

*South
Carolina*

*"Underground Utility
Damage Prevention
Act". 1978*

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Title 58 - Public Utilities, Services and Carriers

CHAPTER 35.

UNDERGROUND UTILITY DAMAGE PREVENTION ACT

SECTION 58-35-10. Short title.

This chapter may be cited as the "Underground Utility Damage Prevention Act".

SECTION 58-35-20. Definitions.

As used in this chapter:

(1) "Association" means a group of public utilities or their representatives or an organization contracting with a group of public utilities formed for the purpose of receiving and giving notice of excavation, demolition or similar activities in the State.

(2) "Damage" includes the substantial weakening of structural or lateral support of an underground utility, penetration or destruction of protective coating, housing, or other protective device of a utility and the partial or complete severance of a utility.

(3) "Demolish" or "demolition" means any operation by which a structure or mass of material is wrecked, razed, rendered, moved or removed by means of any tools, equipment, or discharge of explosives.

(4) "Excavate" or "excavation" means an operation for the purpose of the movement or removal of earth, rock, or other materials in or on the ground by use of mechanized equipment or by discharge of explosives and including augering, backfilling, digging, ditching, drilling, well drilling, grading, plowing-in, pulling-in, ripping, scraping, trenching and tunneling, but not including the tilling of soil for agricultural purposes, gardening or landscaping which involves the movement of less than one cubic yard of soil or other materials.

(5) "Mechanized equipment" means equipment operated by means of mechanical power including trenchers, bulldozers, power shovels, augers, backhoes, scrapers, drills, cable and pipe plows and other equipment used for plowing-in or pulling-in cable or pipe.

(6) "Person" means any individual, owner, corporation, partnership, association, or any other entity organized under the laws of any state; any subdivision or instrumentality of a state; and any authorized representative thereof.

(7) "Utility" means any underground line, system or facility used for producing, storing, conveying, transmitting, or distributing communication, electricity, gas, petroleum, petroleum products, hazardous liquids, water, steam or sewerage, including storm drainage.

(8) "Operator" means any person who owns or operates a utility.

(9) "Public utility" means any organization, corporation, municipality, municipal department, authority or other association providing service to the general public or segments thereof with any type of utility.

(10) "Working day" means every day, except Saturday, Sunday and legal holidays.

SECTION 58-35-30. Effect of permit on liability.

A permit issued pursuant to law authorizing excavation or demolition operations shall not be deemed to relieve a person from the responsibility for complying with the provisions of this chapter.

SECTION 58-35-40. Determination of location of underground utilities prior to excavation or demolition.

Except as provided in Sections 58-35-50 and 58-35-90, no person may excavate in a street, highway, public space, a private easement of an operator, or near the location of an underground utility installed on the premises of a customer served by such a utility, or demolish a building without having first ascertained from the public utilities the location of all their underground utilities in the area that would be affected by the proposed excavation or demolition.

Prior to any excavation or demolition, the person financially responsible or the architect, engineer or designer responsible for such activities should consult with all the public utilities operating in the area and cause a detailed plan to be drawn and furnished to the entity physically doing the excavation or demolition that will show the location of all utilities in accordance with the provisions of Section 58-35-80.

SECTION 58-35-50. Exemptions.

Excavation is exempt from the provisions of this chapter under the following conditions:

(a) When conducted after individual contacts with public utilities or after joint preconstruction conferences with public utilities and the person proposing the excavation or demolition has a statement in writing from all public utilities operating in the area that the proposed activity was reviewed and notification provided; or

(b) When the Department of Transportation or a public utility is carrying out excavation or demolition entirely on and within an easement or right-of-way owned and controlled or controlled by that public utility or department and where no other public utility's facilities have been permitted, are existing, or are likely to exist; or

(c) When a landowner installs or has installed facilities for his own purposes and under his direction on his own land provided: (1) he or his authorized representative has general knowledge of the location of underground utilities on his lands; and (2) the work location is remote from these utilities or facilities of a public utility serving the landowner or others.

