUBLIC STREET, ALLEY, RIGHT-OF-WAY DEDICATED TO PUBLIC USE OR UTILITY
21 EASEMENT SHALL BE PROVIDED TO THE UNDERGROUND FACILITIES OPERATOR OF A SEWER
22 SYSTEM BY THE CUSTOMER RECEIVING SEWER SERVICE AS A CONDITION TO RECEIVING
23 SUCH SEWER SERVICE. Installation records shall also reflect, if applicable,
24 any field notes or other indications by the installer of the facilities that
25 the installation involved deviations or changes from installation standards,
26 instructions or designs and the correction of any inaccuracies found as a
27 result of locating or marking the underground facilities. Installation
28 records of an underground facility shall indicate if all or a portion of the
29 facility has been abandoned.

30 B. Installation records REQUIRED BY THIS SECTION are for the internal
31 use of the ~~facility owner~~ UNDERGROUND FACILITIES OPERATOR in locating its
32 underground facilities and are not intended to be relied on by others.

33 C. ~~After January 1, 1989,~~ Information contained in installation
34 records relating to the nature and location of underground facilities, but
35 not the installation records themselves, shall be made available ~~in a timely~~
36 ~~manner~~ WITHIN TEN WORKING DAYS and on a ~~need-to-know~~ CONFIDENTIAL basis to
37 authorized persons who submit a written request and who are engaged in THE
38 design of construction projects involving excavation in a public street,
39 alley, ~~or~~ right-of-way dedicated to the public use OR UTILITY EASEMENT,
40 excluding any express or implied private property utility easement. The
41 ~~owner of an underground facility~~ UNDERGROUND FACILITIES OPERATOR shall make
42 the same information available to authorized persons who are complying with a
43 requirement imposed by contract providing for construction projects involving
44 excavation in a public street, alley, ~~or~~ right-of-way dedicated to the
45 public use, but excluding any express or implied private property utility
46 easement, or by operation of law, to verify or confirm the nature and

1 location of underground facilities. The ~~owner of the underground facility~~
2 UNDERGROUND FACILITIES OPERATOR, on consultation with the authorized person,
3 shall determine the appropriate manner and form for providing the
4 information. The ~~owner of the underground facility~~ UNDERGROUND FACILITIES
5 OPERATOR may indicate any portions of the information that are proprietary
6 and require the authorized person to protect proprietary matters.

7 ~~D. The owner of an underground facility~~ UNDERGROUND FACILITIES
8 OPERATOR, in its sole discretion, may satisfy the requirements of THIS
9 subsection ~~C of this section~~ by allowing an authorized person to inspect or
10 copy installation records themselves.

11 Sec. 8. Section 40-360.32, Arizona Revised Statutes, is amended to
12 read:

13 40-360.32. One-call notification center membership; termination

14 ~~A. Every public utility, municipal corporation, underground facility~~
15 ~~owner or person having the right to bury underground facilities~~ EVERY
16 UNDERGROUND FACILITIES OPERATOR WHO IS OBLIGATED TO LOCATE AND MARK
17 UNDERGROUND FACILITIES PURSUANT TO SECTION 40-360.22, SUBSECTION B, shall be
18 a member of a one-call notification center, either statewide or serving each
19 county in which such entity or person has underground facilities. Each
20 one-call notification center shall establish a limited basis participation
21 membership option, which may be made available to all members, but which must
22 be made available for any member serving less than one thousand customers or
23 any member irrigation or electrical district. ~~A facility owner~~ AN
24 UNDERGROUND FACILITIES OPERATOR who elects limited basis participation
25 membership ~~will~~ SHALL provide to the one-call notification center the
26 location of its underground facilities solely by identifying the incorporated
27 cities and towns, or for unincorporated county areas, by ~~indentifying~~
28 IDENTIFYING the townships, in which it has facilities. The service level
29 provided to limited basis participation members by the one-call notification
30 center is limited to providing excavators with the names and telephone
31 numbers the excavators should contact to obtain facilities location. Each
32 one-call notification center shall establish fair and reasonable fees for
33 limited basis participation members, based on customer count, areas occupied
34 or miles of underground facilities. WHEN ANY PERSON NEGLECTS OR REFUSES TO
35 PAY FEES WHEN DUE AND IS IN ARREARS FOR SIXTY DAYS, THE ONE-CALL NOTIFICATION
36 CENTER MAY TERMINATE THE MEMBERSHIP OF THAT PERSON WITHOUT NOTICE AND MAY
37 HAVE A CLAIM FOR FEES AND A SEPARATE CLAIM FOR DAMAGES FOR BREACH OF AN
38 ANCILLARY AGREEMENT. THE ONE-CALL NOTIFICATION CENTER MAY REFUSE TO
39 REINSTATE ANY PERSON'S MEMBERSHIP UNTIL THAT PERSON'S FEE IS PAID IN FULL.

40 ~~B. This section does not apply to an owner or occupant of real~~
41 ~~property where underground facilities are buried if the facilities are used~~
42 ~~solely to furnish services or commodities to that property and no part of the~~
43 ~~facilities is located in a public street, alley or right-of-way dedicated to~~
44 ~~public use.~~