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Representatives Robb Blasdel, Johnson

Cosponsors: Representatives Daniels, Abrams, Barhorst, Brennan, Claggett, Click, Deeter, Dovilla, Fischer, Ghanbari, Hiner, Holmes, Hoops, Kishman, Klopfenstein, LaRe, Mathews, A., Mathews, T., Miller, J., Newman, Odioso, Peterson, Plummer, Rader, Sigrist, Swearingen, Williams, Willis, Young

To amend sections 153.64, 3781.25, 3781.26, 1
3781.27, 3781.271, 3781.28, and 3781.29 of the 2
Revised Code to modify excavation requirements. 3

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

Section 1. That sections 153.64, 3781.25, 3781.26, 4
3781.27, 3781.271, 3781.28, and 3781.29 of the Revised Code be 5
amended to read as follows: 6

Sec. 153.64. (A) As used in this section: 7

(1) "Public improvement" means any construction, 8
reconstruction, improvement, enlargement, alteration, or repair 9
of a building, highway, drainage system, water system, road, 10
street, alley, sewer, ditch, sewage disposal plant, water works, 11
and all other structures or works of any nature by a public 12
authority. 13

(2) "Public authority" includes the following: 14

(a) The state, or a county, township, municipal 15
corporation, school district, or other political subdivision; 16

(b) Any public agency, authority, board, commission, 17
instrumentality, or special district of or in the state or a 18
county, township, municipal corporation, school district, or 19
other political subdivision; 20

(c) A designer as defined in section 3781.25 of the 21
Revised Code who is acting on behalf of any entity described in 22
division (A)(2)(a) or (b) of this section. 23

(3) "Underground utility facilities" includes any item 24
buried or placed below ground or submerged under water for use 25
in connection with the storage or conveyance of water or sewage; 26
or electronic, telephonic, or telegraphic communications; 27
electricity; petroleum products; manufactured, mixed, or natural 28
gas; synthetic or liquified natural gas; propane gas; or other 29
substances. "Underground utility facilities" includes, but is 30
not limited to, all operational underground pipes, sewers, 31
tubing, conduits, cables, valves, lines, wires, manholes, and 32
attachments, whether owned by any public or private or profit or 33
nonprofit person, firm, partnership, company, corporation, joint 34
stock association, joint venture, or voluntary association, 35
wherever organized or incorporated, except for a private septic 36
system in a single- or multi-family dwelling utilized only for 37
that dwelling and not connected to any other system. 38

(4) "Protection service" means a notification center not 39
an owner of an underground utility facility that complies with 40
the following: 41

(a) It exists for the purpose of receiving notice from 42
public authorities and from other persons that plan to prepare 43
plans and specifications for, or engage in, public improvements 44
involving digging, blasting, excavating, or other underground 45
construction activities; 46

(b) It distributes the information described in division 47
(A) (4) (a) of this section to its members and participants; 48

(c) It has registered by March 14, 1989, with the 49
secretary of state and the public utilities commission under 50
former division (F) of this section as it existed on that date. 51

(5) "Construction area" means the area delineated on the 52
plans and specifications for the public improvement within which 53
the work provided for in the contract will be performed. 54

(6) "Interstate gas pipeline" means an interstate gas 55
pipeline subject to the "Natural Gas Pipeline Safety Act of 56
1968," 49 U.S.C. 1671, as amended. 57

(7) "Interstate hazardous liquids pipeline" means an 58
interstate hazardous liquids pipeline subject to the "Hazardous 59
Liquid Pipeline Safety Act of 1979," 49 U.S.C. 2002, as amended. 60

(B) (1) In any public improvement which may involve 61
underground utility facilities, the public authority, prior to 62
preparing plans and specifications, shall contact a protection 63
service and any owners of underground utility facilities that 64
are not members of a protection service for the existence and 65
location of all underground utility facilities within the 66
construction area. 67

(2) If requested by the public authority, each owner of 68
underground utility facilities within the construction area, 69
other than real property owners listed in divisions (C) (1) to 70
(4) of section 3781.25 of the Revised Code, shall do one of the 71
following within ten days of receiving notice from the public 72
authority or a protection service: 73

(a) Mark the location of the underground utility 74
facilities, other than those facilities serving single-family or 75

two-, three-, or four-unit dwellings, within the construction 76
area in accordance with the marking standards described in 77
division (C) of section 3781.29 of the Revised Code; 78

(b) Provide digital or paper drawings, or both, that meet 79
both of the following requirements: 80

