

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 3-129

"Underground Facilities Protection Act of 1980".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 3-240 on first and second readings, November 25, 1980 and December 9, 1980, respectively. Following the signature of the Mayor on January 7, 1980, this legislation was assigned Act No. 3-338, published in the January 16, 1981 edition of the D.C. Register, (Vol. 28 page 264) and transmitted to Congress on January 13, 1981 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 3-129, effective March 4, 1981.



ARRINGTON DIXON
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

January	13,14,15,16,19,20,21,22,23,26,27,28,29,30
February	2,3,4,5,6,17,18,19,20,23,24,25,26,27,
March	2,3

D.C. LAW 3-129

EFFECTIVE DATE MAR 04 1981

AN ACT

D.C. ACT 3-338

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JAN 07 1981

To provide procedures to protect underground facilities from destruction, damage, or dislocation by persons performing excavation or demolition operations, and for other purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,

That this act may be cited as the "Underground Facilities Protection Act of 1980".

sec. 2. Definitions. For the purposes of this act:

(1) The terms "demolition" or "demolish" mean any operation by which a structure or mass of material is wrecked, razed, moved, or removed by means of any tool, equipment, or explosive.

(2) The terms "excavate" or "excavation" mean any operation in which earth, rock, or other material in or on the ground is moved, removed or otherwise displaced by means of any tool, equipment, or explosive, and include but is not

CODIFICATION
D.C. Code,
sec. 43-1701

limited to grading, trenching, digging, ditching, drilling, boring, augering, tunnelling, scraping, cable or pipe blowing and driving, wrecking, razing, moving, or removing any structure or mass of material.

(3) The term "one-call center" means any organization among the purposes of which is to notify two (2) or more public utility operators of planned excavation activities or demolition in a specified area.

(4) The term "person" means any individual, firm, joint venture, partnership, corporation, association, agency of the District of Columbia government, or other governmental body or authority, except the United States government, and shall include any trustee, receiver, assignee, or personal representative thereof.

(5) The term "public utility operator" means a person who supplies or transports any of the following materials or services by means of a utility line:

(a) gas of any kind, including flammable, toxic, or corrosive gas;

(b) liquids other than water, including such liquids as coal slurry, petroleum, petroleum products, or other hazardous liquids;

(c) electric energy;

(d) communication services;

(e) sewage disposal and drainage;

(f) water; or

(g) steam;

EXCEPT, That the District of Columbia government shall not be included.

(b) The term "underground facility" means any item of personal property which is buried or placed below ground, or submerged for use in connection with the storage or conveyance of water, sewage, electronic, telephonic, or teletype communications, electric energy, oil, gas, or other substances, and shall include, but not be limited to pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, and those portions of poles located below the ground.

(7) The term "utility line" means any cable, pipeline, or other conduit installed underground by which a public utility operator furnishes materials or services.

Sec. 3. Verification of One-Call Center.

D.C.Code,
sec. 43-1702

All public utility operators doing business or having underground facilities in the District of Columbia, shall form and operate a one-call center for the mutual receipt of notification of proposed excavation or demolition operations within the District of Columbia. The one-call center to which notification concerning proposed excavation or demolition should be directed, shall file with the District of Columbia Department of Transportation the telephone number and address of such center, and a list of the name and address of each public utility operator participating in the operation of the center.

Sec. 4. Availability of Permits.

D.C.Code,
sec. 43-1703

The District of Columbia Department of Transportation shall make available to each public utility operator a copy of all approved permit drawings, including those which bear the exact nature and location of all excavation to be carried out, as they are issued to persons for excavation or demolition in public space where utility facilities exist. Applicants for permits

Section 43-1704

will provide additional copies of plans as required for this purpose.

Sec. 5. Marking Prior to Excavation.

