As Introduced

136th General Assembly
Regular Session **H. B. No. 227**
2025-2026

Representatives Robb Blasdel, Johnson
Cosponsor: Representative Daniels

To amend sections 3781.25, 3781.26, 3781.27, 3781.271, and 3781.28 of the Revised Code to modify excavation requirements.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3781.25, 3781.26, 3781.27, 3781.271, and 3781.28 of the Revised Code be amended to read as follows:

Sec. 3781.25. As used in sections 3781.25 to 3781.38 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 has registered by March 14, 1989, with the secretary of state and the public utilities commission of Ohio under former division (F) of section 153.64 of the Revised Code as it existed on that date.

(B) "Underground utility facility" includes any item buried or placed below ground or submerged under water for use

in connection with the storage or conveyance of water or sewage; electronic, or telephonic communications; television signals; electricity; crude oil; petroleum products; artificial or liquefied petroleum; manufactured, mixed, or natural gas; synthetic or liquefied natural gas; propane gas; coal; steam; hot water; or other substances. "Underground utility facility" includes all operational underground pipes, sewers, tubing, conduits, cables, valves, lines, wires, worker access holes, and attachments, owned by any person, firm, or company. "Underground utility facility" does not include a private septic system in a one-family or multi-family dwelling utilized only for that dwelling and not connected to any other system.

(C) "Utility" means any owner or operator, or an agent of an owner or operator, of an underground utility facility, including any public authority, that owns or operates an underground utility facility. "Utility" does not include 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;

(5) The owner of an exempt domestic well as defined in section 1509.01 of the Revised Code.

(D) "Approximate location" means the immediate area within the perimeter of a proposed excavation site where the

underground utility facilities are located.

(E) "Tolerance zone" 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.

(F) "Working days" ~~excludes Saturdays, Sundays,~~ begin at midnight, end at eleven fifty-nine p.m. on the same date, and exclude weekends and legal holidays as defined in section 1.14 of the Revised Code and "hours" excludes hours on ~~Saturdays, Sundays,~~ weekends and legal holidays.

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

(H) "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.

(I) "Excavation" means the use of hand 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 coal mining and reclamation operations regulated under Chapter 1513. of the Revised Code and rules adopted under it. "Excavation" excludes all of the

following activities when performed in the public right-of-way:

(1) Milling and grinding of asphalt road surfaces without penetrating the earth to a depth greater than four inches, except for pulverizing activities, activities at signalized intersections, and activities where signal or environmental sensors may be present;

(2) Utility wood pole inspection utilizing hand tools to excavate to a depth that does not penetrate the earth more than twelve inches and working on the clear side of poles, greater than ninety degrees from any risers;

(3) Tilling for sowing of grass and wildflower coverings to a depth that does not penetrate the earth more than four inches for erosion control or beautification purposes;

(4) Placement of temporary signage, without penetrating the earth more than four inches.

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

(K) "Excavator" means the person or persons responsible for making the actual excavation.

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

(M) "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.

(N) "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.

(O) "Commercial excavator" means any excavator, excluding a utility as defined in this section, that satisfies both of the following:

(1) For compensation, performs, directs, supervises, or is responsible for the excavation, construction, improvement, renovation, repair, or maintenance on a construction project and holds out or represents oneself as qualified or permitted to act as such;

(2) Employs tradespersons who actually perform excavation, construction, improvement, renovation, repair, or maintenance on a construction project.

(P) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes a public authority.

(Q) "Positive response system" means an automated system facilitated by a protection service allowing a utility to communicate to an excavator the presence or absence of any conflict between the existing underground utility facilities and the proposed excavation site.

(R) "One-call notification system" means the software or communications system used by a protection system to notify its membership of proposed excavation sites.

(S) "Project" means any undertaking by a private party of an improvement requiring excavation.

(T) "Public authority" has the same meaning as in section 153.64 of the Revised Code.

(U) "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.

(V) "Emergency" means an unexpected occurrence causing a disruption or damage to an underground utility facility that requires immediate repair or a situation that creates a clear and imminent danger that demands immediate action to prevent or mitigate loss of or damage to life, health, property, or essential public services.

(W) "Nondestructive manner" means using low-impact, low-risk technologies such as hand tools, or hydro or air vacuum excavation equipment.

(X) "Cable service provider" has the same meaning as in section 1332.01 of the Revised Code.

(Y) "Electric cooperative" and "electric utility" have the same meanings as in section 4928.01 of the Revised Code.

Sec. 3781.26. (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 by identifying the municipal corporations, and outside the limits of a municipal corporation, the townships by county and, where applicable, the immediate geographic area in which it has facilities. The service shall establish reasonable fees for limited basis~~

~~participants.~~

(B) Protection services, utilities, commercial 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.

(D) Each utility fully participating in a protection service pursuant to this section shall also participate in its affiliated positive response system. ~~Each utility participating in a protection service on a limited basis shall directly communicate to the excavator the presence or absence of any conflict between the existing underground utility facilities and the proposed excavation site.~~

Sec. 3781.27. (A) In order to ascertain the name of each utility with underground utility facilities located at the proposed excavation site and the types and tolerance zones of those facilities based on current records of the utility, any developer who is planning a project that will require excavation or the designer employed by the developer for the project shall

notify a protection service of the location of the proposed excavation site.

