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OHIO REVISED CODE

[ ONE-CALL UTILITY PROTECTION SERVICE ]

As used in sections 3781.25 to 3781.32 of the Revised Code:

(A) "Protection service" means a notification center, but not an owner of an individual utility, that exists for the purpose of receiving notice from persons that prepare plans and specifications for or that engage in excavation work, that distributes this information to its members and participants, and that is registered with the secretary of state and the public utilities commission of Ohio under division (F) of section 153.64 of the Revised Code on March 14, 1989.

(B) "Underground utility facility" means any item buried or placed below the surface of the earth or submerged under water for use in connection with the storage or conveyance of water or sewage; electronic; telephonic; or telegraphic communications; television signals; electricity; crude oil; petroleum products; artificial or liquefied petroleum; natural gas; coal; steam; hot water; or other substances; except that it does not include private septic systems in a one family or two family dwelling not connected to any other system.

(C) "Utility" means any owner of an underground utility facility, including any public authority as defined in section 153.64 of the Revised Code, that owns an underground utility facility, except the owners of the following types of real property with respect to any underground utility facility located on that property:

- (1) The owner of a single-family or two, three, or four unit residential dwelling;
- (2) The owner of an apartment complex;
- (3) The owner of a commercial or industrial building or complex of buildings, including but not limited to, factories and shopping centers;
- (4) The owner of a farm.

(D) "Approximate location" means the site of the underground utility facility including the width of the underground utility facility plus eighteen inches on each side of the facility.

(E) "Days" excludes Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code and "hours" excludes hours on Saturdays, Sundays, and legal holidays.

(F) "Designer" means an engineer, architect, landscape architect, contractor, or other person who develops plans or designs for real property improvement or any other activity that will involve excavation.

(G) "Developer" means the person for whom the excavation is made and who will own or be the lessee of any improvement that is the object of the excavation.

(H) "Excavation" means the use of tools, powered equipment, or explosives to move earth, rock, or other materials in order to penetrate or bore or drill into the earth, or to demolish any structure whether or not it is

intended that the demolition will disturb the earth. "Excavation" includes such agricultural operations as the installation of drain tile, but excludes agricultural operations such as tilling that do not penetrate the earth to a depth of more than twelve inches. "Excavation" excludes any activity by a governmental entity which does not penetrate the earth to a depth of more than twelve inches. "Excavation" excludes any underground mining operations that do not involve disturbance to the earth's surface.

(I) "Excavation site" means the area within which excavation will be performed.

(J) "Excavator" means the contractor or other person who is responsible for making the excavation.

(K) "Interstate gas pipeline" means an interstate gas pipeline subject to the "Natural Gas Pipeline Safety Act of 1968, 11 82 Stat. 720, 49 U.S.C. 1671, as amended.

(L) "Interstate hazardous liquids pipeline" means an interstate hazardous liquids pipeline subject to the "Hazardous Liquid Pipeline Safety Act of 1979," 93 Stat. 1003, 49 U.S.C. 2002, as amended.

(M) "Special notification requirements" means requirements for notice to an owner of an interstate hazardous liquids pipeline or an interstate gas pipeline that must be made prior to commencing excavation and pursuant to the owner's public safety program adopted under federal law.

HISTORY: 142 v S 174 (Eff 3-14-89); 143 v S 264, Eff 7-2-90

#### Cross References to Related Sections

Notification procedures, RC 3781.28

Responsibility for performance of duties, RC 3781.32

3781.26 Participation in underground utility facilities protection service; publicizing importance; records.

(A) Each utility that owns or operates underground utility facilities shall participate in and register the location of its underground utility facilities with a protection service that serves the area where the facilities are located. A utility may elect to participate in the service on a limited basis and if it does so, it shall register the location of its underground utility facilities only by identifying the municipal corporations, and outside the limits of a municipal corporation, the townships by county in which it has facilities. The service shall establish reasonable fees for limited basis participants.

(B) Protection services, utilities, excavators, excavation equipment dealers, the public utilities commission of Ohio, the board of building standards, local law enforcement agencies, and fire departments should publicize the importance of ascertaining the location of underground utility facilities before

excavating and the use of protection services to ascertain that information.