(i) They are drawn to scale and include locatable items. 81
Locatable items may include poles, pedestals, back of curb, 82
sidewalk, edge of pavement, centerline of ditch, property lines, 83
and other similar items. 84

(ii) They depict the location of the underground utility 85
facilities. 86

(3) If the public improvement is within six hundred sixty 87
feet of the center point of any interstate hazardous liquid 88
pipeline or interstate gas pipeline, the pipeline operator shall 89
provide to the public authority all of the following: 90

(a) A written notice of any special notification 91
requirements; 92

(b) The location and description of any right-of-way 93
associated with the pipeline as well as pipeline location 94
information, such as providing documents reflecting the actual 95
location of the pipeline, marking facilities on design drawings, 96
and providing maps; 97

(c) Contact information for the primary contact person for 98
the project area. 99

Compliance with divisions (B) (2) and (3) of this section 100
does not relieve an owner of underground utility facilities from 101
compliance with the marking requirements of section 3781.29 of 102
the Revised Code. 103

(4) The public authority shall include, in the plans and 104
specifications for such improvement, the identity and location 105
of the existing underground utility facilities located in the 106
construction area as provided to the public authority by the 107
owner of the underground utility facility and the name, address, 108
and telephone number of each owner of any underground utility 109
facilities in the construction area that does not subscribe to a 110
protection service. 111

(a) If the public authority is notified that the 112
improvement is within six hundred sixty feet of the center point 113
of any interstate hazardous liquid pipeline or interstate gas 114
pipeline, the public authority shall also include in the plans 115
and specifications for the project all of the following: 116

(i) Any special notification requirements; 117

(ii) The name and contact information of the primary 118
contact person for each pipeline operator who has provided 119
notice to the public authority under division (B) (3) of this 120
section; 121

(iii) Notice stating that the public authority has 122
utilized reasonable means to contact the pipeline operator to 123
verify the location of the pipeline and pipeline right-of-way; 124

(iv) Notice that the public authority has reviewed, or has 125
attempted to review, preliminary information about the public 126
improvement with the pipeline operator and incorporated the 127
requested adjustments into the plans. 128

(b) For purposes of division (B) (4) (a) (iii) of this 129
section, a public authority who provides notice to the 130
protection service in accordance with division (B) (1) of this 131
section is deemed to have utilized reasonable means to contact 132

the operator of the pipeline. 133

(5) Any anticipated temporary or permanent relocation of 134
underground utility facilities deemed necessary by the public 135
authority shall be negotiated or arranged by the public 136
authority with the owners of the underground utility facilities 137
prior to the start of construction. If a temporary or permanent 138
relocation of utility facilities is necessary, the owner of the 139
underground utility facility shall be given a reasonable time to 140
move such utility facilities unless the contractor to whom the 141
contract for a public improvement is awarded or its 142
subcontractor agrees with the owner of the underground utility 143
facility to coordinate relocation with construction operations. 144

(6) The public authority, within ten calendar days after 145
award of a contract for a public improvement, shall notify in 146
writing all owners of underground utility facilities known to be 147
located in the construction area of the public improvement of 148
the name and address of the contractor to whom the contract for 149
the public improvement was awarded. Where notice is given in 150
writing by certified mail, the return receipt, signed by any 151
person to whom the notice is delivered, shall be conclusive 152
proof of notice. 153

(C) The contractor to whom a contract for a public 154
improvement is awarded or its subcontractor, at least two 155
working days, ~~excluding Saturdays, Sundays, and legal holidays,~~ 156
~~but no more than ten working days,~~ not including the day of the 157
notification, but not more than sixteen calendar days prior to 158
commencing construction operations in the construction area 159
which may involve underground utility facilities, shall cause 160
notice to be given to ~~a~~ the protection service and the owners of 161
underground utility facilities shown on the plans and 162

specifications who are not members of a protection service. The 163
owner of the underground utility facility, within ~~forty-eight~~ 164
~~hours, excluding Saturdays, Sundays, and legal holidays, after~~ 165
~~notice is received~~ at least two working days, not including the 166
day of the notification, shall stake, mark, or otherwise 167
designate the location of the underground utility facilities in 168
the construction area in such a manner as to indicate their 169
course together with the approximate depth at which they were 170
installed. 171

