

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2097

By: O'Donnell of the House

and

Allen of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to public health and safety; amending
12 63 O.S. 2011, Sections 142.2, as last amended by
13 Section 1, Chapter 136, O.S.L. 2018 and 142.6, as
14 amended by Section 2, Chapter 151, O.S.L. 2016 (63
15 O.S. Supp. 2018, Sections 142.2 and 142.6), which
16 relate to the Oklahoma Underground Facilities Damage
17 Prevention Act; modifying definitions; modifying
18 certain notice requirements; and providing an
19 effective date.

20 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

21 SECTION 1. AMENDATORY 63 O.S. 2011, Section 142.2, as
22 last amended by Section 1, Chapter 136, O.S.L. 2018 (63 O.S. Supp.
23 2018, Section 142.2), is amended to read as follows:

24 Section 142.2 As used in the Oklahoma Underground Facilities
Damage Prevention Act:

1 1. "Certified project" means a project where the public agency
2 responsible for the public project, as part of its procedure,
3 certifies that the project right-of-way is free and clear of
4 underground facilities or wherein the public agency responsible for
5 such project, as part of its procedure, notifies all persons
6 determined by the public agency to have underground facilities
7 located within the construction right-of-way and certifies that all
8 known underground facilities are duly located or noted on the
9 engineering drawings for the project;

10 2. "Damage" means any impact upon or removal of support from an
11 underground facility as a result of explosion, excavation or
12 demolition which according to the operating practices of the
13 operator of the underground facilities would necessitate the repair
14 thereof;

15 3. "Demolish" means to wreck, raze, render, move or remove a
16 structure by means of any equipment or explosive;

17 4. "Demolition" means the act or operation of demolishing a
18 structure;

19 5. "Excavate" means to dig, compress or remove earth, rock or
20 other materials in or on the ground by use of mechanized equipment
21 or blasting, including, but not necessarily limited to, augering,
22 boring, backfilling, drilling, grading, pile driving, plowing in,
23 pulling in, trenching, tunneling and plowing; provided, however,
24 that neither:

- 1 a. the moving of earth by tools manipulated only by human
2 or animal power, except in a private or public
3 easement or right-of-way, nor
4 b. any form of cultivation for agricultural purposes, nor
5 any augering, dozing by noncommercial dozer operators
6 or digging for postholes, farm ponds, land clearing or
7 other normal agricultural purposes, nor
8 c. routine maintenance, nor
9 d. work by a public agency or its contractors on a
10 preengineered project, nor
11 e. work on a certified project, nor
12 f. work on a permitted project, nor
13 g. the opening of a grave in a cemetery, nor
14 h. a solid waste disposal site which is a preengineered
15 project, nor
16 i. any individual excavating on his or her own property
17 and who is not in the excavating business for hire,
18 except in a private or public easement or right-of-
19 way,

20 shall be deemed excavation;

21 6. "Excavation" means the act or operation of excavating;

22 7. "Excavator" means a person or public agency that intends to
23 excavate or demolish within the State of Oklahoma;

1 8. "Notification center" means the statewide center currently
2 known as the Oklahoma One-Call System, Inc., which has as one of its
3 purposes to receive notification of planned excavation and
4 demolition in a specified area from excavators, and to disseminate
5 such notification of planned excavation or demolition to operators
6 who are members and participants;

7 9. "Operator" shall mean and include any person or public
8 agency owning or operating underground facilities;

9 10. "Permitted project" means a project where a permit for the
10 work to be performed must be issued by a state or federal agency
11 and, as a prerequisite to receiving such permit, the applicant must
12 locate all underground facilities in the area of the work and in the
13 vicinity of any blasting and notify each owner of such underground
14 facilities;

15 11. "Person" includes any individual, partnership, corporation,
16 association, cooperative, trust or other entity, including a person
17 engaged as a contractor by a public agency, but not including a
18 public agency;

19 12. "Preengineered project" means a public project wherein the
20 public agency responsible for such project, as part of its
21 engineering and contract procedures, holds a meeting prior to the
22 commencement of any construction work on such project in which all
23 persons, determined by the public agency to have underground
24 facilities located within the construction area of the project, are

1 invited to attend and given an opportunity to verify or inform the
2 public agency of the location of their underground facilities, if
3 any, within the construction area and where the location of all
4 known underground facilities are duly located or noted on the
5 engineering drawing and specifications for the project;

6 13. "Public agency" means the state or any board, commission or
7 agency of the state;

8 14. "Routine maintenance" means the grading of roads and barrow
9 or drainage ditches, the removal and replacement of pavement,
10 including excavation relating thereto and the installation and
11 maintenance of drainage and bridge facilities, signs, guardrails,
12 and electrical and communications facilities in or on the public
13 rights-of-way by a public agency; and

14 15. "Underground facility" means any underground line, cable,
15 facility, system and appurtenances thereto, for producing, storing,
16 conveying, transmitting or distributing communication (including
17 voice, video, or data information), electricity, power, light, heat,
18 intrastate and interstate gas pipelines, as described in 49 CFR Part
19 192.1, intrastate and interstate hazardous liquid or carbon dioxide
20 pipelines, as described in 49 CFR Part 195.1, water (including storm
21 water), steam, sewage and other commodities and any oil and gas
22 pipeline located in a public right-of-way.