(C) A protection service shall maintain records of notifications received from developers, designers, and excavators, and of its notifications made to utilities, developers, designers, and excavators, under sections 3781.27 and 3781.28 of the Revised Code. The records of a protection service shall identify by reference number, the notifications it received regarding a proposed excavation site, the notifications it provided regarding a proposed excavation site, and the date and time of each notification.

HISTORY: 142 v S 174. Eff 3-14-89.  
See provisions, 3, 4 of SB 264 (143 v-) following RC 3781.28.

Cross References to Related Sections  
Definitions, RC 3781.25.  
Responsibility for performance of duties, RC 3781.32.

Ohio Administrative Code  
Underground utility protection service registration. OAC 4901:1-1-02.

3781.27 Developer to notify protection service of intended excavation; duties of utility and developer.

Sections 3781.27 to 3781.32 do not apply to "public improvements" as defined in section 153.64 of the Revised Code

(A) In order to ascertain the name of each utility with underground utility facilities located at the proposed excavation site and the types and approximate location of those facilities based on records of the utility, any developer who is planning a project that will require excavation shall notify the protection service of the location of the proposed excavation site.

(B) Except in the case of limited basis participants, the protection service shall provide notice of the proposed excavation to each participant in the service that has underground utility facilities in the area of the proposed excavation site. In the case of limited basis participants, the protection service shall notify the developer of the name of each limited basis participant with underground utility facilities within the municipal corporation or township and county of the proposed excavation site, and the developer shall contact the utility

(C) Each utility that has any underground utility facilities in the area of the proposed excavation site shall notify the developer of the approximate locations and description of the utility's underground utility facilities located at the proposed excavation site, or that the utility does not have any underground utility

facilities at the site. The utility shall make this notification within ten days of receiving a notice under division (B) of this section or by a later date acceptable to the developer and the utility. In the case of an interstate hazardous liquids pipeline or an interstate gas pipeline, the utility also shall provide written notice to the developer of any special notification requirements.

(D) The utility shall determine if any relocation, support, or removal, or protective steps beyond those described in divisions (A) to (D) of section 3781.30 of the Revised Code are required in order to prevent disturbance or interference with the underground utility facilities during excavation. The utility shall determine whether it will permit the developer to make those adjustments, and, if the adjustments are to be made by the utility, a reasonable amount of time necessary to make those adjustments.

(E)(1) Based on the information provided pursuant to division (C) of this section, the developer shall indicate the approximate locations of underground utility facilities either on or with the plans prepared for the project. The developer shall include with the plans the names, addresses, and telephone numbers of utilities with underground facilities at the excavation site, indicating which utilities are limited basis participants; the name and telephone number of the protection service; and any required adjustments as described in division (D) of this section, including reasonable time necessary for the utility to make those adjustments. In the case of an interstate hazardous liquids pipeline or an interstate gas pipeline, the developer also shall include any special notification requirements.

(2)(a) Except as otherwise provided in division (E)(2)(b) of this section, the developer shall provide the plans to the excavator before excavation begins. If the developer does not prepare written plans or have any written plans prepared, he shall otherwise provide the approximate locations, identifying information on the utilities, information on required adjustments, and any special notification requirements to the excavator before excavation begins.

(b) When the developer is a utility, he shall provide either the plans or the approximate location, identifying information on the utilities, information on required adjustments, and any special notification requirements to the excavator before excavation begins.

(3) The developer shall design the project taking into account the approximate location of existing underground utility facilities in order to prevent, as far as is practicable, disturbance or interference with those facilities.

(4) When a project includes installation of new underground utility facilities, the developer shall attempt to design the installation so that at least a

twelve inch clearance is provided between the facilities. No facility shall be installed with less than a twelve inch clearance unless the owners of existing facilities are notified prior to installation.

(F) (1) This section does not apply in the case of a utility making emergency repair to its own underground utility facility.

(2) This section does not apply in the case of the owner of the types of real property identified in divisions (C)(1) to (4) of section 3781.25 of the Revised Code, unless the owner employs a designer to make written plans for work that will involve excavation. If the owner employs a designer, the designer shall contact the utility protection service and utilities that are limited basis participants in accordance with divisions (A) and (B) of this section, and shall include in or with the plans the information required under division (E) of this section. The owner shall provide that information to the excavator.