(D) If the public authority fails to comply with the 172
requirements of division (B) of this section, the contractor to 173
whom the work is awarded or its subcontractor complies with the 174
requirements of division (C) of this section, and the contractor 175
or its subcontractor encounters underground utility facilities 176
in the construction area that would have been shown on the plans 177
and specifications for such improvement had a protection service 178
or owner of the underground utility facility who is not a member 179
of a protection service whose name, address, and telephone 180
number is provided by the public authority been contacted, then 181
the contractor, upon notification to the public authority, is 182
entitled to an increase to the contract price for itself or its 183
subcontractor for any additional work that must be undertaken or 184
additional time that will be required and is entitled to an 185
extension of the completion date of the contract for the period 186
of time of any delays to the construction of the public 187
improvement. 188

In the event of a dispute as to the application of this 189
section, procedures may be commenced under the applicable terms 190
of the construction contract, or if the contract contains no 191
provision for final resolution of the dispute, pursuant to the 192
procedures for arbitration in Chapter 2711. of the Revised Code. 193

This section does not affect rights between the 194
contractors and the public authority for any increase in 195
contract price or additional time to perform the contract when 196
the public authority complies with division (B) of this section. 197

Any public authority who complies with the requirements of 198
division (B) of this section and any contractor or its 199
subcontractor who complies with the requirements of division (C) 200
of this section shall not be responsible to the owner of the 201
underground utility facility if underground utility lines are 202
encountered not as marked in accordance with the provisions of 203
division (C) of this section by the owner of the underground 204
utility facility, unless the contractor or its subcontractor has 205
actual notice of the underground utility facility. Except as 206
noted in this division, this section does not affect rights 207
between the contractor or its subcontractor and the owner of the 208
underground utility facility for failure to mark or erroneously 209
marking utility lines. The public authority shall not make as a 210
requirement of any contract for public improvement any change in 211
responsibilities between the public authority and the owners of 212
the underground utility facilities in connection with damage, 213
injury, or loss to any property in connection with underground 214
utility facilities. 215

The contractor or its subcontractor shall alert 216
immediately the occupants of nearby premises as to any emergency 217
that the contractor or subcontractor may create or discover at 218
or near such premises. The contractor or its subcontractor shall 219
report immediately to the owner or operator of the underground 220
facility any break or leak on its lines or any dent, gouge, 221
groove, or other damage to such lines or to their coating or 222
cathodic protection, made or discovered in the course of their 223
excavation. 224

(E) This section does not affect rights between the public 225
authority and the owners of the underground utility facilities 226
for responsibility for costs involving removal, relocation, or 227
protection of existing underground utility facilities, or for 228
costs for delays occasioned thereby. 229

Sec. 3781.25. As used in sections 3781.25 to 3781.38 of 230
the Revised Code: 231

(A) "Protection service" means a notification center, but 232
not an owner of an individual utility, that exists for the 233
purpose of receiving notice from persons that prepare plans and 234
specifications for or that engage in excavation work, that 235
distributes this information to its members and participants, 236
and that has registered by March 14, 1989, with the secretary of 237
state and the public utilities commission of Ohio under former 238
division (F) of section 153.64 of the Revised Code as it existed 239
on that date. 240

(B) "Underground utility facility" includes any item 241
buried or placed below ground or submerged under water for use 242
in connection with the storage or conveyance of water or sewage; 243
electronic, or telephonic communications; television signals; 244
electricity; crude oil; petroleum products; artificial or 245
liquefied petroleum; manufactured, mixed, or natural gas; 246
synthetic or liquefied natural gas; propane gas; coal; steam; 247
hot water; or other substances. "Underground utility facility" 248
includes all operational underground pipes, sewers, tubing, 249
conduits, cables, valves, lines, wires, worker access holes, and 250
attachments, owned by any person, firm, or company. "Underground 251
utility facility" does not include a private septic system in a 252
one-family or multi-family dwelling utilized only for that 253
dwelling and not connected to any other system. 254

(C) "Utility" means any owner or operator, or an agent of 255
an owner or operator, of an underground utility facility, 256
including any public authority, that owns or operates an 257
underground utility facility. "Utility" does not include the 258
owners of the following types of real property with respect to 259
any underground utility facility located on that property: 260

(1) The owner of a single-family or two-, three-, or four- 261
unit residential dwelling; 262

(2) The owner of an apartment complex; 263

(3) The owner of a commercial or industrial building or 264
complex of buildings, including but not limited to, factories 265
and shopping centers; 266

(4) The owner of a farm; 267

(5) The owner of an exempt domestic well as defined in 268
section 1509.01 of the Revised Code. 269