D.C. Code,
sec. 43-1704

(a) Except as provided in section 11, no person shall excavate in a street, highway, public space, or on private property, or demolish a building without first notifying, by telephonic or teletype, at least forty-eight (48) hours, but not more than ten (10) days (excluding Saturdays, Sundays, and legal holidays) prior to the commencement of the proposed excavation or demolition, each public utility operator which may have underground facilities in the area of the proposed excavation. Such telephonic or teletype notification shall be accomplished by notifying the one-call center within the time limit prescribed, which shall in turn notify the appropriate public utility operators.

(b) The telephonic or teletype notice required by subsection (a) must contain the name, address, and telephone number of the person responsible for the proposed excavation or demolition, the utility job number, the planned starting date, the anticipated duration, the type of excavation or

2025 RELEASE UNDER E.O. 14176

demolition work to be conducted, the location of the proposed excavation or demolition, and whether or not explosives are to be used.

(c) If it is determined by a public utility operator that a proposed excavation or demolition is planned in such proximity to an underground facility that the facility may be damaged, dislocated, or disturbed, the public utility operator shall within forty-eight (48) hours (excluding Saturdays, Sundays, and legal holidays) respond by marking, staking, locating, or otherwise providing the approximate location of the public utility operator's underground facilities.

(d) When the actual excavation or demolition operation enters the immediate vicinity of an underground facility or utility line transporting natural gas, the person responsible for the excavation or demolition shall expose the underground facility or utility line by hand digging: PROVIDED, That a test pit hand dug by the District government, which locates the utility line shall meet the requirements of this subsection. For purposes of this subsection, the

immediate vicinity of the underground facility or utility line shall be defined as a space within eighteen (18) inches from the nearest point on the underground facility.

(e) If the public utility operator, notified by the one-call center, determines that its underground utility lines or facilities will not be affected by the excavation or demolition, the public utility operator shall advise the person who proposes to excavate or demolish, that marking is unnecessary.

(f) No person shall begin excavation prior to the notification of each public utility operator through the one-call center, or prior to the marking required by this section, or prior to the determination by the public utility operator that marking is unnecessary.

Sec. 6. Requirements of Person Responsible for Excavation or Demolition.

D.C. Code,
sec. 43-1705

(a) In addition to the requirements of section 5, each person responsible for an excavation or demolition operation shall:

(1) plan the excavation or demolition to avoid damage to or minimize interference with

underground facilities in and near the construction area:

(2) maintain a clearance between an underground facility 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 underground facility; and

(3) provide such support for underground facilities in and near the construction area, including support during backfilling operations, as may be reasonably necessary for the protection of such facilities.

(b) If a facility is damaged, under no circumstances shall a contractor backfill an excavation without first receiving permission from the utility operator whose facility was damaged.

(c) Nothing in this act shall excuse the failure to obtain a permit to excavate in public space in compliance with section 7 of an Act To regulate plumbing and gas fitting in the District of Columbia, approved June 19, 1898 (30 Stat. 477; D.C. Code, sec. 7-515).

(d) Persons and operators excavating for routine maintenance, including patch-type paving, will not be required to comply with the notification and marking procedures of this act, if they excavate within the limits of the original excavation, and if the excavation does not exceed twelve (12) inches in depth below the grade existing prior to said excavation.

Sec. 7. Damage Caused by Excavation or Demolition.

D.C. Code,
sec. 43-1706

(a) Except as provided in subsection (b), each person responsible for any excavation or demolition operation which results in damage to an underground facility shall, immediately upon discovery of such damage, notify the operator of such facility of the location and the nature of the damage, and shall allow the operator reasonable time to accomplish necessary repairs before continuing the excavation or demolition in the immediate area of the damaged facility.

(b) Each person responsible for any excavation or demolition operation that results in damage to an underground facility, permitting the escape of any flammable, toxic, or corrosive gas or liquid

shall, immediately upon discovery of such damage, notify the public utility operator, the Metropolitan Police Department, and the District of Columbia Fire Department, and shall take any other action which may be reasonably necessary to protect persons and property.

Sec. 8. Penalties.

(a) If any underground facility is damaged through the fault of any person, that person shall be liable to the owner of the underground facility for the total cost of the repair or, if necessary, the replacement of the damaged underground facility.