HISTORY: 142 v S 174. Eff 3-14-89.

see provisions 3, 4 of SS 264 (143 v -) following RC 3781.28.

Cross Reference to Related Sections  
Definitions, RC 3781.25.

Notification procedures, RC 3781.28.

Records of Notification procedures to be maintained by protection service, RC 3781.26.

Responsibility for performance of duties, RC 3781.32.

3781.28 Excavator to notify service or pipeline owner; utility emergency repairs.

(A) Except as otherwise provided in divisions (C), (D), (E), and (F) of this section, at least forty eight hours but not more than ten days before commencing excavation, the excavator shall notify the protection service of the location of the excavation site and the date on which the excavation is planned to commence.

(B) On receipt of notice under division (A) of this section, the service shall provide to each utility with underground utility facilities located at the excavation site, notice of the proposed excavation, except that in the case of a limited basis participant in the service, the service shall notify the excavator of the name of each limited basis participant with underground utility facilities located in the municipal corporation or township and county of the proposed excavation site, and the excavator shall notify the limited basis participant of the proposed excavation at least forty eight hours but not more than ten days before commencing excavation. The excavator may make this notification by telephone.

(C) in the case of an interstate hazardous liquids

pipeline or interstate gas pipeline, the excavator shall comply with the special notice requirements of the public safety program of the owner of the pipeline as indicated in the plans or otherwise provided to the excavator in accordance with division (E) or (F)(2) of section 3781.27 of the Revised code.

(D) if it has been determined pursuant to division (D) of section 3781.27 of the Revised Code that relocation, support, removal, or protective steps are necessary, the excavator shall provide earlier notice to the utility in order to provide the utility with reasonable time to coordinate making the adjustments with actual excavation.

(E) if an excavation will cover a large area and will progress from one area to the next over a period of time, the excavator shall provide notice of excavation for segments of the excavation as the excavation progresses in order to coordinate the marking of approximate locations with actual excavation.

(F) (1) in the case of a utility that is making an emergency repair to its own underground utility system or a governmental entity making an underground emergency repair to traffic control devices, as defined in section 4511.01 of the Revised Code, used on any street or highway under the entity's jurisdiction, the utility or governmental entity shall notify the protection service and each limited basis participant of the excavation site. This notice need not occur before commencing excavation.

(2) in the case of an excavation at the site of real property of the type described in divisions (C)(1) to (4) of section 3781.25 of the Revised Code;

(a) If the owner of the property is the excavator, this section does not apply unless the excavation is planned for an area where a utility easement is located or a public right-of-way;

(b) if the owner of the property employs an excavator, the excavator shall comply with the requirements of this section. If the owner did not employ a designer to make written plans, the excavator shall provide the notice required under this section to the protection service and to each utility that is a limited basis participant in the protection service that has underground utility facilities within the municipal corporation or township and county of the excavation site, as indicated by the protection service.

HISTORY: 142 v S 174(Eff 3-14-89); 143 v S 264.Eff 7-2-90

The provisions of 3, 4 of SB 264(143 v-) read as follows: Section 3. The versions of sections 3781.26, 3781.27, and 3781.28 of the Revised Code as amended by Sections 2, 3, and 4 of Sub. S.B. 174 of the 117th General Assembly that are to be effective on January 1, 1991, are hereby repealed. Section 4. It is the intent of this act to prevent the amendment of sections 3781.26, 3781.27, and 3781.28 of the Revised Code by

Sections 2, 3, and 4 of Sub. S.B. 174 of the 117th General Assembly that was to have taken effect on January 1, 1991.

Cross References to Related Sections

Definitions, RC 3781.25.

Exceptions, RC 3781.27.

Records of notifications to be maintained by protection service, RC 3781.26.

Responsibility for performance of duties, RC 3781.32.

Utility shall locate and mark underground utility facilities within forty eight hours, RC 3781.29.

3781.29 Utility to mark location of facilities or give notice of no facilities at site.

(A)(1) Except as otherwise provided in division.(A)(2) of this section, within forty eight hours of receiving notice under section 3781.28 of the Revised Code, each utility shall locate and mark the approximate location of its underground utility facilities at the excavation site. If a utility does not mark its underground utility facilities or contact the excavator within forty eight hours of receiving notice under section 3781.28 of the Revised Code, the utility is deemed to have given notice that it does not have any facilities at the excavation site if the utility cannot accurately mark the approximate location, the utility shall mark the approximate location to the best of its ability, notify the excavator that the markings may not be accurate, and provide additional guidance to the excavator in locating the facilities as needed during the excavation.