(D) "Approximate location" means the immediate area within 270
the perimeter of a proposed excavation site where the 271
underground utility facilities are located. 272

(E) "Tolerance zone" means the site of the underground 273
utility facility including the width of the underground utility 274
facility plus eighteen inches on each side of the facility. 275

(F) "Working days" ~~excludes Saturdays, Sundays, begin at~~ 276
midnight, end at eleven fifty-nine p.m. on the same date, and 277
exclude weekends and legal holidays as defined in section 1.14 278
of the Revised Code and "hours" excludes hours on ~~Saturdays,~~ 279
~~Sundays, weekends~~ and legal holidays. 280

(G) "Designer" means an engineer, architect, landscape 281
architect, contractor, surveyor, or other person who develops 282

plans or designs for real property improvement or any other 283
activity that will involve excavation. 284

(H) "Developer" means the person for whom the excavation 285
is made and who will own or be the lessee of any improvement 286
that is the object of the excavation. 287

(I) "Excavation" means the use of hand tools, powered 288
equipment, or explosives to move earth, rock, or other materials 289
in order to penetrate or bore or drill into the earth, or to 290
demolish any structure whether or not it is intended that the 291
demolition will disturb the earth. "Excavation" includes such 292
agricultural operations as the installation of drain tile, but 293
excludes agricultural operations such as tilling that do not 294
penetrate the earth to a depth of more than twelve inches. 295
~~"Excavation" excludes any activity by a governmental entity~~ 296
~~which does not penetrate the earth to a depth of more than~~ 297
~~twelve inches.~~ "Excavation" excludes coal-mining and reclamation 298
operations regulated under ~~Chapter~~ Chapters 1513. and 1514. of 299
the Revised Code and rules adopted under it. "Excavation" 300
excludes all of the following activities when performed in the 301
public right-of-way: 302

(1) Milling and grinding of asphalt road surfaces up to 303
six inches without penetrating the earth or sub-base, except for 304
pulverizing activities, activities at signalized intersections, 305
and activities where signal or environmental sensors may be 306
present; 307

(2) Utility wood pole inspection utilizing hand tools to 308
excavate to a depth that does not penetrate the earth more than 309
twelve inches and working on the clear side of poles, greater 310
than ninety degrees from any risers; 311

(3) Tilling for sowing of grass and wildflower coverings 312
to a depth that does not penetrate the earth more than four 313
inches for erosion control or beautification purposes; 314

(4) Placement of temporary signage, without penetrating 315
the earth more than four inches; 316

(5) Localized pavement repairs on all areas outside 317
municipal corporations without penetrating the earth to a depth 318
greater than twelve inches. 319

(J) "Excavation site" means the area within which 320
excavation will be performed. 321

(K) "Excavator" means the person or persons responsible 322
for making the actual excavation. 323

(L) "Interstate gas pipeline" means an interstate gas 324
pipeline subject to the "Natural Gas Pipeline Safety Act of 325
1968," 82 Stat. 720, 49 U.S.C. 1671, as amended. 326

(M) "Interstate hazardous liquids pipeline" means an 327
interstate hazardous liquids pipeline subject to the "Hazardous 328
Liquid Pipeline Safety Act of 1979," 93 Stat. 1003, 49 U.S.C. 329
2002, as amended. 330

(N) "Special notification requirements" means requirements 331
for notice to an owner of an interstate hazardous liquids 332
pipeline or an interstate gas pipeline that must be made prior 333
to commencing excavation and pursuant to the owner's public 334
safety program adopted under federal law. 335

(O) "Commercial excavator" means any excavator, excluding 336
a utility as defined in this section, that satisfies both of the 337
following: 338

(1) For compensation, performs, directs, supervises, or is 339

responsible for the excavation, construction, improvement, 340
renovation, repair, or maintenance on a construction project and 341
holds out or represents oneself as qualified or permitted to act 342
as such; 343

(2) Employs tradespersons who actually perform excavation, 344
construction, improvement, renovation, repair, or maintenance on 345
a construction project. 346

(P) "Person" has the same meaning as in section 1.59 of 347
the Revised Code and also includes a public authority. 348

(Q) "Positive response system" means an automated system 349
facilitated by a protection service allowing a utility to 350
communicate to an excavator the presence or absence of any 351
conflict between the existing underground utility facilities and 352
the proposed excavation site. 353

(R) "One-call notification system" means the software or 354
communications system used by a protection system to notify its 355
membership of proposed excavation sites. 356

(S) "Project" means any undertaking by a private party of 357
an improvement requiring excavation. 358