(d) In those localities or communities and within recognized boundaries, the Department of Transportation and public utilities are exempt if they (1) are doing minor excavations such as for replacing or setting one or two poles, digging test holes, handholes, normal roadway maintenance, or similar minor excavations, and (2) there is a local agreement between public utilities and the Department of Transportation which includes notification before excavation or demolition.

SECTION 58-35-60. Notice of intent to excavate or demolish.

(a) Except as provided in Sections 58-35-50 and 58-35-90, before commencing any excavation or demolition operation as described in Section 58-35-40, each person responsible for such excavation or demolition shall serve advance written or telephonic notice of intent to excavate or demolish not less than three, but not more than ten full working days

1. On each operator which has underground utilities located in the proposed area of excavation or demolition; or

2. If the proposed area of excavation or demolition is served by an association provided for in Section 58-35-70, on such association and on each operator which has underground utilities in the proposed area of excavation or demolition that is not receiving the services of the association; where demolition of a building is proposed, operators shall be given reasonable time to remove or protect their underground utilities before demolition of the building is commenced.

(b) The written or telephonic notice required by Section 58-35-60(a) must contain the name, address, and telephone number of the person filing the notice of intent, and, if different, the person responsible for the excavation or demolition, the starting date, anticipated duration, and type of excavation or demolition operation to be conducted, the location of the proposed excavation or demolition, and whether or not explosives are to be used.

(c) If the notification required by this section is made by telephone, an adequate record of such notification shall be maintained by the operators and associations notified to document compliance with the requirements of this chapter.

SECTION 58-35-70. Operators association for mutual receipt of notice of excavation or demolition; reports.

(A) Operators must form and operate an association providing for mutual receipt of Section 58-35-60 notification of excavation or demolition operations in a defined geographical area. An association that provides this service on behalf of operators having utilities within South Carolina must file with the South Carolina Public Service Commission and provide to the Office of Regulatory Staff the telephone number and address of the association, a description of the geographical area served by the association, and a list of the names and addresses of each operator receiving this service from the association.

(B) The association must file with the Chairman of the House of Representatives Labor, Commerce and Industry Committee and the Chairman of the Senate Judiciary Committee, not later than April fifteenth of each year, a report covering the activities and operations of the association for the preceding calendar year including, but not limited to, information reflecting: average speed of answer; abandoned call rate; transmit times; total number of locate requests; total number of transmissions; and a disaster recovery plan.

(C) No operator is required to join an association.

SECTION 58-35-80. Information to be supplied by operators.

Each operator or designated representative, including an association established in accordance with Section 58-35-70, notified in accordance with Section 58-35-60, shall, not less than one working day in advance of the proposed excavation or demolition, unless another period is provided by agreement between the person responsible for the excavation or demolition and the operator or designated representatives, supply, by use of maps or other appropriate means, the following information to the person responsible for the excavation or demolition:

- (1) The approximate location and description of all of its underground utilities which may be damaged as a result of the excavation or demolition;
- (2) The location and description of all utility markers indicating the approximate location of the underground utilities;
- (3) Any other information that would assist that person in locating and thereby avoiding damage to the underground utilities including providing adequate temporary markings, when necessary, indicating the approximate location of the underground utility in locations where permanent utility markers do not exist.

For the purposes of this section the approximate location of underground utilities is defined as a "strip of land at least five feet wide, but not wider than the width of the utility plus two and one-half feet on either side of the utility."

Should there be no response by the operators of all the public utilities at the site within three working days of telephonic notification, the person responsible for the excavation or demolition is free to proceed as though the location of all utilities had been determined as described earlier in this section.

SECTION 58-35-90. Notice in case of emergency excavation or demolition.