(2) In the case of an interstate hazardous liquids pipeline or an interstate gas pipeline, the owner of the pipeline shall locate and mark the approximate location of its pipeline within the time frame established in the public safety program of the owner.

(B) Unless a facility actually is uncovered or probed by the utility, any indications of the depth of the facility shall be treated as estimates.

(C) A utility shall mark the approximate location of its underground facilities using the following color codes:

Type of Underground Utility Facility	Color
Electric power transmission and distribution	Safety red
Gas transmission and distribution	High visibility Safety yellow
Oil transmission and distribution	High visibility Safety yellow
Dangerous materials, product lines, and	High visibility Safety yellow

steam lines	
Telephone and telegraph systems	Safety alert orange
Police and fire communications	Safety alert orange
Cable television	Safety alert orange
Water systems	Safety precaution blue
Slurry systems	Safety precaution blue
Sewer lines	Safety green.

(D) Proposed construction or excavation markings shall be made in white.

HISTORY: 142 v S 174(Eff 3-14-89);143 v S 264.Eff 7-2-90

#### Cross References to Related Sections

Definitions, RC 3781.25

Exceptions, RC 3781-27

Responsibility for performance of duties, RC 3781.32

Utility may request prior notice of actual commencement of excavation, RC 3781.31.

#### 3781.30 Duties during excavation

When making excavations, the excavator shall do all of the following:

- (A) Maintain reasonable clearance between any underground facility and the cutting edge or point of powered equipment;
- (B) Protect and preserve the markings of approximate locations of underground utility facilities until those markings are no longer required for proper and safe excavations;
- (C) When approaching underground utility facilities while excavating with powered equipment, require an individual other than the equipment operator, to look for any sign of the underground utility facility;
- (D) Conduct the excavation in the vicinity of the underground utility facility in a careful and prudent manner, excavating by hand, if necessary, to determine the precise location of the facility and to prevent damage;
- (E) As soon as any damage is discovered, including gouges, dents, or breaks to coatings, cable sheathes, and cathodic protection anodes or wiring, report the type and location of the damage to the utility and permit the utility a reasonable amount of time to make necessary repairs;
- (F) Immediately report to the utility and, if necessary, to the appropriate law enforcement agencies and fire departments, any damage to an underground utility facility that results in escaping flammable, corrosive, explosive, or toxic liquids or gas, and take reasonable appropriate actions needed to protect persons or property and to minimize safety hazards until those agencies and departments and the utility arrive at the scene.

HISIRORY: 142 v S 174.Eff 3-14-89

Cross References to Related Sections  
Definitions, RC 3781.25.

Exceptions, RC 3781-27.  
Responsibility for performance of duties, RC 3781.32.

3781.31 Notice of actual commencement of excavation or of  
removal of markings.

(A) When a utility marks the approximate location of its underground utility facilities in accordance with division (A) of section 3781.29 of the Revised Code, the utility may request that the excavator provide prior notice to the utility of the actual commencement of the excavation. An excavator that receives a request for notice under this division shall provide the notice to the utility at least twenty four hours prior to the commencement of excavation. The excavator may make this notice by telephone.

(B) If the markings of approximate locations made under section 3781.29 of the Revised Code are destroyed or removed before excavation is completed, the excavator shall notify the utility that the markings have been destroyed or removed, and the utility shall remark the approximate locations within forty eight hours of the notice.

HISTORY: 142 v S 174. Eff 3-14-89.

Cross References to Related Sections  
Definitions, RC 3781.25.  
Exceptions, RC 3781-27.  
Responsibility for performance of duties, RC 3781.32.

3781.32 Facilities within right-of-way; developers duties  
nondelegable; relocation of facilities.

(A) Any connections or tie-ins to existing utility services within a public right-of-way shall comply with permit requirements of the public agency that has jurisdiction over the right-of-way.

(B) A developer shall not require, as a condition for entering into a contract for a project that will require excavation, that responsibility for performance of duties imposed under sections 3781-25 to 3781.32 of the Revised Code shall be assumed by a person other than the person on whom those duties are imposed under those sections. This division does not prohibit a utility from entering into any contract for the performance of duties that are imposed on a utility under those sections.