(T) "Public authority" has the same meaning as in section 359
153.64 of the Revised Code. 360

(U) "Improvement" means any construction, reconstruction, 361
improvement, enlargement, alteration, or repair of a building, 362
highway, drainage system, water system, road, street, alley, 363
sewer, ditch, sewage disposal plant, water works, and all other 364
structures or works of any nature. 365

(V) "Emergency" means an unexpected occurrence causing a 366
disruption or damage to an underground utility facility that 367

requires immediate repair or a situation that creates a clear 368
and imminent danger that demands immediate action to prevent or 369
mitigate loss of or damage to life, health, property, or 370
essential public services. 371

(W) "Nondestructive manner" means using low-impact, low- 372
risk technologies such as hand tools, or hydro or air vacuum 373
excavation equipment. 374

(X) "Cable service provider" has the same meaning as in 375
section 1332.01 of the Revised Code. 376

(Y) "Electric cooperative" and "electric utility" have the 377
same meanings as in section 4928.01 of the Revised Code. 378

Sec. 3781.26. (A) Each utility that owns or operates 379
underground utility facilities shall participate in and register 380
the location of its underground utility facilities with a 381
protection service that serves the area where the facilities are 382
located. ~~A utility may elect to participate in the service on a~~ 383
~~limited basis and if it does so, it shall register the location~~ 384
~~of its underground utility facilities by identifying the~~ 385
~~municipal corporations, and outside the limits of a municipal~~ 386
~~corporation, the townships by county and, where applicable, the~~ 387
~~immediate geographic area in which it has facilities. The~~ 388
~~service shall establish reasonable fees for limited basis~~ 389
~~participants.~~ 390

(B) Protection services, utilities, commercial excavators, 391
excavation equipment dealers, the public utilities commission of 392
Ohio, the board of building standards, local law enforcement 393
agencies, and fire departments should publicize the importance 394
of ascertaining the location of underground utility facilities 395
before excavating and the use of protection services to 396

ascertain that information. 397

(C) A protection service shall maintain records of 398
notifications received from developers, designers, and 399
excavators, and of its notifications made to utilities, 400
developers, designers, and excavators, under sections 3781.27 401
and 3781.28 of the Revised Code. The records of a protection 402
service shall identify by reference number, the notifications it 403
received regarding a proposed excavation site, the notifications 404
it provided regarding a proposed excavation site, and the date 405
and time of each notification. 406

(D) Each utility fully participating in a protection 407
service pursuant to this section shall also participate in its 408
affiliated positive response system. ~~Each utility participating~~ 409
~~in a protection service on a limited basis shall directly~~ 410
~~communicate to the excavator the presence or absence of any~~ 411
~~conflict between the existing underground utility facilities and~~ 412
~~the proposed excavation site.~~ 413

Sec. 3781.27. (A) In order to ascertain the name of each 414
utility with underground utility facilities located at the 415
proposed excavation site and the types and tolerance zones of 416
those facilities based on current records of the utility, any 417
developer who is planning a project that will require excavation 418
or the designer employed by the developer for the project shall 419
notify a protection service of the location of the proposed 420
excavation site. 421

(B) ~~Except in the case of limited basis participants, the~~ 422
The protection service shall provide notice of the proposed 423
excavation to each participant in the service that has 424
underground utility facilities in the area of the proposed 425
excavation site. ~~Except as provided in section 3781.271 of the~~ 426

~~Revised Code, in the case of limited basis participants, the~~ 427
~~protection service shall notify the developer or the designer~~ 428
~~employed by the developer of the name of each limited basis~~ 429
~~participant with underground utility facilities within the~~ 430
~~municipal corporation or township and county of the proposed~~ 431
~~excavation site, and the developer or designer shall contact~~ 432
~~that utility.~~ 433

(C) (1) Each utility that has any underground utility 434
facilities in the area of the proposed excavation site shall 435
notify the developer or the designer employed by the developer 436
of the locations and description of the utility's underground 437
utility facilities located at the proposed excavation site in 438
accordance with division (C) (2) of this section. The utility 439
shall make this notification within ten working days of 440
receiving a notice under division (B) of this section or by a 441
later date acceptable to the developer or designer and utility. 442
If the proposed project is within six hundred sixty feet of the 443
center point of an interstate hazardous liquid pipeline or an 444
interstate gas pipeline, the utility shall provide written 445
notice to the developer or designer of any special notification 446
requirements and identify its primary contact person for the 447
project area. 448