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1 SECTION 2. AMENDATORY 63 O.S. 2011, Section 142.6, as
2 amended by Section 2, Chapter 151, O.S.L. 2016 (63 O.S. Supp. 2018,
3 Section 142.6), is amended to read as follows:

4 Section 142.6 A. Before an excavator shall demolish a
5 structure, discharge any explosive or commence to excavate in a
6 highway, street, alley or other public ground or way, on or near the
7 location of an operator's underground facilities, or a private
8 easement, such excavator shall first notify all operators in the
9 geographic area defined by the notification center who have on file
10 with the notification center a notice pursuant to Section 142.3 of
11 this title to determine whether any operators have underground
12 facilities in or near the proposed area of excavation or demolition.
13 When an excavator has knowledge that an operator does not have
14 underground facilities within the area of the proposed excavation,
15 the excavator need not notify the operator of the proposed
16 excavation. However, an excavator shall be responsible for damage
17 to the underground facilities of an operator if the notification
18 center was not notified. Notice shall be given no more than ten
19 (10) days nor less than forty-eight (48) hours, excluding the date
20 of notification, Saturdays, Sundays and legal holidays, prior to the
21 commencement of the excavation or demolition.

22 B. Each operator served with notice in accordance with
23 subsection A ~~above~~ of this section either directly or by notice to
24 the notification center shall, ~~within forty-eight (48) hours after~~

1 ~~receipt of verification from the notification center that the notice~~
2 ~~has been accepted and acknowledged, excluding Saturdays, Sundays and~~
3 ~~legal holidays~~ prior to the date and time work is scheduled to
4 begin, unless otherwise agreed to between the excavator and
5 operator, locate and mark or otherwise provide the approximate
6 location of the underground facilities of the operator in a manner
7 as to enable the excavator to employ hand-dug test holes to
8 determine the precise location of the underground facilities in
9 advance of excavation. For the purpose of this act, the approximate
10 location of the underground facilities shall be defined as a strip
11 of land two (2) feet on either side of such underground facilities.
12 Whenever an operator is served with notice of an excavation or
13 demolition and determines that the operator does not have
14 underground facilities located within the proposed area of
15 excavation or demolition, the operator shall communicate this
16 information to the excavator originating the notice prior to the
17 commencement of such excavation or demolition.

18 C. The only exception to subsection A of this section shall be
19 when an emergency exists that endangers life, health or property.
20 Under these conditions, excavation operations may begin immediately,
21 providing reasonable precautions are taken to protect underground
22 facilities. All operators of underground facilities within the area
23 of the emergency must be notified promptly when an emergency
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1 requires excavation prior to the location of the underground
2 facilities being marked.

3 D. Every notice given by an excavator to an operator pursuant
4 to this section or to the notification center pursuant to Section
5 142.3 of this title shall contain at least the following
6 information:

7 1. The name of the individual serving such notice;

8 2. The location of the proposed area of excavation or
9 demolition;

10 3. The name, address and telephone number of the excavator or
11 excavator's company;

12 4. The excavator's field telephone number, if one is available;

13 5. The type and the extent of the proposed work;

14 6. Whether or not the discharging of explosives is anticipated;

15 and

16 7. The date and time when work is to begin.

17 E. In marking the approximate location of underground
18 facilities, an operator shall follow the standard color coding
19 described herein:

OPERATOR AND TYPE OF PRODUCT	SPECIFIC GROUP IDENTIFYING COLOR
Electric Power Distribution and Transmission	Safety Red
Municipal Electric Systems	Safety Red

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1	Gas Distribution and	
2	Transmission	High Visibility Safety Yellow
3	Oil Distribution and	
4	Transmission	High Visibility Safety Yellow
5	Dangerous Materials, Product	
6	Lines, Steam Lines	High Visibility Safety Yellow
7	Telephone and Telegraph	
8	Systems	Safety Alert Orange
9	Police and Fire	
10	Communications	Safety Alert Orange
11	Cable Television	Safety Alert Orange
12	Water Systems	Safety Precaution Blue
13	Slurry Systems	Safety Precaution Blue
14	Sewer Systems	Safety Green

15 SECTION 3. This act shall become effective November 1, 2019.

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17 COMMITTEE REPORT BY: COMMITTEE ON UTILITIES, dated 02/28/2019 - DO
18 PASS, As Amended and Coauthored.

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