(C) Nothing in sections 3728-25 to 3728.32 of the Revised Code shall be construed to require a utility to relocate its underground utility facilities located at an excavation site.

HISTORY: 142 v S 174. Eff 3-14-89.  
So in enrolled bill. Was 3781.25 to 3781.32 intended?

Cross References to Related Sections  
Definitions, RC 3781.25.  
Exceptions, RC 3781.27.

3781.51 to 3781.53 Repealed, 140 v S 282, 2 ERC 3785.01 to 3785.03. 134 v H 1172; RC 3781.51 to 3781.53, 135 v H 186).

Eff 7-4-84.  
These sections concerned safety glazing materials.

#### 3781.99 Penalty

Whoever violates division (G) of section 3781.11I[3781.11.1] of the Revised Code shall be issued a warning for a first offense; on each subsequent offense the person shall be fined twenty five dollars for each parking location that is not properly marked or whose markings are not properly maintained.

HISTORY: 144 v H 73. Eff 9-25-91

#### LEGAL ENCYCLOPEDIAS AND AJR

OJur 2d: 36, Mechanics' Liens 192; 45, Public Works and Contracts 120; 48, Schools 206; 49, State of Ohio 23

153.64 Underground utility facilities; identification before construction of public improvement

(A) As used in this section:

(1) "Public improvement" means any construction, reconstruction, improvement, enlargement, alteration, or repair of a building, highway, drainage system, water system, road, street, alley, sewer, ditch, sewage disposal plant, water works, and all other structures or works of any nature by a public authority.

(2) "Public authority" includes the state, or a county, township, municipal corporation, school district, or other political subdivision, or any public agency, authority, board, commission, instrumentality, or special district of or in the state or a county, township, municipal corporation, school district, or other political subdivision.

(3) "Underground utility facilities" include any item buried or placed below ground or submerged under water for use in connection with the storage or conveyance of water or sewage; or electronic telephonic, or telegraphic communications; electricity; electric energy; petroleum products; manufactured, mixed, or natural gas; synthetic or liquefied natural gas; propane gas; or other substances.

"Underground utility facilities" includes, but is not

limited to, all operational underground pipes, sewers, tubing, conduits, cables, valves, lines, wires, manholes, and attachments, whether owned by any public or private or profit or nonprofit persons firm, partnership, company, corporation, joint stock association, joint venture, or voluntary association, wherever organized or incorporated except for a private septic system in a single or double family dwelling utilized only for that dwelling and not connected to any other system.

(4) "Underground utility protection service" means a notification center not an owner of an underground utility facility [sic], existing for the purpose of receiving notice from public authorities and from other persons that plan to prepare plans and specifications for, or engage in, public improvements involving digging, blasting, excavating, or other underground construction activities and distributing this information to its members. "Registered underground utility protection service" means an underground utility protection service registered with the secretary of state and the public utilities commission of Ohio pursuant to division (F) of this section.

(5) "Owner of underground utility facility" does not include telephone companies classified as medium or small under rule 4901-7-01 of the Ohio Administrative Code, owners of pipelines that conduct liquid petroleum products, or cable television companies as defined in division (B) of section 505.90 of the Revised Code to the extent that it requires membership in an underground utility protection service.

(6) "Construction area" means the area delineated on the plans and specifications for the public improvement within which the work provided for in the contract will be performed.

(B) In any public improvement which may involve underground utility facilities, the public authority shall, prior to preparing plans and specifications, contact the registered underground utility protection services and the owners of underground utility facilities that are not members of a registered underground utility protection service for the existence and location of all underground utility facilities within the construction area. The public authority shall include, in the plans and specifications for such improvement, the identity and location of the existing underground utility facilities located in the construction area as provided to the public authority by the owner of the underground utility facility and the name, address, and telephone number of each owner of any underground utility facilities in the construction area that does not subscribe to a registered underground utility protection service. Any anticipated temporary or permanent relocation of underground utility facilities deemed necessary by the public authority shall be negotiated or arranged by the public authority with the owners of the underground utility facilities prior to

the start of construction. If a temporary or permanent relocation of utility facilities is necessary, the owner of the underground utility facility shall be given a reasonable time to move such utility facilities unless the contractor to whom the contract for a public improvement is awarded agrees with the owner of the underground utility facility to coordinate relocation with construction operations. The public authority shall, within ten calendar days after award of a contract for a public improvement, notify in writing all owners of underground utility facilities known to be located in the construction area of the public improvement of the name and address of the contractor to whom the contract for the public improvement was awarded. Where notice is given in writing by certified mail, the return receipt, signed by any person to whom the notice is delivered, shall be conclusive proof of notice.

