

Proposed Regulation to provide requirements that Licensees shall follow while completing any excavation or barricading work within the City of Albuquerque under the Street Excavation and Barricading Ordinance of the City of Albuquerque, New Mexico.

NOTICE OF PROPOSED RULEMAKING

The Department of Municipal Development (DMD) hereby gives notice that DMD will conduct a public hearing on Thursday, June 5, 2025 from 12:00 p.m. to 2:00 p.m. on the rule described below. The hearing will be held via Zoom at <https://cabq.zoom.us/j/87326296926>; Meeting ID: [87326296926](https://cabq.zoom.us/j/87326296926); 1-669-444-9171.

Proposed Rule: <https://www.cabq.gov/clerk/rulemaking>

The purpose of this meeting is to obtain public input on the proposed Regulation to provide requirements that Licensees shall follow while completing any excavation or barricading work within the City of Albuquerque under the Street Excavation and Barricading Ordinance of the City of Albuquerque, New Mexico. The Regulation effects City Ordinance § 6-5-2-1 et seq. The Regulation:

- Provides all vehicles conducting work for a Licensee within City ROW under a City work order, permit or other agreement shall conspicuously display signage with the name and address of the Licensee. Such signage shall also include a contact phone number, monitored and answered from 7 a.m. to 7 p.m. MST to allow the public to contact the Licensee with any questions or concerns;
- Provides all contractors conducting work for a Licensee within a City ROW under a City work order, permit or other agreement shall clearly display the name of the Licensee on their outer clothing;
- Provides all contractors conducting work for a Licensee and operating in the City ROW shall have written materials available in Spanish and English that include the Licensee's contact information and information about the work being performed;
- Provides Licensees and their agents are required to deliver written notice of upcoming work to affected residents at least 48 hours before construction. Notice shall not include any advertisement for services. Notice shall include a description of the work to be performed, traffic control set-up, dates and times of activities, and the name and telephone number of the Licensee's local representative. Licensee will not receive a Barricade or Excavation Permit, or combination thereof, until it has provided the City with documentation showing that the required written notice has been delivered. Documentation may include, but is not limited to, photographic or video evidence that the written notice was provided to affected residents, or certified letters;
- Provides in the event Licensee is placing fiber within City ROW, fiber micro trenching, boring and excavating within residential neighborhoods and streets shall only be allowed

between the hours of 7:00 a.m. and 4:00 p.m. All other fiber network construction and installation shall only be allowed between 6:00 a.m. and 7:00 p.m. The City may revise these time restraints in its sole discretion upon written notice;

- Provides in the event a Licensee is placing fiber within City ROW, a moratorium/cooling off period of six (6) months on further fiber construction within that ROW shall commence once construction has been completed, unless Licensees otherwise coordinate to share conduit or excavations. If Licensees have coordinated to share conduit or to have separate conduit installed in the same trenches to avoid additional excavating, then the moratorium/cooling off period shall not preclude the cooperating Licensees from running fiber drop lines to their respective customers. Licensees will advertise planned construction locations to other Licensees for the purpose of providing the opportunity of conduit sharing. At a minimum, such notification shall consist of:
 - i. Posting information on NM811 website, NMPRC website, or the City of Albuquerque's Planning Dept website.
 - ii. Proof that the notification was advertised for thirty (30) days prior to applying for the barricade and/or excavation permit, and
 - iii. Proof that other Licensees declined to participate for purposes of sharing conduit or installing extra conduit in the single excavation;
- Provides Licensees shall respond to complaints within 24 hours of receipt, by either notifying the complainant that the issue has been resolved or by providing an explicit timeframe in which the issue will be resolved. Licensees shall also provide the name and contact information of a person to whom the complainant can address any follow-up questions;
- Provides if the City determines that there have been an excessive number of complaints related to the Licensee's activity, the City may – at its sole discretion – order the Licensee to immediately stop work until such time as the Licensee has addressed and remediated all outstanding complaints to the satisfaction of the City. This does not limit the City's authority to stop work pursuant to the license or applicable law;
- Provides Licensee is required to engage, at their own expense, an engineering firm approved in advance by the City to manage contractors and subcontractors and confirm that work within City ROW complies with License requirements, City ordinances, rules, and construction standards, including requirements under any permits or work orders issued by the City. Licensee is required to provide the name of such firm to the City upon request for a work order;
- Provides soft scape and asphalt restoration within City ROW and authorized under a City issued work order or permit shall be completed within 48 hours. Cement restoration shall be temporarily completed within 48 hours and permanently completed within 15 days. Permanent cement restoration shall not be held up for any reason, regardless of the amount of cement needed;

- Provides Licensee will be responsible for the removal of all temporary utility markings (spray-paint, whiskers etc) applied for the construction project within 30 days of completion of construction; and
- Provides all solicitation efforts must strictly follow the City of Albuquerque's solicitation ordinance; and
- Provides failure to follow these guidelines, or any provisions of §§ 6-5-2-1 et seq., or other applicable law, regulation, rule or agreement with the City, shall result in enforcement or abatement actions, as determined at the discretion of the Mayor or designee, up to and including termination of applicable work order(s) or permit(s), suspension of the privilege of acquiring new work order or permits, or termination of the license agreement. Nothing in these required guidelines shall be construed as to limit in anyway of enforcement and abatement actions the City may have available as a matter of law, rule or regulation against Licensees working in or occupying City ROW.

The public hearing allows members of the public an opportunity to submit testimony and arguments on the Regulation.

The text of the proposed Regulation is available on the City Clerk's website at <https://www.cabq.gov/clerk/rulemaking>.

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To submit written public comment on the Proposed Regulation, please email aeye@cabq.gov.

Any person with a disability who is in need of assistance to attend or participate in the hearing should contact Allison Eye at aeye@cabq.gov or 505.768.4539 at least five (5) business days prior to the hearing.

Any person in need of language access services to participate in the hearing, including interpretation services for Limited English Proficiency individuals and those who use sign language, should contact Allison Eye at aeye@cabq.gov or 505.768.4539 at least five (5) business days prior to the hearing.