(2) If requested by the developer or the designer employed 449
by the developer, each utility shall do one of the following in 450
order to comply with the notification requirements of division 451
(C) (1) of this section: 452

(a) Mark the location of the underground utility 453
facilities, other than those facilities serving single-family or 454
two-, three-, or four-unit dwellings, at the proposed excavation 455
site in accordance with the marking standards described in 456

division (C) of section 3781.29 of the Revised Code; 457

(b) Provide digital or paper drawings, or both, that meet 458
both of the following requirements: 459

(i) They are drawn to scale and include locatable items. 460
Locatable items may include poles, pedestals, back of curb, 461
sidewalk, edge of pavement, centerline of ditch, property lines, 462
and other similar items. 463

(ii) They depict the location of the underground utility 464
facilities. 465

(3) In the case of an interstate hazardous pipeline and an 466
interstate gas pipeline, the utility shall also provide the 467
location and description of any right-of-way associated with the 468
underground utility facilities as well as pipeline location 469
information, such as providing documents reflecting the actual 470
location of the pipeline, marking facilities on design drawings, 471
and providing maps. 472

Compliance with divisions (C) (2) and (3) of this section 473
does not relieve a utility from compliance with the marking 474
requirements of section 3781.29 of the Revised Code. 475

(D) The utility shall determine if any relocation, 476
support, or removal, or protective steps beyond those described 477
in divisions (A) (1) to (5) of section 3781.30 of the Revised 478
Code are required in order to prevent disturbance or 479
interference with the underground utility facilities during 480
excavation. The utility shall determine whether it will permit 481
the developer or the designer employed by the developer to make 482
those adjustments, and, if the adjustments are to be made by the 483
utility, a reasonable amount of time necessary to make those 484
adjustments. 485

(E) (1) Based on the information provided pursuant to 486
division (C) of this section, the developer or the designer 487
employed by the developer shall indicate the approximate 488
locations of underground utility facilities either on or with 489
the plans prepared for the project. The developer or designer 490
shall include with the plans the names, addresses, and telephone 491
numbers of utilities with underground facilities at the 492
excavation site, ~~indicating which utilities are limited basis-~~ 493
~~participants;~~ the name and telephone number of any appropriate 494
protection service; and any required adjustments as described in 495
division (D) of this section, including the reasonable time 496
necessary for the utility to make those adjustments. In the case 497
of an interstate hazardous liquid pipeline or an interstate gas 498
pipeline, the developer or designer also shall include all of 499
the following: 500

(a) Any special notification requirements; 501

(b) The name and contact information of the primary 502
contact person for each pipeline operator who has provided 503
notice to the developer or designer under division (C) (1) of 504
this section; 505

(c) Notice stating that the developer or designer has 506
utilized reasonable means to contact the pipeline operator to 507
verify the location of the pipeline and pipeline rights-of-way. 508
Developers and designers who provide notice to the protection 509
service in accordance with division (A) of this section are 510
deemed to have complied with the notification requirement under 511
this division. 512

(d) Notice that the developer or designer has reviewed, or 513
attempted to review, preliminary information about the proposed 514
development with the pipeline operator and incorporated 515

requested adjustments into the plans. 516

(2) (a) Except as otherwise provided in division (E) (2) (b) 517
of this section, the developer or designer shall provide the 518
plans to the commercial excavator prior to entering into a 519
contract that involves such excavation. If the developer does 520
not prepare written plans or have any written plans prepared, 521
the developer shall otherwise provide the approximate locations, 522
identifying information on the utilities, information on 523
required adjustments, and any special notification requirements 524
to the commercial excavator before excavation begins. 525

(b) When the developer is a utility, the utility shall 526
provide either the plans or the approximate locations, 527
identifying information on the utilities, information on 528
required adjustments, and any special notification requirements 529
to the excavator before excavation begins. 530

(3) The developer or designer shall design the project 531
taking into account the approximate location of existing 532
underground utility facilities in order to prevent, as far as is 533
practicable, disturbance or interference with those facilities. 534

(4) When a project includes installation of new 535
underground utility facilities, the developer or designer shall 536
attempt to design the installation so that at least a twelve- 537
inch clearance is provided between the facilities. No facility 538
shall be installed with less than a twelve-inch clearance unless 539
the owners of existing facilities are notified, in writing, 540
prior to installation. 541

(F) (1) This section does not apply in the case of a 542
utility making emergency repair to its own underground utility 543
facility. 544