(C) The contractor to whom a contract for a public improvement is awarded shall, at least two working days, excluding Saturdays, Sundays, and legal holidays, prior to commencing construction operations in the construction area which may involve underground utility facilities, cause notice to be given to the registered underground utility protection services and the owners of underground utility facilities shown on the plans and specifications who are not members of a registered underground utility protection service, in writing, by telephone, or in person. Where notice is given in writing by certified mail, the return receipt, signed by any person to whom the notice is delivered, shall be conclusive proof of notice. The owner of the underground utility facility shall, within forty eight hours, excluding Saturdays, Sundays, and legal holidays, after notice is received, stake, mark, or otherwise designate the location of the underground utility facilities in the construction area in such a manner as to indicate their course together with the approximate depth at which they were installed. The marking or locating shall be coordinated to stay approximately two days ahead of the planned construction.

(D) If the public authority fails to comply with the requirements of division (B) of this section, and the contractor to whom the work is awarded complies with the requirements of division (C) of this section, and the contractor encounters underground utility facilities in the construction area that would have been shown on the plans and specifications for such improvement had the registered underground utility protection service or owner of the underground utility facility who is not a member of a registered underground utility protection service whose name, address, and telephone number is provided by the public authority been contacted, then the contractor, upon notification to the public authority, is entitled to an increase to the contract price for any additional work that must be undertaken or additional time that will be required and is entitled to an

extension of the completion date of the contract for the period of time of any delays to the construction of the public improvement.

In the event of a dispute as to the application of this section, procedures may be commenced under the applicable terms of the construction contract, or if the contract contains no provisions for final resolution of the dispute, pursuant to the procedures for arbitration in Chapter 2711. of the Revised Code.

This section does not affect rights between the contractors and the public authority for any increase in contract price or additional time to perform the contract when the public authority complies with division (B) of this section.

Any public authority who complies with the requirements of division (B) of this section and any contractor who complies with the requirements of division (C) of this section shall not be responsible to the owner of the underground utility facility if underground utility lines are encountered not as marked in accordance with the provisions of division (C) of this section by the owner of the underground utility facility, unless the contractor has actual notice of the underground utility facility. Except as noted in this division, this section does not affect rights between the contractor and the owner of the underground utility facility for failure to mark or erroneously marking utility lines. The public authority shall not make as a requirement of any contract for public improvement, any change in responsibilities between the public authority and the owners of the underground utility facilities in connection with damage, injury, or loss to any property in connection with underground utility facilities.

The contractor shall alert immediately the occupants of nearby premises as to any emergency that he may create or discover at or near such premises. The contractor shall report immediately to the owner or operator of the underground facility any break or leak on its lines or any dent, gouge, groove, or other damage to such lines or to their coating or cathodic protection, made or discovered in the course of their excavation.

(E) This section does not affect rights between the public authority and the owners of the underground utility facilities for responsibility for costs involving removal, relocation, or protection of existing underground utility facilities, or for costs for delays occasioned thereby.

(F) An underground utility protection service shall register with the secretary of state and the public utilities commission of Ohio, identifying [sic] its name, address, telephone number, membership, and other pertinent information. The secretary of state and commission shall establish procedures for accepting such registrations and providing information about registrants to public authorities on request.

HISTORY: 1982 H 538, eff. 7-26-82

PRACTICE AND STUDY AIDS

Baldwin's Ohio Township Law, Text 43.03, 67.01

LEGAL ENCYCLOPEDIAS AND ALR

OJur 2d: 52, Telegraphs and Telephones 46

153.99 Penalty

(A) Whoever violates section 153.58 of the Revised Code shall be fined not more than one thousand dollars.

HISTORY: 1953 H 1, eff. 10-1-53