(B) ~~Except in the case of limited basis participants, the~~ 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. ~~Except as provided in section 3781.271 of the Revised Code, in the case of limited basis participants, the protection service shall notify the developer or the designer employed by 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 or designer shall contact that utility.~~

(C)(1) Each utility that has any underground utility facilities in the area of the proposed excavation site shall notify the developer or the designer employed by the developer of the locations and description of the utility's underground utility facilities located at the proposed excavation site in accordance with division (C)(2) of this section. The utility shall make this notification within ten working days of receiving a notice under division (B) of this section or by a later date acceptable to the developer or designer and utility. If the proposed project is within six hundred sixty feet of the center point of an interstate hazardous liquid pipeline or an interstate gas pipeline, the utility shall provide written notice to the developer or designer of any special notification requirements and identify its primary contact person for the project area.

(2) If requested by the developer or the designer employed

by the developer, each utility shall do one of the following in order to comply with the notification requirements of division (C)(1) of this section:

(a) Mark the location of the underground utility facilities, other than those facilities serving single-family or two-, three-, or four-unit dwellings, at the proposed excavation site in accordance with the marking standards described in division (C) of section 3781.29 of the Revised Code;

(b) Provide digital or paper drawings, or both, that meet both of the following requirements:

(i) They are drawn to scale and include locatable items. Locatable items may include poles, pedestals, back of curb, sidewalk, edge of pavement, centerline of ditch, property lines, and other similar items.

(ii) They depict the location of the underground utility facilities.

(3) In the case of an interstate hazardous pipeline and an interstate gas pipeline, the utility shall also provide the location and description of any right-of-way associated with the underground utility facilities as well as pipeline location information, such as providing documents reflecting the actual location of the pipeline, marking facilities on design drawings, and providing maps.

Compliance with divisions (C)(2) and (3) of this section does not relieve a utility from compliance with the marking requirements of section 3781.29 of the Revised Code.

(D) The utility shall determine if any relocation, support, or removal, or protective steps beyond those described in divisions (A)(1) to (5) 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 or the designer employed by 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 or the designer employed by the developer shall indicate the approximate locations of underground utility facilities either on or with the plans prepared for the project. The developer or designer 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 any appropriate protection service; and any required adjustments as described in division (D) of this section, including the reasonable time necessary for the utility to make those adjustments. In the case of an interstate hazardous liquid pipeline or an interstate gas pipeline, the developer or designer also shall include all of the following:

(a) Any special notification requirements;

(b) The name and contact information of the primary contact person for each pipeline operator who has provided notice to the developer or designer under division (C)(1) of this section;

(c) Notice stating that the developer or designer has utilized reasonable means to contact the pipeline operator to verify the location of the pipeline and pipeline rights-of-way.

Developers and designers who provide notice to the protection service in accordance with division (A) of this section are deemed to have complied with the notification requirement under this division.

(d) Notice that the developer or designer has reviewed, or attempted to review, preliminary information about the proposed development with the pipeline operator and incorporated requested adjustments into the plans.

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

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

(3) The developer or designer 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 or designer 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, in writing, 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 a 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.

(G) A public authority, as defined in section 153.64 of the Revised Code, may withhold approval to a project until the requirements of this section have been satisfied by the developer and utility, as applicable. A public authority may rely solely upon the notice submitted under division (E) of this section when determining whether the requirements of this section have been satisfied for purposes of granting final approval of such development. A public authority is immune from liability related to the approval or construction of such development when the approval is based upon information as provided in this division.

Sec. 3781.271. Beginning on July 1, 2013, each protection service shall reasonably modify its one-call notification system

so as to permit the reasonable identification of the location of a proposed excavation site ~~in a manner in which the protection service may then notify any potentially affected limited basis participants~~. Each member of a protection service~~, including limited basis participants,~~ shall be responsible for providing current contact information to the protection service.

Sec. 3781.28. (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 working days before commencing excavation,~~ at least two working days, not including the day of the notification, but not more than sixteen calendar days before commencing excavation, the excavator shall notify ~~a~~ the protection service of the location of the excavation site and the date on which excavation is planned to commence.

(B) On receipt of notice under division (A) of this section, the protection service shall provide to each utility with underground utility facilities located at the excavation site, notice of the proposed excavation.

(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 written notice of excavation with projected timelines for segments of the excavation as the excavation progresses in order to coordinate the marking of underground utility facilities with actual excavation schedules. Under such circumstances, the utility and excavator shall determine a mutually agreed upon marking schedule based on the project schedule. Once such a schedule is established, the marking and notification requirements set forth in division (A)(1) of section 3781.29 of the Revised Code shall not apply.

(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 a 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, a public right-of-way, or where utility facilities are known to serve the property.

(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 a protection service ~~and to each utility that is a limited basis participant in a 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~~.

Section 2. That existing sections 3781.25, 3781.26, 3781.27, 3781.271, and 3781.28 of the Revised Code are hereby repealed.