Compliance with the notice requirements of Section 58-35-60 is not required of persons responsible for emergency excavation or demolition to ameliorate an imminent danger to life, health, or property or to restore existing service. Such persons shall give, as soon as practicable, oral notice of the emergency excavation or demolition to each operator having underground utilities located in the area or to an association provided for in Section 58-35-70, that serves an operator where such excavation or demolition is to be performed and requests emergency assistance from each operator so identified in locating and providing immediate protection to its utilities. An imminent danger to life, health, or property exists whenever there is a substantial likelihood that loss of life, health, or property will result before the procedures under Sections 58-35-60 and 58-35-80 can be fully complied with.

SECTION 58-35-100. Additional duties of persons responsible for excavation or demolition.

In addition to the notification requirements of Section 58-35-60, each person responsible for any excavation or demolition operation designated in Sections 58-35-40 shall:

- (1) Plan the excavation or demolition to avoid damage to or minimize interference with underground utilities in and near the construction area;
- (2) Maintain a clearance between an underground utility and the cutting edge or point of any mechanized equipment, taking into account the known limit of control of such cutting edge or point, as may be reasonably necessary to avoid damage to such utility;
- (3) Provide such support for underground utilities in and near the construction area, including backfill operations, as may be reasonably required by the operator for the protection of such utilities.

SECTION 58-35-110. Notification required when damage done.

(a) Except as provided by Section 58-35-110(b), each person responsible for any excavation or demolition operation designated in Section 58-35-40 that results in any damage to an underground utility shall, immediately upon discovery of such damage, notify the operator of such utility of the location and nature of the damage and shall allow the operator reasonable time to accomplish necessary repairs before completing the excavation or demolition in the immediate area of such utility.

(b) Each person responsible for any excavation or demolition operation designated in Section 58-35-40 that results in damage to an underground utility where such damage may endanger life, health or property, the person responsible for the work shall, immediately upon discovery of such damage, take immediate action to protect the public and property, notify the operator, police or fire departments and take such other actions as may be appropriate to minimize the hazards until the arrival of the operator's personnel, police or fire departments. The excavator shall delay any backfilling in the immediate area of the damaged utility until authorized by the operator. Repair of any damage shall be performed by the operator or by qualified personnel authorized by the operator.

SECTION 58-35-120. Penalties; actions; effect on civil remedies.

Any person who violates any provision of this chapter shall be subject to a civil penalty not to exceed one thousand dollars for each such violation. Actions to recover the penalty provided for in this section shall be brought by the attorney general at the request of the injured party in the proper forum in and for the county in which the cause, or some part thereof, arose or in which the defendant has its principal place of business or resides. All penalties recovered in any such actions shall be paid into the general fund of the State. This chapter does not affect any civil remedies for personal injury or property damage except as otherwise specifically provided for in this chapter. The penalty provisions of this chapter are cumulative to and not in conflict with any provisions of law with respect to civil remedies for personal injury or property damage.

OSHA REGULATION

1926.651

1926.651 (a)

Surface encumbrances. All surface encumbrances that are located so as to create a hazard to employees shall be removed or supported, as necessary, to safeguard employees.

1926.651 (b)

Underground installations.

1926.651 (b) (1)

The estimated location of utility installations, such as sewer, telephone, fuel, electric, water lines, or any other underground installations that reasonably may be expected to be encountered during excavation work, shall be determined prior to opening an excavation.

1926.651 (b) (2)

Utility companies or owners shall be contacted within established or customary local response times, advised of the proposed work, and asked to establish the location of the utility underground installations prior to the start of actual excavation. When utility companies or owners cannot respond to a request to locate underground utility installations within 24 hours (unless a longer period is required by state or local law), or cannot establish the exact location of these installations, the employer may proceed, provided the employer does so with caution, and provided detection equipment or other acceptable means to locate utility installations are used.

.. 1926.651 (b) (3)

When excavation operations approach the estimated location of underground installations, the exact location of the installations shall be determined by safe and acceptable means.

1926.651(b) (4)

While the excavation is open, underground installations shall be protected, supported or removed as necessary to safeguard employees.