(2) This section does not apply in the case of the owner 545
of the types of real property identified in divisions (C) (1) to 546
(4) of section 3781.25 of the Revised Code, unless the owner 547
employs a designer to make written plans for work that will 548
involve excavation. If the owner employs a designer, the 549
designer shall contact a protection service ~~and utilities that~~ 550
~~are limited basis participants~~ in accordance with divisions (A) 551
and (B) of this section, and shall include in or with the plans 552
the information required under division (E) of this section. The 553
owner shall provide that information to the excavator. 554

(G) A public authority, as defined in section 153.64 of 555
the Revised Code, may withhold approval to a project until the 556
requirements of this section have been satisfied by the 557
developer and utility, as applicable. A public authority may 558
rely solely upon the notice submitted under division (E) of this 559
section when determining whether the requirements of this 560
section have been satisfied for purposes of granting final 561
approval of such development. A public authority is immune from 562
liability related to the approval or construction of such 563
development when the approval is based upon information as 564
provided in this division. 565

Sec. 3781.271. Beginning on July 1, 2013, each protection 566
service shall reasonably modify its one-call notification system 567
so as to permit the reasonable identification of the location of 568
a proposed excavation site ~~in a manner in which the protection~~ 569
~~service may then notify any potentially affected limited basis~~ 570
~~participants~~. Each member of a protection service, ~~including~~ 571
~~limited basis participants~~, shall be responsible for providing 572
current contact information to the protection service. 573

Sec. 3781.28. (A) Except as otherwise provided in 574

divisions (C), (D), (E), and (F) of this section, ~~at least~~ 575
~~forty-eight hours but not more than ten working days before~~ 576
~~commencing excavation,~~ at least two working days, not including 577
the day of the notification, but not more than sixteen calendar 578
days before commencing excavation, the excavator shall notify a 579
the protection service of the location of the excavation site 580
and the date on which excavation is planned to commence. 581

(B) On receipt of notice under division (A) of this 582
section, the protection service shall provide to each utility 583
with underground utility facilities located at the excavation 584
site, notice of the proposed excavation. 585

(C) In the case of an interstate hazardous liquids 586
pipeline or interstate gas pipeline, the excavator shall comply 587
with the special notice requirements of the public safety 588
program of the owner of the pipeline as indicated in the plans 589
or otherwise provided to the excavator in accordance with 590
division (E) or (F) (2) of section 3781.27 of the Revised Code. 591

(D) If it has been determined pursuant to division (D) of 592
section 3781.27 of the Revised Code that relocation, support, 593
removal, or protective steps are necessary, the excavator shall 594
provide earlier notice to the utility in order to provide the 595
utility with reasonable time to coordinate making the 596
adjustments with actual excavation. 597

(E) If an excavation will cover a large area and will 598
progress from one area to the next over a period of time, the 599
excavator shall provide written notice of excavation with 600
projected timelines for segments of the excavation as the 601
excavation progresses in order to coordinate the marking of 602
underground utility facilities with actual excavation schedules. 603
Under such circumstances, the utility and excavator shall 604

determine a mutually agreed upon marking schedule based on the 605
project schedule. Once such a schedule is established, the 606
marking and notification requirements set forth in division (A) 607
(1) of section 3781.29 of the Revised Code shall not apply. 608

(F) (1) In the case of a utility that is making an 609
emergency repair to its own underground utility system or a 610
governmental entity making an underground emergency repair to 611
traffic control devices, as defined in section 4511.01 of the 612
Revised Code, used on any street or highway under the entity's 613
jurisdiction, the utility or governmental entity shall notify a 614
protection service ~~and each limited basis participant~~ of the 615
excavation site. This notice need not occur before commencing 616
excavation. 617

(2) In the case of an excavation at the site of real 618
property of the type described in divisions (C) (1) to (4) of 619
section 3781.25 of the Revised Code: 620

(a) If the owner of the property is the excavator, this 621
section does not apply unless the excavation is planned for an 622
area where a utility easement is located, a public right-of-way, 623
or where utility facilities are known to serve the property. 624

(b) If the owner of the property employs an excavator, the 625
excavator shall comply with the requirements of this section. If 626
the owner did not employ a designer to make written plans, the 627
excavator shall provide the notice required under this section 628
to a protection service ~~and to each utility that is a limited~~ 629
~~basis participant in a protection service that has underground~~ 630
~~utility facilities within the municipal corporation or township~~ 631
~~and county of the excavation site, as indicated by the~~ 632
~~protection service.~~ 633

