

**City of Elko**  
**Business Impact Statement**

The following business impact statement was prepared pursuant to NRS 237.090 to address the proposed impact of the City of Elko Ordinance 835 and Resolution 27-18.

**CITY OF ELKO**  
**ORDINANCE NO. 835**

**AN ORDINANCE AMENDING TITLE 8, CHAPTER 2, OF THE ELKO CITY CODE ENTITLED "CONDITIONS OF UTILITY OCCUPANCY OF PUBLIC ROADS AND CITY STREET CUTS AND REPAIRS" BY ADDING SMART DIG REQUIREMENTS, AND MATTERS RELATED THERETO**

1. The following constitutes a description of the number and the manner in which comment was solicited from affected businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary. NRS 237.090(1)(a)

The ordinance presented for adoption amends various sections of the Utility ordinance as follows:

- Update and clarify definitions. Add definitions
- Update and clarify language throughout Title 8, Chapter 2
- Addition of Smart Dig requirements mandatory for excavations of at least one hundred (100) feet in length
- Installation of conduit mandatory in Rights- of -Way for Public Works Projects
- Installation of conduit in Rights- of -Way for Private Excavations – City to execute an agreement to pay incremental additional costs which shall not include amounts that would otherwise have been paid, provide the materials but not the labor or equipment required to install underground communications, city to bear all reasonable documented design and construction costs associated solely with and required for the installation of the conduit. The conduit will then be owned by the City.

**Notice of Proposed Rule**

- A notice was published in the Elko Daily Free Press for a period of five days regarding the proposed rule, how to submit comments, and when to submit comments.
- Letters were sent to the licensed construction companies, Engineers, Architect's, utility companies, the Chamber of Commerce, and the Board of Contractors. Names and addresses were obtained directly from the original license application. Over 204 notices were sent.
- Written comments were received by one company and are attached to this Business Impact Statement.

**Summary of Comments:**

One written comment was received and it stated: "Frontier has concerns in the above proposed ordinance that it could have financial impacts on our projects and delay in the timely completion of them. We wish to be part of any further workshops or meetings the City would hold for discussion." This statement is attached.

2. The estimated economic benefit of the proposed rule on businesses, including, without limitation, both adverse and beneficial effects, and both direct and indirect effects. NRS 237.090(1)(b)

**Adverse effects:** Various changes in the ordinance and resolution may be considered adverse effects.

- May extend the time it takes for a construction company or utility to complete a project.

**Beneficial effects:** Various changes in the ordinance and resolution may be considered beneficial.

- Adding mandatory conduit installation will increase the City's communication capabilities.

- Smart Dig benefits local governments and residents by promoting the deployment of advanced fiber networks and broadband competition
- Smart Dig policies decrease the frequency of inconvenient and possibly dangerous construction along roadways, protect the reliability of broadband networks, and incentivize providers to lay fiber underground, hiding unsightly equipment an Undergrounding fiber has some significant advantages, including better service reliability and more attractive neighborhoods beautifying the community.

**Direct effects:** Various changes in the ordinance do not appear to directly effect businesses.

- The City will pay for the cost of necessary materials (but not equipment) for the permittee to install underground Communications Infrastructure in the public rights of way.
- The City will bear all reasonable and documented design and construction costs associated solely with in inclusion of the City's communication infrastructure.

**Indirect effects:** Various changes in the ordinance do not appear to indirectly effect businesses.

- No indirect effects are known at this time.

3. The following constitutes a description of the methods the local government considered to reduce the impact of the proposed ordinance on businesses and a statement regarding whether any, and if so which, of these methods were used: (include whether the following was considered: simplifying the proposed rule; establishing different standards of compliance for a business; and if applicable, modifying a fee or fine set forth in the rule so that business would pay a lower fee or fine).

In order to reduce the impact the City of Elko added to the ordinance the following:

- The City shall provide at the City's cost the necessary materials for the permittee to install underground communications infrastructure in the public rights of way
- The City shall bear all reasonable and documented design and construction costs associated solely with the inclusion of the City's Communications Infrastructure
- The Infrastructure shall be owned by the city upon installation of the Communications Infrastructure

4. The governing body estimates the annual cost to the local government for enforcement of the proposed rule is: NRS 237.090(1)(d)

The City is unable to quantify costs at this time, however it is assumed the costs would be minimal.

5. The proposed rules provides for a new fee or increase in an existing fee and the total amount the local government expects to collect is: NRS 237.090(1)(e)

The City does not expect to have any or increased fee.

6. The money generated by the new fee or increase in existing fee will be used by the local government to: NRS 237.090(1)(e)

There is no fee.

7. The proposed rule includes provisions that duplicate or are more stringent than federal, state or local standards regulating the same activity. The following explains when such duplicative or more stringent provisions are necessary: NRS 237.090(1)(f)

The proposed changes are not duplicative or more stringent than existing federal, state or local standards.

**Objection to adopted rule: petition; procedure**

A business that is aggrieved by a resolution or ordinance adopted by the City Council may object to all or part of the resolution or ordinance by filing a petition with the Elko City Clerk within 30 days after the date on which the rule was adopted. Any petition filed must be based on the following grounds:

1. The City of Elko failed to prepare a business impact statement.
2. The business impact statement prepared did not consider or significantly underestimated the economic effect of the rule on business.

After receiving a petition filed by an aggrieved business, the Elko City Council shall determine whether the petition has merit.

If the governing body determines that the petition has merit, the Council may take action to amend the rule to which the business objected.

If the City Council finds that the petition does not have merit, the Council will take no action to amend the ordinance, resolution or regulation and such ordinance, resolution or regulation will remain in effect.

**Conclusion: (complete after City Council Approval of BIS).**


The Elko City Council reviewed the Business Impact Hearing on February 12, 2019. At this time public comment was made indicating concern regarding the costs to the private contractor. The City Council suggested a change to the ordinance to clarify the cost for construction and labor will be paid by the City.

The Elko City Council then approved the Business Impact Statement finding that Ordinance 835 will not impose a direct and significant burden upon a business or directly restrict the formation, operation, or expansion of a business.

**Certification:**

CITY MANAGER CERTIFICATION REQUIRED PER NRS 237.090(2):

I, Curtis Calder, as City Manager for the City of Elko, Nevada, hereby certify that, to the best of my knowledge and belief, the information contained in this business impact statement was prepared properly and accurately.



Curtis Calder

Prepared By:



Kelly Woodridge  
City Clerk