D.C. Code,
sec. 43-1707

(b) If any underground facility is damaged by any person carrying out excavation or demolition without having complied with the notice provisions of this act, that person shall be liable to the owner of the underground facility for treble the cost of the repair or replacement of the damaged underground facility.

(c) Any person who violates any provision of this act shall be subject to a civil penalty not to exceed one thousand dollars (\$1,000) for each such violation. Action to recover the civil

penalties provided for in this section shall be brought by the Corporation Counsel of the District of Columbia in the Superior Court of the District of Columbia. All penalties recovered from such action, including reasonable attorney's fees, shall be paid into the General Fund of the District of Columbia.

Sec. 9. Mandamus or Injunction.

If any person proposes to engage or is engaging in excavation or demolition in the District of Columbia without complying with this act, or in a negligent or unsafe manner, or by using a procedure which has resulted in, or is likely to result in, damage to an underground facility, the owner of such underground facility or the Corporation Counsel may commence an action in the Superior Court of the District of Columbia, for the purpose of having such negligent or unsafe excavation or demolition stopped and prevented, by either mandamus or injunction. The court may join as parties any persons necessary or proper to make its judgment or process effective and, if appropriate, shall issue a final order granting such relief.

D.C.Code,
sec. 43-1708

Sec. 10. Emergency.

D.C.Code,
sec. 43-1709

Compliance with the notice requirements of section 5 shall not be required for an emergency excavation or demolition involving an imminent danger to life, health, or property: PROVIDED, that reasonable precautions have been taken to protect underground facilities. The appropriate public utility operators shall, in any event, be notified directly and as soon as possible. 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 section 5 can be fully complied with.

Sec. 11. Severability.

D.C.Code,
sec. 43-1710

If any provision of this act or the application thereof, shall in any circumstances be held invalid, the validity of the remainder of the act and the validity of any different application of any such provision, shall not be affected.

Sec. 12. Effective Date.

This act shall take effect one hundred eighty (180) days after a thirty (30) day period of Congressional review following approval by the

Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto), as provided in section 502(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (37 Stat. 813; D.C. Code, sec. 1-147(c)(1)).

Chington E. Dizon

Chairman
Council of the District of Columbia

M. Barry
District of Columbia

APPROVED: January 7, 1981

**COUNCIL OF THE DISTRICT OF COLUMBIA
RECORD OF OFFICIAL COUNCIL ACTION**

DOCKET NO: B 3-240

ACTION: Adopted First Reading, 11/25/80

VOICE VOTE: Unanimous

Absent: all present

ROLL CALL VOTE:

COUNCIL MEMBER	Y	N	A	COUNCIL MEMBER	Y	N	A	COUNCIL MEMBER	Y	N	A
DIXON				KANE				SHACKLETON			
HINTER				MASON				SPALDING			
CLARKE				MOORE				NILSON			
HARRY				RAY							
FRANKS				ROTARY							

CERTIFICATION OF RECORD

John P. Brown
Secretary to the Council

ACTION: Adopted Final Reading, Consent Calendar, 12/9/80

VOICE VOTE: Unanimous

Absent: Clarke

ROLL CALL VOTE:

COUNCIL MEMBER	Y	N	A	COUNCIL MEMBER	Y	N	A	COUNCIL MEMBER	Y	N	A
DIXON				KANE				SHACKLETON			
HINTER				MASON				SPALDING			
CLARKE				MOORE				NILSON			
HARRY				RAY							
FRANKS				ROTARY							

CERTIFICATION OF RECORD

John P. Brown
Secretary to the Council

ACTION: _____

VOICE VOTE: _____

Absent: _____

ROLL CALL VOTE:

COUNCIL MEMBER	Y	N	A	COUNCIL MEMBER	Y	N	A	COUNCIL MEMBER	Y	N	A
DIXON				KANE				SHACKLETON			
HINTER				MASON				SPALDING			
CLARKE				MOORE				NILSON			
HARRY				RAY							
FRANKS				ROTARY							

CERTIFICATION OF RECORD

Secretary to the Council