Sec. 3781.29. (A) (1) Except as otherwise provided in 634
division (A) (2) of this section, within ~~forty-eight hours at~~ 635
least two working days, not including the day of the 636
notification, of receiving notice under section 3781.28 of the 637
Revised Code, each utility shall review the status of its 638
facilities within the excavation site, locate and mark its 639
underground utility facilities at the excavation site in such a 640
manner as to indicate their course, and report the appropriate 641
information to the protection service for its positive response 642
system. If a utility does not mark its underground utility 643
facilities or contact the excavator within that time, the 644
utility is deemed to have given notice that it does not have any 645
facilities at the excavation site. If the utility cannot 646
accurately mark the facilities, the utility shall mark them to 647
the best of its ability, notify the excavator using the positive 648
response system that the markings may not be accurate, and 649
provide additional guidance to the excavator in locating the 650
facilities as needed during the excavation. 651

(2) In the case of an interstate hazardous liquids 652
pipeline or an interstate gas pipeline, the owner of the 653
pipeline shall locate and mark its pipeline within the time 654
frame established in the public safety program of the owner. 655

(B) Unless a facility actually is uncovered or probed by 656
the utility or excavator, any indications of the depth of the 657
facility shall be treated as estimates only. (C) (1) Except as 658
provided in division (C) (2) of this section, a utility shall 659
mark its underground facilities using the following color codes: 660
661

	Facility	
B	Electric power transmission and distribution	Safety red
C	Gas transmission and distribution	High visibility safety yellow
D	Oil transmission and distribution	High visibility safety yellow
E	Dangerous materials, product lines, and steam lines	High visibility safety yellow
F	Telephone systems	Safety alert orange
G	Police and fire communications	Safety alert orange
H	Cable television	Safety alert orange
I	Water systems	Safety precaution blue
J	Slurry systems	Safety precaution purple
K	Sewer lines	Safety green.

(2) All underground facilities shall be marked in 662
accordance with the Ohio universal marking standards that are on 663
file with the Ohio utilities protection service. Industry 664
representatives serving on Ohio damage prevention councils shall 665
review the marking standards every two years. 666

(D) Except as otherwise provided in divisions (E) and (F) 667
of this section, prior to notifying a protection service of the 668

proposed excavation, an excavator shall define and premark the 669
approximate location. Proposed construction or excavation 670
markings shall be made in white through the use of an industry- 671
recognized method such as chalk-based paint, flags, stakes, or 672
other method applicable to the specific site and when possible 673
shall indicate the excavator's identity by name, abbreviation, 674
or initial. 675

(E) (1) Before beginning an emergency excavation, or as 676
soon as possible thereafter, an excavator shall make every 677
effort to notify a protection service of the excavation. In 678
providing notification, the excavator shall provide, at a 679
minimum: 680

(a) The name of the individual notifying the protection 681
service; 682

(b) The name, address, any electronic mail address, and 683
telephone numbers of the excavator; 684

(c) The specific location of the excavation site; 685

(d) A description of the excavation. 686

(2) Upon receiving the information set forth in division 687
(E) (1) of this section, the protection service shall provide the 688
excavator with a reference number and a list of utilities that 689
the protection service intends to notify. The protection service 690
shall immediately notify each utility that according to the 691
registration information provided under section 3781.26 of the 692
Revised Code has facilities located within the designated area 693
of the emergency excavation. 694

(3) Any utility notified of an emergency excavation may 695
inspect all of its underground utility facilities located at the 696
emergency excavation site and may take any otherwise lawful 697

action it considers necessary to prevent disturbance to or 698
interference with its facilities during excavation. 699

(F) An excavator is not required to premark the 700
approximate location of an excavation as provided in division 701
(D) of this section in any of the following situations: 702

(1) The utility can determine the precise location, 703
direction, size, and length of the proposed excavation site by 704
referring to the notification provided by the protection service 705
pursuant to sections 3781.27 and 3781.28 of the Revised Code. 706

(2) The excavator and the affected utility have had an on- 707
site, preconstruction meeting for the purpose of premarking the 708
excavation site. 709

(3) The excavation involves replacing a pole that is 710
within five feet of the location of an existing pole. 711

(4) Premarking by the excavator would clearly interfere 712
with pedestrian or vehicular traffic control. 713

Section 2. That existing sections 153.64, 3781.25, 714
3781.26, 3781.27, 3781.271, 3781.28, and 3781.29 of the Revised 715
Code are hereby repealed. 716